



FILE COPY

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

November 2, 2007

Mr. Mark Chandler
Environmental Manager
Time Oil Company
2737 Commodore Way
Seattle, WA 98199-1257

Dear Mr. Chandler:

Re: No Further Action Determination under WAC 173-340-515(5) for the following Hazardous Waste Site:

- Name: **Jackpot Food Mart 032**
- Address: **1154 Southwest Basin Street, Ephrata, WA**
- Facility/Site No.: **94125562**
- VCP No.: **EA0146**

Thank you for submitting your independent remedial action report for the Jackpot Food Mart 032 facility (Site) for review by the State of Washington Department of Ecology (Ecology) under the Voluntary Cleanup Program (VCP). Ecology appreciates your initiative in pursuing this administrative option for cleaning up hazardous waste sites under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

This letter constitutes an advisory opinion regarding whether further remedial action is necessary at the Site to meet the substantive requirements of MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC. Ecology is providing this advisory opinion under the specific authority of RCW 70.105D.030(1)(i) and WAC 173-340-515(5).

This opinion does not resolve a person's liability to the state under MTCA or protect a person from contribution claims by third parties for matters addressed by the opinion. The state does not have the authority to settle with any person potentially liable under MTCA except in accordance with RCW 70.105D.040(4). The opinion is advisory only and not binding on Ecology.



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Ecology's Toxics Cleanup Program has reviewed the following information regarding the Site:

- Subsurface Petroleum Hydrocarbon Assessment, Ephrata Jackpot: RZA AGRA, Inc., December 1992.
- Remedial Investigation/Feasibility Study, Ephrata Jackpot: RZA AGRA, Inc., October 1993.
- Remedial System Progress Report, Ephrata Jackpot (Time Oil Property No. 01-032): AGRA Earth & Environmental, September 1996.
- Groundwater Monitoring and Status Reports, Ephrata Jackpot Foodmart, Time Oil Property No. 01-032: RZA AGRA, Inc., November 1993 – August 1997 (11 reports).
- Groundwater Monitoring Report, Ephrata Jackpot (Property 01-032): GeoEngineers, Inc., December 1997 – June 2005 (19 reports).
- Groundwater Monitoring Report, Third Quarter of 2005, Time Oil Company Facility #01-032: Sound Environmental Strategies, October 24, 2005.

The documents listed above will be kept in the Central Files of the Eastern Regional Office of Ecology (ERO) for review by appointment only. Appointments can be made by calling Ms. Johnnie Landis at 509/329-3415.

The Site is defined by the extent of contamination caused by the following release:

- Petroleum hydrocarbons in Soil and Ground Water.

The Site is more particularly described in Enclosure A to this letter, which includes a detailed Site diagram. The description of the Site is based solely on the information contained in the documents listed above.

Based on a review of the independent remedial action report and supporting documentation listed above, **Ecology has determined that the independent remedial actions conducted at the Site are sufficient to meet the substantive requirements contained in MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC, for characterizing and addressing the contamination at the Site.** Therefore, pursuant to WAC 173-340-515(5), Ecology is issuing this opinion that **no further remedial action is necessary** at the Site under MTCA.

This opinion is based on the continued effectiveness of the institutional controls required as part of the cleanup action for the Site under WAC 173-340-440. A copy of the Restrictive Covenant filed as part of the cleanup action for the Site is enclosed with this letter as Enclosure B. If any portion of the Restrictive Covenant is violated, then this opinion will automatically be rendered

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null and void and further remedial action may be required at the Site.

Based on this no further action determination, Ecology will update the status of the Site on its site database and the Leaking Underground Storage Tank (LUST) List and remove the Site from the Confirmed and Suspected Contaminated Sites List

This no further action determination does not apply to any other release(s) or potential release(s) of contaminant(s) that may impact any other portion of any property impacted by this Site, or any other property owned or operated by Time Oil Company.

Please note that this opinion is based solely on the information contained in the documents listed above. Therefore, if any of the information contained in those documents is materially false or misleading, then this opinion will automatically be rendered null and void and further remedial action may be required at the Site.

The state, Ecology, and its officers and employees make no guarantees or assurances by providing this opinion, and no cause of action against the state, Ecology, its officers or employees may arise from any act or omission in providing this opinion.

Again, Ecology appreciates your initiative in successfully completing cleanup under the Voluntary Cleanup Program (VCP). Please contact me at 509/329-3522 if you have any questions regarding this opinion.

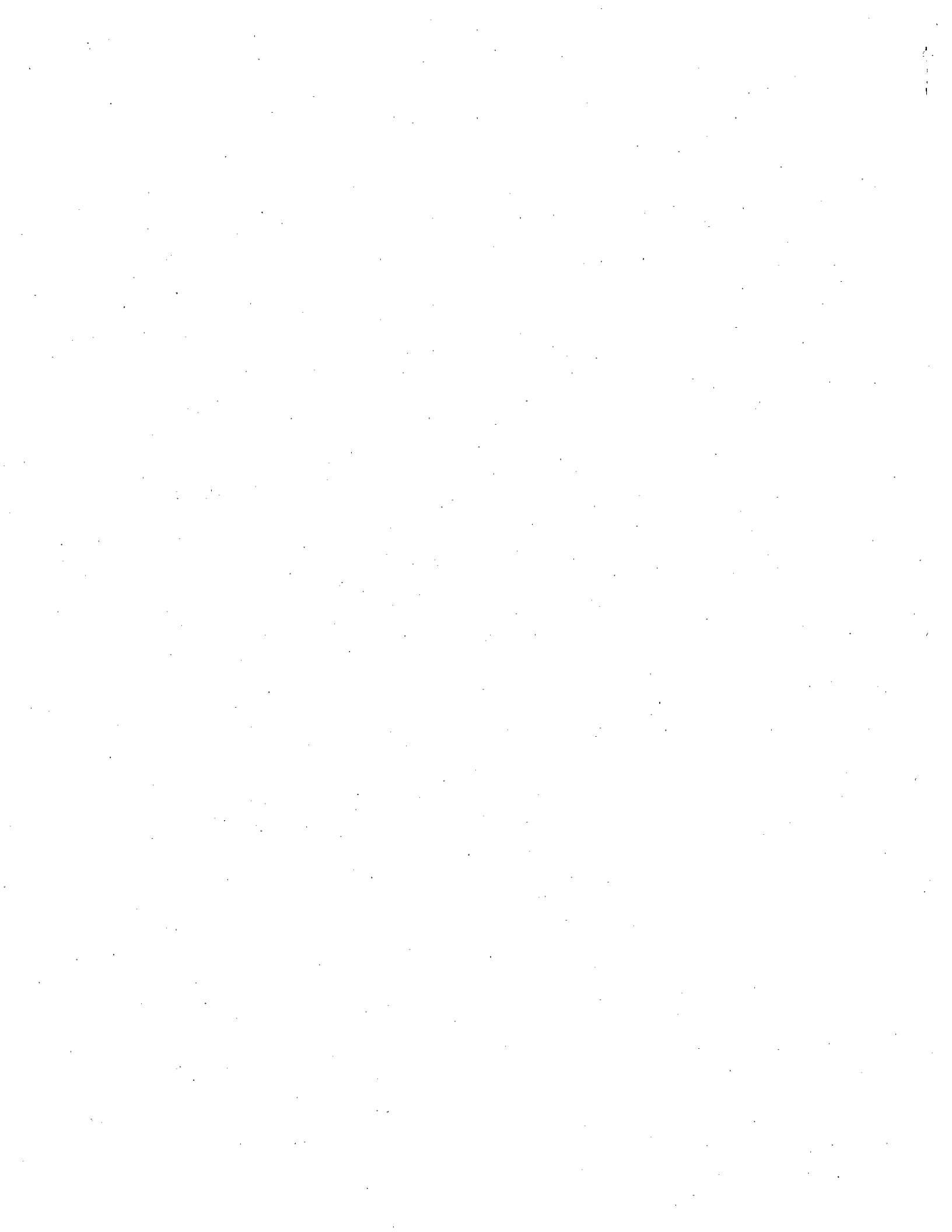
Sincerely,



Patti Carter
ERO Toxics Cleanup Program

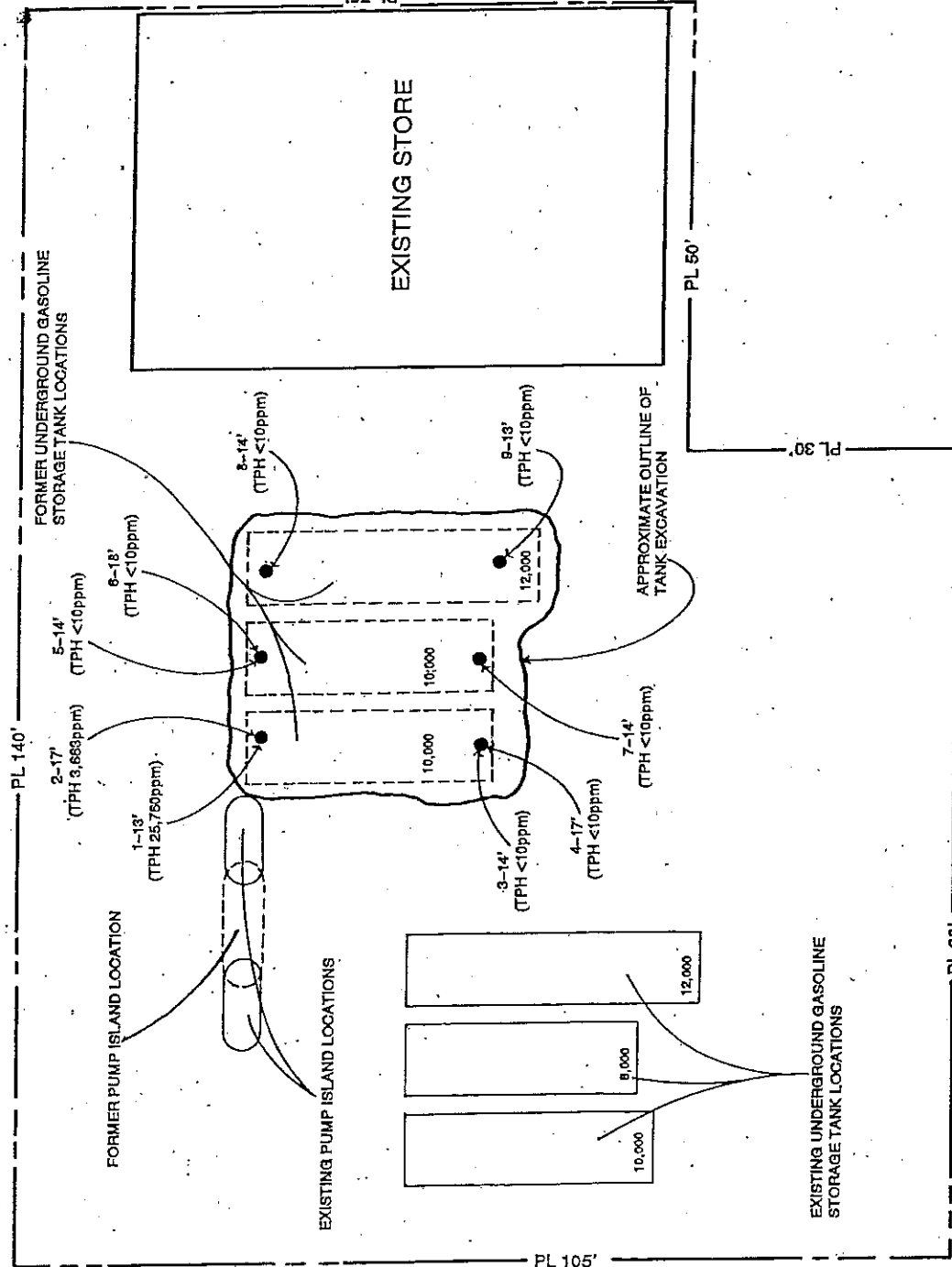
Enclosures

cc: Ryan Bixby, Sound Environmental



ENCLOSURE A

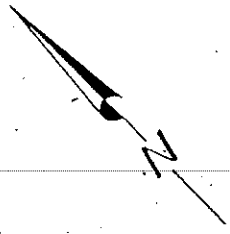
S.W. BASIN STREET



PL 75'

EXPLANATION

● APPROXIMATE SAMPLE LOCATION WITH RESPECTIVE DEPTH AND TPH CONCENTRATION



TIME OIL CO.
2737 West Commodore Way
JACKPOT FOOD MART
1154 S.W. Basin Street, Ephrata, WA
VICINITY MAP

ENCLOSURE B

After Recording Return to:
Time Oil Co.
Real Estate Department
P. O. Box 24447
Seattle, WA 98124-0447



Environmental Covenant

Grantor: Time Oil Co.
Grantee: State of Washington, Department of Ecology
Legal: Tx #9982 Lot 2, Blk 10 and TX # 1992 Lot 3, Blk 10, Ephrata Orchard Homes
Tax Parcel Nos.: 14-0164-001, 14-0168-000, 14-0169-000 and 14-0166-000

Grantor, Time Oil Co., hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this 21st day of September, 2007 in favor of the Grantee, the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

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

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the documents on file at Ecology's Eastern Regional Office.

This Covenant is required because according to the RI/FS of the property by Agra (October, 1993), concentrations of gasoline-range petroleum hydrocarbons, benzene, toluene, ethylbenzene, and total xylenes have been detected at concentrations above the MTCA Method A cleanup level in the vicinity of MW-2, MW-6, and/or MW-9.

The undersigned, Grantor, is the fee owner of real property (hereafter "Property") in the County of Grant, State of Washington, that is subject to this Covenant. The Property is

legally described on the attached Exhibit "A" and is referenced as if fully set forth herein.

Grantor 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. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology. Some examples of activities that are so prohibited in the capped areas 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.

Section 2. 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 3. 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 4. 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.

Section 5. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. 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, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this 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.

^{YB}
Time Oil Co.

Dated: 5-19-07

By: H. Roger Holliday
H. Roger Holliday

Its: President

By: Raymond Stromer 9/21/07
Raymond Stromer

Its: Secretary

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Joseph Burdette

[Name of Person Acknowledging Receipt]
[Title] SECTION MANAGER

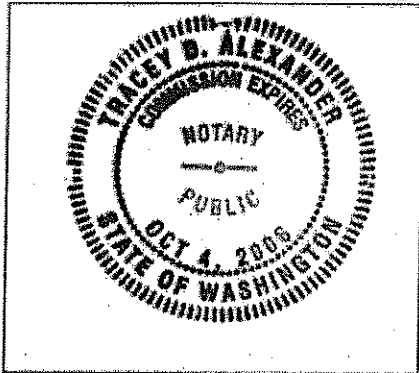
Dated: 10-01-07



STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, the undersigned, a Notary Public in and for the above named County and State, do hereby certify that on this 21 day of September, 2007 personally appeared before me H. Roger Holliday, to me known to be and upon oath did say that he is the President of Time Oil Co., and Raymond Stromer, to me known to be and upon oath did say he is the Secretary of Time Oil Co., a corporation duly organized under the laws of the State of Washington and duly authorized to do business in this state ; that said corporation 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 did state that he was authorized to execute said instrument and that the seal affixed is the corporate seal of the said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of the board of directors of said corporation.

GIVEN under my hand and official seal this 21 day of September 2007



Tracy B Alexander
Notary Public in and for the State of Washington,
residing at Seattle WA
My commission expires: OCT 4, 2008
Tracy B. Alexander
[Type or Print Notary Name]



Exhibit "A"

The land referred to in this commitment is described as follows:

PARCEL 1.

That portion of Lot 2, Block 10, Ephrata Orchard Homes, according to the plat thereof recorded in Acreage Plats, page 11, records of Grant County, Washington, described as follows:

Beginning at the monument at the intersection of 11th Avenue S.W. and "B" Street S.W. (P.S.H. #7) as shown on the plat of Wickwire Addition to Ephrata, according to the plat thereof recorded in Volume 3 of Plats, page 14; thence South 26°08'45" West along the centerline of said "B" Street S.W., 464.02 feet; thence South 63°51'15" East, following the Northwesternly projection of the Southwesterly boundary of said Lot 2, a distance of 50 feet to a point on the Easterly right of way of said "B" Street S.W. and the True Point of Beginning; thence North 26°08'45" East, following said right of way boundary, 50 feet; thence South 63°51'15" East, parallel to the Southwesterly boundary of said Lot 2, a distance of 75 feet; thence South 26°08'45" West, parallel to the said Easterly right of way, 50 feet to an intersection with the Southwesterly boundary of said Lot 2; thence North 63°51'15" West, following the Southwesterly boundary of said Lot 2, a distance of 75 feet to the True Point of Beginning.

PARCEL 2:

A portion of Lot 3, Block 10, Ephrata Orchard Homes, according to the plat thereof recorded in Acreage Plats, page 11, records of Grant County, Washington, described as follows:

Commencing at the most Easterly corner of said Lot 3; thence Northwesternly along the Northeasterly boundary line of said Lot 3, a distance of 350 feet to the True Point of Beginning; thence Southwesterly parallel with the Southeasterly boundary line of said Lot 3, a distance of 90 feet; thence Northwesternly parallel with the Northeasterly boundary line of said Lot 3, a distance of 75 feet to an intersection with the Southeasterly boundary line of Primary State Highway #7 (B Street S.W.); thence Northeasterly along the said Southeasterly boundary line, a distance of 90 feet; thence Southeasterly along the Northeasterly boundary line of said Lot 3, a distance of 75 feet to the True Point of Beginning.

PARCEL 3.

That portion of Lot 3, Block 10, Ephrata Orchard Homes, according to the plat thereof recorded in Acreage Plats, page 11, records of Grant County, Washington, described as follows:

Beginning at the most Easterly corner of said Lot 3; thence Northwesternly along the Northeasterly boundary line, 250 feet to the true point of beginning; thence continuing Northwesternly along the Northeasterly boundary of said Lot 3, a distance of 100 feet; thence Southwesterly parallel with the Southeasterly boundary of Lot 3, a distance of 90 feet; thence Southeasterly parallel with the Northeasterly boundary of Lot 3, a distance of 100 feet; thence Northeasterly parallel to the Southeasterly boundary of Lot 3, a distance of 90 feet to the true point of beginning.

PARCEL 4:

That portion of Lot 3, Block 10, Ephrata Orchard Homes, according to the plat thereof recorded in Acreage Plats, page 11, records of Grant County, Washington, described as follows.

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Page 5 of 6 R 45.00 Grant Co, WA
TIME OIL CO



Commitment No. 208189

SCHEDULE A CONTINUED
(Continued)

Beginning at the most Easterly corner of said Lot 3; thence Northwesterly along the Northeasterly boundary line, a distance of 210 feet to the true point of beginning; thence continuing Northwesterly along the Northeasterly boundary of said Lot 3, a distance of 40 feet; thence Southwesterly parallel to the Southeasterly boundary of Lot 3, a distance of 90 feet; thence Southeasterly parallel to the Northeasterly boundary of Lot 3, a distance of 40 feet; thence Northeasterly parallel to the Southeasterly boundary of Lot 3, a distance of 90 feet to the true point of beginning.

**LINES IN ORIGINAL
DOCUMENT**

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TIME OIL CO

