



Periodic Review

Flohr Metals Fabricators
3920 6th Ave. NW / 469 NW Bowdoin Pl
Seattle, WA 98107

Facility Site ID#: 82767231
Cleanup Site ID#: 774

Prepared by:
Northwest Region Office
Toxics Cleanup Program

May 2017

1.0 INTRODUCTION.....	1
2.0 SUMMARY OF SITE CONDITIONS	3
2.1 Site History	3
2.2 Site Investigations.....	3
2.3 Cleanup Levels and Points of Compliance	4
2.4 Remedial Actions.....	4
2.5 Environmental Covenant	5
3.0 PERIODIC REVIEW.....	7
3.1 Effectiveness of completed cleanup actions	7
3.2 New scientific information for individual hazardous substances for mixtures present at the Site	7
3.3 New applicable state and federal laws for hazardous substances present at the Site	7
3.4 Current and projected Site use	8
3.5 Availability and practicability of higher preference technologies	8
3.6 Availability of improved analytical techniques to evaluate compliance with cleanup levels	9
4.0 CONCLUSIONS.....	10
4.1 Next Review.....	10
5.0 REFERENCES.....	11
6.0 APPENDICES.....	12
6.1 Vicinity Map	13
6.2 Site Plan	14
6.3 TPH-Dx Concentration Map.....	15
6.4 Environmental Covenant	16
6.5 Photo log	25

1.0 INTRODUCTION

This document is a review by the Washington State Department of Ecology (Ecology) of post-cleanup Site conditions and monitoring data to assure human health and the environment are being protected at the [site name] (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA) regulations, Chapter 173-340 Washington Administrative Code (WAC).

Cleanup activities at this Site were completed under the Voluntary Cleanup Program (VCP) [or IRAP] with VCP Project No. []. The cleanup actions resulted in concentrations of [contaminant, like: petroleum hydrocarbons, lead and cadmium] remaining at the Site that exceed MTCA cleanup levels. The MTCA cleanup levels for soil are established under WAC 173-340-740. The MTCA cleanup levels for groundwater are established under WAC 173-340-720. WAC 173-340-420(2) requires Ecology to conduct a periodic review of a Site every five years under the following conditions:

1. Whenever the department conducts a cleanup action
2. Whenever the department approves a cleanup action under an order, agreed order or consent decree
3. Or, as resources permit, whenever the department issues a no further action opinion,
4. and one of the following conditions exists at the site:
 - (a) Institutional controls or financial assurance are required as part of the cleanup;
 - (b) Where the cleanup level is based on a practical quantitation limit; or
 - (c) Where, in the department's judgment, modifications to the default equations or assumptions using Site-specific information would significantly increase the concentration of hazardous substances remaining at the Site after cleanup or the uncertainty in the ecological evaluation or the reliability of the cleanup action is such that additional review is necessary to assure long-term protection of human health and the environment.

When evaluating whether human health and the environment are being protected, the factors Ecology shall consider include [WAC 173-340-420(4)]:

- (a) The effectiveness of ongoing or completed cleanup actions, including the effectiveness of engineered controls and institutional controls in limiting exposure to hazardous substances remaining at the Site.
- (b) New scientific information for individual hazardous substances of mixtures present at the Site.
- (c) New applicable state and federal laws for hazardous substances present at the Site.
- (d) Current and projected Site use.
- (e) Availability and practicability of higher preference technologies; and.
- (f) The availability of improved analytical techniques to evaluate compliance with cleanup levels.

Ecology shall publish a notice of all periodic reviews in the Site Register and provide an opportunity for public comment.

2.0 SUMMARY OF SITE CONDITIONS

2.1 Site History

The 2.08-acre property is located adjacent to the Lake Washington Ship Canal in the Fremont neighborhood of Seattle (Figure 1). The property is developed with one large industrial building and several smaller outbuildings used as offices and storage areas (Figure 2). The remaining portion of the property is covered with asphalt or concrete, with the exception of an approximately 2,500 square foot strip of land located at the top of the bulkhead that is covered by soil, gravel, and waterfront area. This portion of the property is used primarily for access to vessels that are moored in the Ship Canal.

Flohr Metal Fabricators (Flohr) operated a metal fabrication facility on the property for approximately 40 years, beginning in the 1940s. Flohr performed various metal fabricating operations including sandblasting non-painted metal and cleaning/degreasing metal parts with organic solvents. The property was purchased by FTMW, LLC, predecessor of Resolute Properties, LLC, in 2000 and began operating as Kvichak Marine Industries, a commercial aluminum boat manufacturer, who continues to operate on the property. Between 1998 and 2000, environmental investigation activities conducted in support of due diligence for potential property transaction identified the presence of petroleum hydrocarbons and PCE in soil and groundwater in the vicinity of an air compressor and an underground storage tank (UST) and arsenic in sandblast grit that covered a portion of the ground surface. There are no documented spills or releases of petroleum hydrocarbons or PCE at the property; however, interviews with personnel indicate that the air compressor may have leaked oil.

2.2 Site Investigations

During 1999 through 2000 soil and groundwater samples were collected throughout the Site. Groundwater samples were collected at monitoring well HC-1 near the compressor building and at monitoring wells HC-2 and HC-3 near the Lake Washington Ship Canal. Chlorinated solvents were found at levels exceeding MTCA Method A in all monitoring wells at the Site. Two injection point wells were installed near the compressor building. Five soil borings were collected at locations near the compressor building, two waterfront borings were installed in the path of the contaminant plume, and nine surface soil samples were collected along the length of the retaining wall that borders the waterfront.

By 2003, seven additional injection points (IP-3 through IP-9) had been installed extending down gradient from the compressor building and distributed laterally in the path of the contaminant plume. Three additional groundwater monitoring wells (HC-4, HC-5, HC-6) were installed on the landward side of the retaining wall and two piezometer cluster (P1 A/B and P2 A/B) were installed on the water side of the retaining wall, also in the path of the contaminant plume.

In the most recent round of sampling received in February 20, 2013 chlorinated solvents continue to exceed cleanup levels in groundwater.

Future groundwater sampling should be sure to collect from HC-1, HC-2, HC-3, HC-4, MW-2, IP-5, IP-6, IP-7, IP-8, IP-9, P1 A/B, and P2 A/B.

2.3 Cleanup Levels and Points of Compliance

The cleanup action was completed as part of the Ballard-Interbay-North Manufacturing Industrial Center (BINMIC) EPA Brownsfield Project. The Former Flohr Metals Property was selected as a Pilot Site for inclusion into the BINMIC Project. The guidance and tools developed for the BINMIC Project were incorporated into the cleanup and site regulatory closure. Shallow groundwater in the BINMIC area is not classified as potable; therefore, the highest beneficial use of groundwater in the area is the discharge to the Ship Canal. Because of this, groundwater cleanup levels for the Site were developed based on the protection of surface water.

The site is required to achieve MTCA Method A cleanup level that is protective of groundwater at all standard points of compliance throughout the site. Contaminants of concern include tetrachloroethene, trichloroethene, dichloroethene, vinyl chloride, diesel, and oil in groundwater and soil and arsenic in soil.

2.4 Remedial Actions

The cleanup action selected for the Site included the following:

- Excavation of soil with petroleum hydrocarbons and HVOCs exceeding the Washington State Model Toxics Control Act Cleanup Regulation (MTCA) cleanup levels to the maximum extent practicable;
- Removal of surface sandblast grit and installation of a surface cap to prevent direct contact with surface soil containing residual concentrations of arsenic; and
- *In situ* chemical oxidation of groundwater followed by monitored natural attenuation.

Between February and April 2000, soil with concentrations of petroleum hydrocarbons and HVOCs exceeding the MTCA cleanup levels was excavated near the compressor building and along the foundation of the main building to the maximum extent practicable. Figure 3 shows the approximate extent of the excavation. Additional excavation was limited by the presence of buildings on two sides and underground utility lines on two sides. The results of soil samples collected at the limits of the excavation confirmed that soil containing concentrations of petroleum hydrocarbons above the MTCA cleanup levels had been removed; however, concentrations of HVOCs in soil exceeding the MTCA cleanup levels for the protection of groundwater were left in-place beyond practicable excavation limits.

During that same timeframe, a total of 92 tons of sandblast grit were removed from the Waterfront Area (Figure 2). Residual concentrations of arsenic were left in-place beyond

practicable excavation limits in shallow soils. A 3,700-square foot cap of sod was placed over surface soil containing residual concentrations of arsenic to prevent direct contact with the soil by site workers. Arsenic was detected in groundwater below the MTCA Method A cleanup level and the results of leaching analysis by TCLP indicated a low leaching potential.

Active groundwater treatment was conducted between April 2000 and May 2001, and consisted of five separate injection events. Each event consisted of the injection of 220 to 440 gallons of a 35% hydrogen peroxide solution into dedicated injection wells. Following active groundwater treatment, a substantial amount of work was completed to meet the requirements of MTCA and ensure the protection of human health and the environment, including:

- Post-injection groundwater compliance monitoring and sampling at 15 monitoring wells and injection points.
- Completion of a natural attenuation evaluation including flow and transport modeling.
- Establishing conditional points of compliance at the Ship Canal and obtaining concurrence from the US Army Corps of Engineers, the Washington State Department of Natural Resources and the city of Seattle.

Based on the results of compliance groundwater monitoring, the natural attenuation evaluation and fate and transport monitoring, and the approval of the conditional points of compliance, Ecology issued the 2003 NFA Letter with requirements for ongoing groundwater monitoring. The June 6, 2002 Voluntary Cleanup Program Closure Report, Former Flohr Metals Property, Seattle, Washington (VCP Closure Report) provides additional details on the regulatory framework, cleanup action, and rationale for site closure. The groundwater monitoring results indicated that volatile organic compounds are present in groundwater above the prescribed MTCA cleanup level for this Site. Consequently, The No Further Action determination was rescinded at this Site on February 8, 2011. The VCP agreement was terminated at this Site on November 23, 2015.

2.5 Environmental Covenant

Based on continued monitoring, the Site use, surface cover and cleanup levels, it was determined that the Site was eligible for a 'No Further Action' determination if an environmental covenant (Covenant) was recorded for the property. A Covenant was recorded for the Site on August 22, 2003 that imposed the following limitations:

1. Section 1 . The Property contains residual TPH -diesel and oil, PCE and its daughter by products in the groundwater which exceed the Model Toxics Control Act Method A Cleanup Levels for groundwater, at the south western location (MW-2, HC-1, IP-3, IP-4, IP-6, IP-7, IP-8, HC-3 and HC-4.) and arsenic in soils at the east, south and south western of the Former Flohr Metals Property as shown in Figure 1 (enclosed). The Owner shall not alter, modify or remove the existing structures nor conduct any other activity on the Property that may result in the release or exposure to the environment of the residual arsenic contaminated soil and TPH diesel and oil and PCE and its daughter by products in groundwater that was contained on site, or create a new exposure pathway without prior

written approval from Ecology. Some examples of activities that are prohibited without prior written approval from Ecology include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork or pumping of groundwater.

2. Section 2. No groundwater may be taken from the Property for any use.
3. Section 3. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.
4. Section 4. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.
5. Section 5. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation and maintenance of the Remedial Action. The Owner conveying any interest in the property shall notify Ecology of the name, mailing address and telephone number of the person or persons who acquired the title, easement, lease, or other interest in the Property within fifteen (15) days of the transaction.
6. Section 6. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.
7. Section 7. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.
8. Section 8. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the Remedial Action.
9. Section 9. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

The Covenant is available as Appendix 6.3.

3.0 PERIODIC REVIEW

3.1 Effectiveness of completed cleanup actions

The Covenant for the Site was recorded and is in place. This Covenant prohibits activities that will result in the release of contaminants at the Site without Ecology's approval, and prohibits any use of the property that is inconsistent with the Covenant. This Covenant serves to ensure the long term integrity of the remedy.

Based upon the Site visit conducted on September 27, 2016, the asphalt cover at the Site continue to eliminate exposure to contaminated soils by ingestion and contact. The asphalt appears in satisfactory condition and no repair, maintenance, or contingency actions have been required. The Site is still operating as an aluminum boat manufacturing facility. A photo log is available as Appendix 6.5.

Soils with diesel, oil, tetrachloroethene (PCE), trichloroethene (TCE), 1,1-dichloroethene (DCE), vinyl chloride (VC), and arsenic concentrations higher than MTCA cleanup levels are still present at the Site. However, the remedy prevents human exposure to this contamination by ingestion and direct contact with soils. The Covenant for the property will ensure that the contamination remaining is contained and controlled.

Groundwater is also contaminated with diesel, oil, PCE, TCE, DCE, and vinyl chloride. The cleanup levels have not been achieved at groundwater monitoring wells at the site. Groundwater monitoring conducted in 2012 demonstrate that concentrations are generally declining, although some daughter products are actually increasing as the parent decays. Since contaminant concentrations remain above the cleanup levels in groundwater, the groundwater is not protective of human health and the environment. The No Further Action opinion was rescinded on February 8, 2011. The VCP agreement was terminated for this property on November 23, 2015 due to lack of activity toward further remediation of the site.

3.2 New scientific information for individual hazardous substances for mixtures present at the Site

There is no new scientific information for the contaminants related to the Site.

3.3 New applicable state and federal laws for hazardous substances present at the Site

The cleanup at the Site was governed by [insert appropriate edition, like: Chapter 173-340 WAC (1996 ed.)]. WAC 173-340-702(12) (c) [2001 ed.] provides that,

“A release cleaned up under the cleanup levels determined in (a) or (b) of this subsection shall not be subject to further cleanup action due solely to subsequent amendments to the provision in

this chapter on cleanup levels, unless the department determines, on a case-by-case basis, that the previous cleanup action is no longer sufficiently protective of human health and the environment.”

Although cleanup levels changed for petroleum hydrocarbon compounds as a result of modifications to MTCA in 2001, contamination remains at the Site above the new MTCA Method A and B cleanup levels. Even so, the cleanup action is still protective of human health and the environment. A table comparing MTCA cleanup levels from 1991 to 2001 is available below.

Example CUL Comparison Table

Analyte	1991 MTCA Method A Soil Cleanup Level (ppm)	2001 MTCA Method A Soil Cleanup Level (ppm)	1991 MTCA Method A Groundwater Cleanup level (ppb)	2001 MTCA Method A Groundwater Cleanup Level (ppb)
Cadmium	2	2	5	5
Lead	250	250	5	15
TPH	NL	NL	1000	NL
TPH-Gas	100	100/30	NL	1000/800
TPH- Diesel	200	2000	NL	500
TPH-Oil	200	2000	NL	500

MTCA = Model Toxics Control Act

NL = None listed

ppb = parts per billion

ppm = parts per million

TPH = total petroleum hydrocarbons

3.4 Current and projected Site use

The Site is currently used for [insert use, like: commercial and industrial] purposes. There have been no changes in current or projected future Site or resource uses.

3.5 Availability and practicability of higher preference technologies

The remedy implemented included containment of hazardous substances, and it continues to be protective of human health and the environment. While higher preference cleanup technologies may be available, they are still not practicable at this Site.

3.6 Availability of improved analytical techniques to evaluate compliance with cleanup levels

The analytical methods used at the time of the remedial action were capable of detection below selected Site cleanup levels. The presence of improved analytical techniques would not affect decisions or recommendations made for the Site.

4.0 CONCLUSIONS

- The cleanup actions completed at the Site appear to be protective of human health and the environment.
- Soils cleanup levels have not been met at the standard point of compliance for the Site; however, the cleanup action has been determined to comply with cleanup standards since the long-term integrity of the containment system is ensured, and the requirements for containment technologies are being met.
- Groundwater contamination remains above the cleanup levels at sampling locations at this site. Because these concentrations are persisting, the remedy has not been protective of human health and environment within the groundwater exposure pathway.
- Institutional controls in the form of a restrictive covenant are in place at the Site and will be effective in protecting public health and the environment from exposure to hazardous substances and protecting the integrity of the cleanup action.

Based on this periodic review, Ecology has determined that the requirements of the Covenant are NOT being followed. Contamination appears to be decaying, but is still persisting above the prescribed groundwater cleanup level. Additional cleanup actions may be required by the property owner. It is the property owner's responsibility to continue to inspect the Site to assure that the integrity of the remedy is maintained.

4.1 Next Review

The next review for the Site will be scheduled five years from the date of the site visit for this periodic review. In the event that additional cleanup actions or institutional controls are required, the next periodic review will be scheduled five years from the completion of those activities.

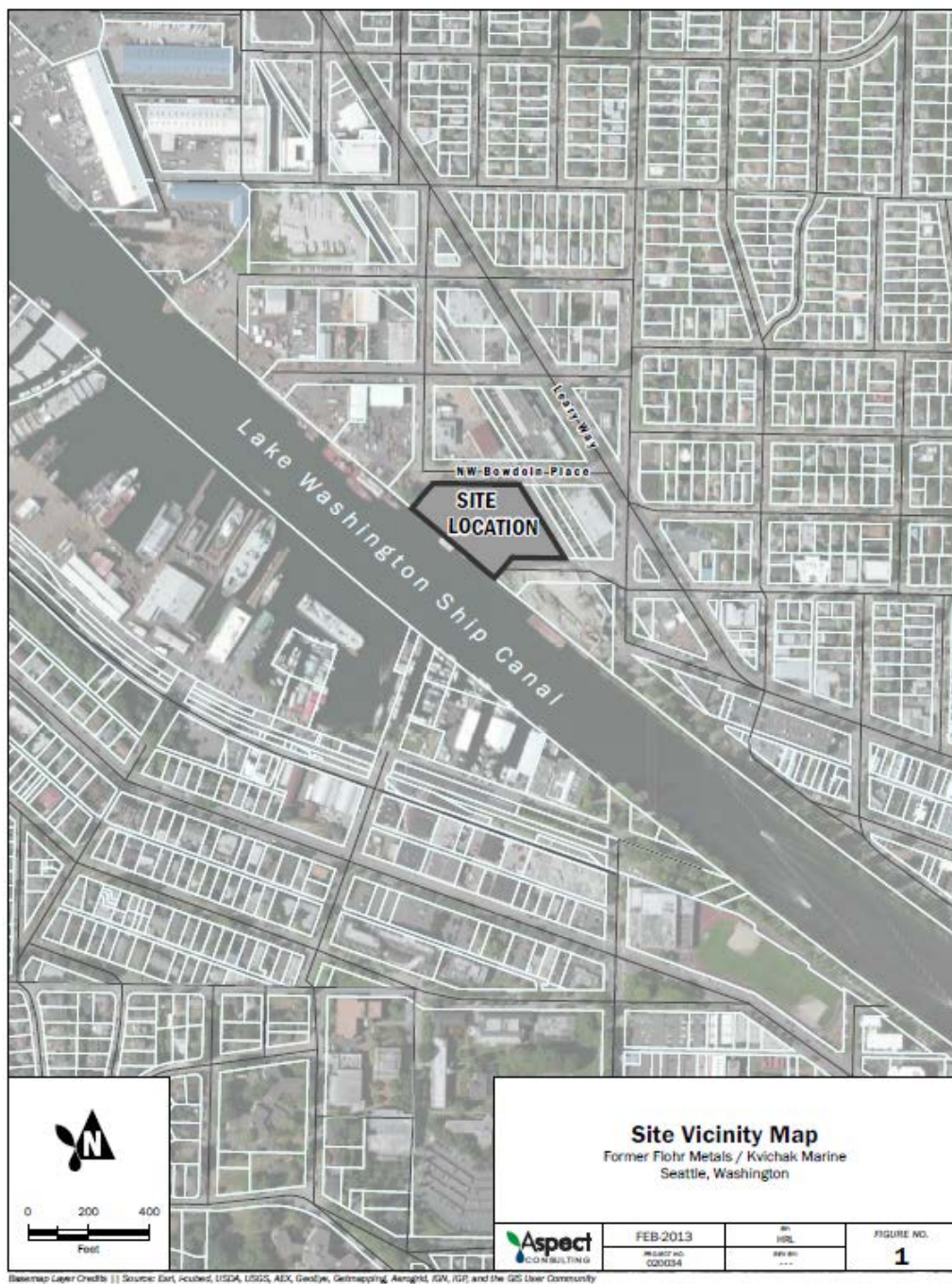
Groundwater sampling should be requested for the next periodic review to assess the extent of decay for all contaminants.

5.0 REFERENCES

1. Aspect Consulting, June 6, 2002, Voluntary Cleanup Program Closure Report, Former Flohr Metal Fabricators Facility, 3920 61h Avenue, NW Seattle, WA 98107, project # 020034.
2. Resolute Properties LLC, August 22, 2003, Restrictive or *Environmental Covenant*.
3. Ecology, September 02, 2003, No Further Action Determination for the Former Flohr Metals Property.
4. Ecology, February 8, 2011, Five-Year Review and Further Action Determination.
5. Aspect Consulting, February 20, 2013, 2012 Confirmation Monitoring Status Report, Former Flohr Metals Property.
6. Ecology, July 16, 2013, Opinion Pursuant to WAC 173-340-515(5) on Remedial action for the Flohr Metals Fabricators Site.
7. Ecology, Site Visit, September 27, 2016

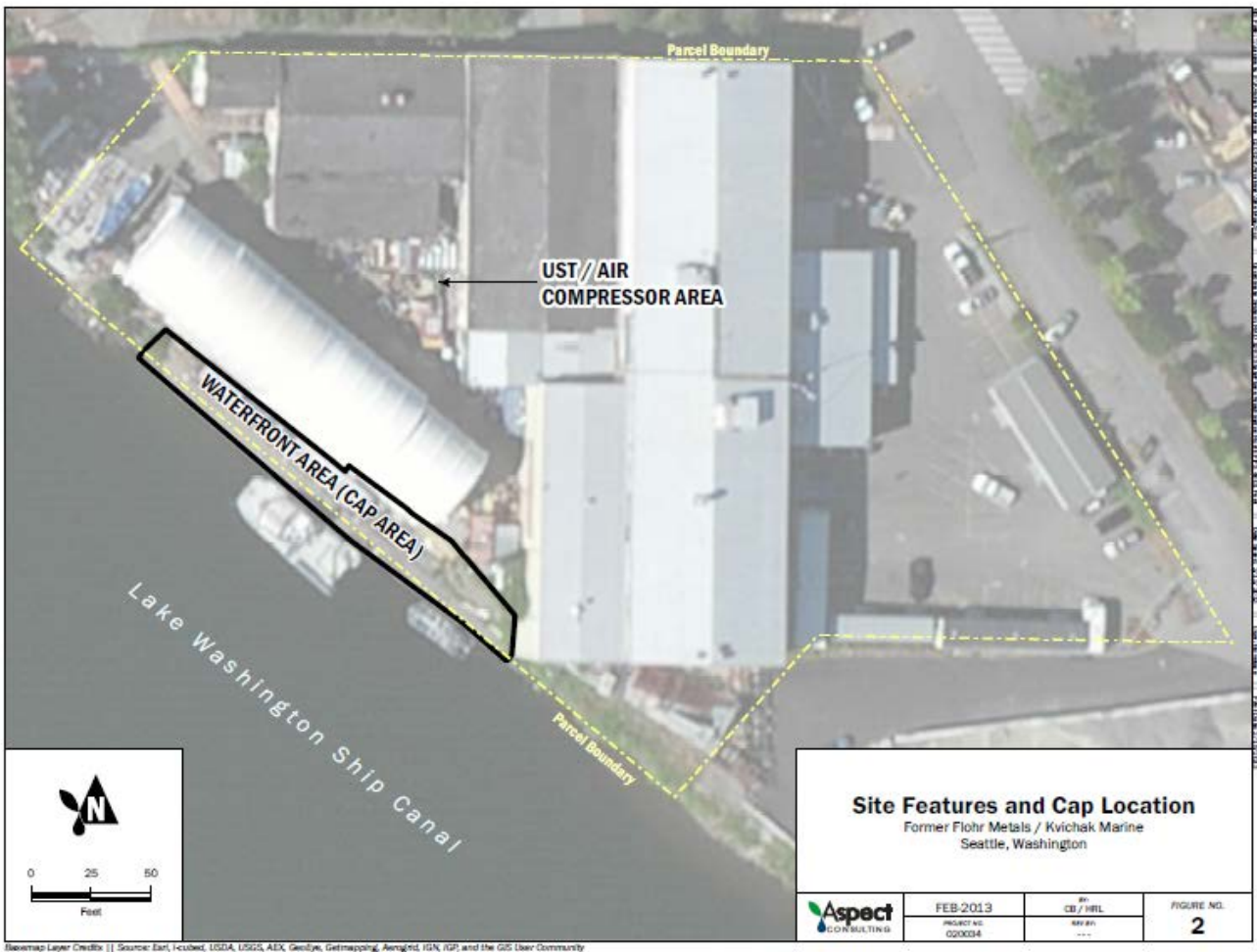
6.0 APPENDICES

6.1 Vicinity Map

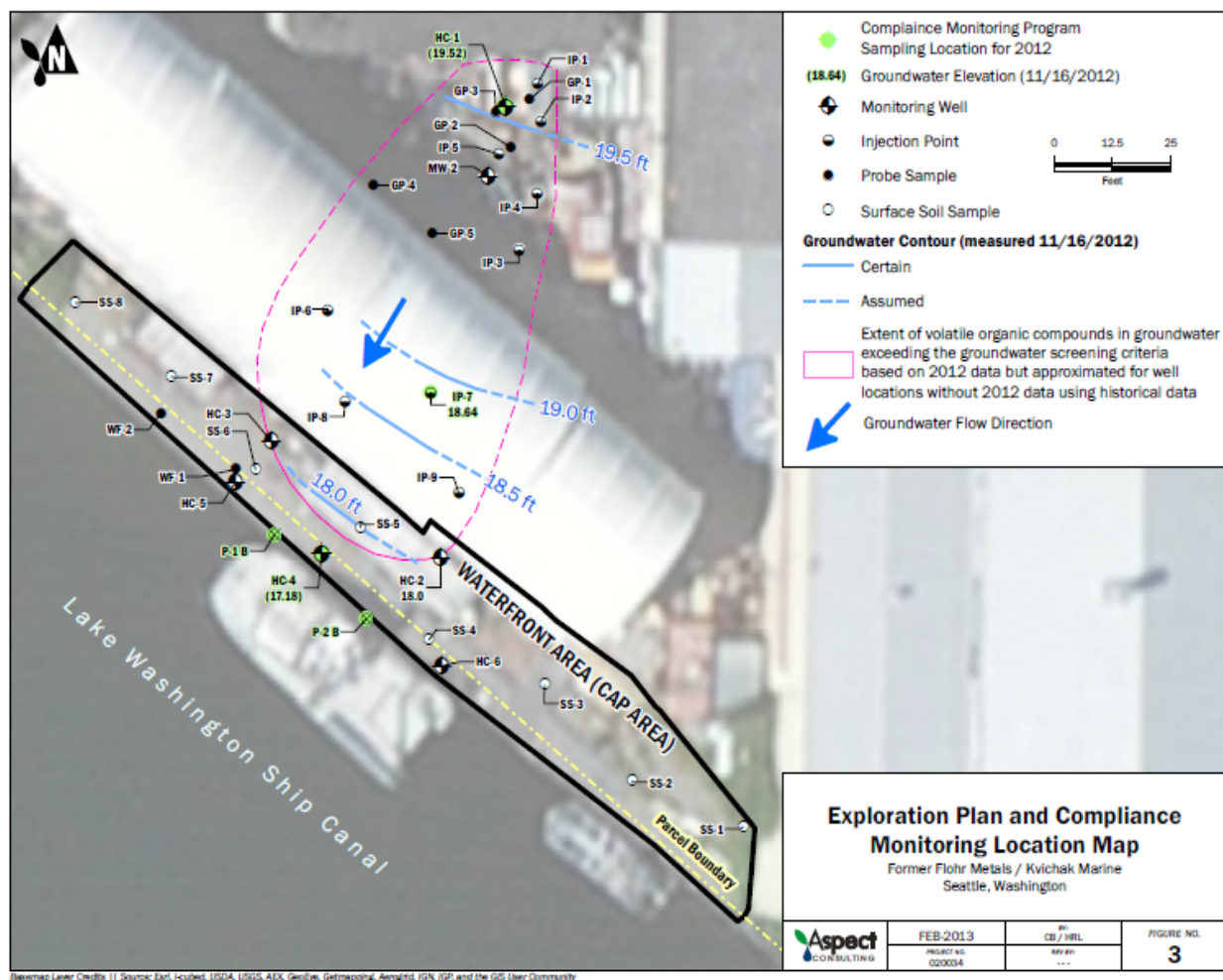


6.2

6.2 Site Plan



6.3 Concentration Map



6.4 Environmental Covenant

RESTRICTIVE COVENANT

RESOLUTE PROPERTIES, LLC.

Former Flohr Metals Property
3920 6th Avenue, NW Seattle, WA 98107.

This declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f and g), and WAC 173-340-440. RESOLUTE PROPERTIES, LLC., its successors and assigns, and the Washington State Department of Ecology, its successors and assigns.

Legal Description: (attached)

PARCEL #: 744200-0705-0

Return Address:

BRIAN THOMAS
RESOLUTE PROPERTIES, LLC
469 NW BOWDOIN PLACE
SEATTLE, WA 98107



20030822000593

RESOLUTE PROPE COV 26.00
PAGE 001 OF 008
08/22/2003 10:03
KING COUNTY, WA

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document must be filled in)

1. RESTRICTIVE COVENANT 2. _____
3. _____ 4. _____

Reference Number(s) of Documents assigned or released:

Additional reference #'s on page _____ of document

Grantor(s) (Last name, first name, initials)

1. RESOLUTE PROPERTIES, LLC _____
2. _____

Additional names on page _____ of document.

Grantee(s) (Last name first, then first name and initials)

1. RESOLUTE PROPERTIES, LLC _____
2. _____

Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

THAT PORTION OF LOTS 1-9.

Additional legal is on page _____ of document.

Assessor's Property Tax Parcel/Account Number

744200 - 0705 - 0

☐ Assessor Tax # not yet assigned

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature of Requesting Party

RESTRICTIVE COVENANT

RESOLUTE PROPERTIES, LLC.

Former Flohr Metals Property
3920 6th Avenue, NW Seattle, WA 98107.

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by RESOLUTE PROPERTIES, LLC., (Owner) its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

An independent remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the property is described in the following documents, which are on file at Ecology's Northwest Regional Office:

1. Voluntary Cleanup Program Interim Report, Former Flohr Metal Fabricators Facility, 3920 6th Avenue, NW Seattle, WA 98107 by Hart Crowser, project # J-7144-02 of May 25, 2000.
2. Voluntary Cleanup Program Closure Report, Former Flohr Metal Fabricators Facility, 3920 6th Avenue, NW Seattle, WA 98107 by ASPECT CONSULTING, project # 020034 of June 6, 2002.
3. Department of the Army, Office of Counsel, Seattle District, Corps of Engineers dated November 26, 2002 concerning the Voluntary Cleanup Program Closure Report, Former Flohr Metal Fabricators Facility, 3920 6th Avenue, NW Seattle, WA 98107 by ASPECT CONSULTING, project # 020034 of June 6, 2002.
4. Washington State Department of Natural Resources, Commissioner of Public Lands dated August 15, 2002 concerning the Voluntary Cleanup Program Closure Report, Former Flohr Metal Fabricators Facility, by ASPECT CONSULTING, project # 020034 of June 6, 2002.
5. Response to Army Corps Comments Regarding Conditional Points of Compliance, Former Flohr Metal Fabricators Facility, 3920 6th Avenue, NW Seattle, WA 98107 by ASPECT CONSULTING, project # 020034 of December 31, 2002.
6. Department of the Army, Office of Counsel, Seattle District, Corps of Engineers dated April 7, 2003 concerning the Voluntary Cleanup Program Closure Report, Former Flohr Metal Fabricators Facility, 3920 6th Avenue, NW Seattle, WA 98107 by ASPECT CONSULTING, project # 020034 of December 31, 2002.

This Restrictive Covenant is required because the Remedial Action resulted leaving residual TPH diesel and oil, tetrachloroethene (PCE) and its daughter by products in the groundwater which exceed the Model Toxics Control Act Method A Cleanup Levels for groundwater established under WAC 173-340-740. Further, this Restrictive Covenant is required because the Remedial Action resulted leaving residual total metal concentrations as arsenic in the soil which exceeds the Model Toxics Control Act Method A Cleanup Levels for soils established under WAC 173-340-740.

The undersigned, RESOLUTE PROPERTIES, LLC., is the fee owner of real property (hereafter "Property") in the County of King, State of Washington that is subject to this Restrictive Covenant. The Property is legally described as follows: (*see legal description attached*).

RESOLUTE PROPERTIES, LLC., makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. The Property contains residual TPH –diesel and oil, PCE and its daughter by products in the groundwater which exceed the Model Toxics Control Act Method A Cleanup Levels for groundwater, at the south western location (MW-2, HC-1, IP-3, IP-4, IP-6, IP-7, IP-8, HC-3 and HC-4.) and arsenic in soils at the east, south and south western of the Former Flohr Metals Property as shown in Figure 1 (enclosed). The Owner shall not alter, modify or remove the existing structures nor conduct any other activity on the Property that may result in the release or exposure to the environment of the residual arsenic contaminated soil and TPH diesel and oil and PCE and its daughter by products in groundwater that was contained on site, or create a new exposure pathway without prior written approval from Ecology. Some examples of activities that are prohibited without prior written approval from Ecology include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork or pumping of groundwater.

Section 2. No groundwater may be taken from the Property for any use.

Section 3. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 4. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 5. The Owner of the property must give thirty (30) day advance written notice to

Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation and maintenance of the Remedial Action. The Owner conveying any interest in the property shall notify Ecology of the name, mailing address and telephone number of the person or persons who acquired the title, easement, lease, or other interest in the Property within fifteen (15) days of the transaction.

Section 6. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

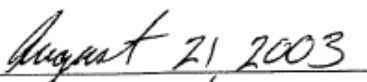
Section 7. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 8. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the Remedial Action.

Section 9. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.



RESOLUTE PROPERTIES, LLC.



[DATE]

STATE OF WASHINGTON)
)ss.
COUNTY OF KING)

On this 21 day of August, 2003, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Brian C Thomas to me known to be the person who signed as managing member of RESOLUTE PROPERTIES, LLC., the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was duly elected, qualified and action as said officer of the corporation, that he was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



Susan V Parker
Print Name: Susan V Parker
Notary Public in and for the State of Washington,
Residing at Seattle WA
My commission expires: Aug 29, 2005

EXHIBIT A

Legal Description

THAT PORTION OF LOTS 1 THROUGH 9, INCLUSIVE, AND LOTS 20 THROUGH 28, INCLUSIVE, BLOCK 8, ROSS ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS, PAGE 96, RECORDS OF KING COUNTY, WASHINGTON, LYING NORTHEASTERLY OF WEST CANAL STREET AND SOUTHWESTERLY OF THE NORTHERN PACIFIC RAILWAY COMPANY'S RIGHT-OF-WAY;

TOGETHER WITH THE PORTION OF WEST CANAL STREET AND 6TH AVENUE NORTHWEST VACATED BY ORDINANCE NO. 79902, OF THE CITY OF SEATTLE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF BLOCK 8, ROSS ADDITION TO THE CITY OF SEATTLE;
THENCE ON THE WEST LINE THEREOF SOUTH 0° 21' 28" EAST 26.02 FEET TO A POINT ON THE NORTHERLY LINE OF WEST CANAL STREET;
THENCE ON SAID LINE SOUTHEASTERLY 340.51 FEET TO A POINT ON THE SOUTH LINE OF BLOCK 8;
THENCE SOUTH 38° 16' 00" WEST 90.00 FEET TO A POINT ON THE NORTHERLY LINE OF LAKE WASHINGTON CANAL RIGHT-OF-WAY;
THENCE ON SAID LINE NORTHWESTERLY 358.00 FEET, MORE OR LESS, TO A POINT THAT BEARS SOUTH 38° 56' 00" WEST FROM THE POINT OF BEGINNING;
THENCE NORTH 38° 56' 00" EAST TO THE POINT OF BEGINNING
SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.



6.5 Photo log

Photo 1: Corner of 6th Ave. NW and Bowdoin Pl., across from Flohr Metals Site



Photo 2: Entrance to Flohr Metals Site. Waterfront in the mid-ground.



Photo 3: Area behind the building at 3920 6th Ave. NW.



Photo 4: