



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

December 29, 2009

Mr. Dale Cornwell, Vice President  
Becker Buick  
P O Box 1442  
Spokane, WA 99210

Dear Mr. Cornwell:

**Re: No Further Action at the following Site:**

- **Site Name:** Becker Buick Inc. (Sprague Ave)
- **Site Address:** 636 E. Sprague Ave, Spokane, WA
- **Facility/Site No.:** 6237923
- **VCP Project No.:** EA0188

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Becker Buick Inc. facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

**Issue Presented and Opinion**

Is further remedial action necessary to clean up contamination at the Site?

**NO. Ecology has determined that no further remedial action is necessary to clean up contamination at the Site.**

**This opinion is dependent on the continued performance and effectiveness of the post-cleanup controls specified below.**

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

**Description of the Site**

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following release:

- Petroleum Hydrocarbons into the Soil.



**Enclosure A** includes a detailed description and diagram of the Site, as currently known to Ecology.

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel associated with this Site is affected by other sites.

### **Basis for the Opinion**

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This opinion is based on the information contained in the following documents:

- Site Assessment Results on Underground Storage Tank System Closure, Becker Buick – GMC Trucks, E. 636 Sprague Avenue, Spokane, Washington: Rob's Demolition, December 1991.
- Independent Cleanup of Petroleum Contaminated Soil, Becker Buick, 636 E. Sprague Avenue, Spokane, WA: Rob's Demolition, May 2002.
- Phase II Environmental Site Assessment, Becker Buick, Inc., 636 East Sprague, Spokane, Washington: GeoEngineers, Inc., November 16, 2007.
- Underground Hoist Decommissioning and Soil Sampling Report, Becker Buick GMC Inc., 636 East Sprague Avenue, Spokane, Washington: URS Corporation, December 19, 2008.

Those documents are kept in the Central Files of the Eastern Regional Office (ERO) of Ecology for review by appointment only. You can make an appointment by calling Kari Johnson at 509/329-3415.

This opinion is void if any of the information contained in those documents is materially false or misleading.

### **Analysis of the Cleanup**

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Ecology has concluded that **no further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

#### **1. Characterization of the Site.**

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards and select a cleanup action. The Site is described above and in **Enclosure A**.

**The lateral and vertical extent of the petroleum hydrocarbons in soil was defined in the reports listed above and does not extend off property**

**2. Establishment of cleanup standards.**

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA.

For soil, the cleanup levels were established using MTCA Method A and are based on protection of groundwater. The land use is classified and unrestricted. The cleanup levels are as follows:

- Diesel-range hydrocarbons: 2,000 mg/kg
- Oil-range hydrocarbons: 2,000 mg/kg

The point of compliance for soil is throughout the soils at the Site. This is the standard point of compliance.

**3. Selection of cleanup action.**

Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA.

The selected cleanup includes the following:

**SOIL**

- Removal of source (underground storage tanks and hydraulic hoists).
- Excavation and removal of contaminated soil.

**4. Cleanup.**

Ecology has determined the cleanup you performed meets the cleanup standards established for the Site. This determination is dependent on the continued performance and effectiveness of the post-cleanup controls specified below.

The sources (underground storage tanks and hydraulic hoists) were removed and contaminated soil was removed to the maximum extent practicable. Some contaminated soil remains adjacent to the building and was not removed due to proximity of the building.

The Site is capped to prevent infiltration and mobilization of contaminated soil left in place adjacent to the building.

An Environmental Covenant was required because the remedial actions resulted in residual concentrations of petroleum-contaminated soil at the Site.

**Post-Cleanup Controls and Monitoring**

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Post-cleanup controls and monitoring are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued performance and effectiveness of the following:

**Compliance with institutional controls.**

Institutional controls prohibit or limit activities that may interfere with the integrity of engineered controls or result in exposure to hazardous substances. The following institutional control is necessary at the Site:

- A cap over the contaminated soil.

To implement that control, an Environmental Covenant has been recorded on the following parcel of real property in Spokane County:

- 35202.0101

Ecology approved the recorded Covenant. A copy of the Covenant is included in **Enclosure B.**

**Periodic Review of Post-Cleanup Conditions**

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Ecology will conduct periodic reviews of post-cleanup conditions at the Site to ensure that they remain protective of human health and the environment. If Ecology determines, based on a periodic review, that further remedial action is necessary at the Site, then Ecology will withdraw this opinion.

**Listing of the Site**

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Based on this opinion, Ecology will remove the Site from our Confirmed and Suspected Contaminated Sites List and Leaking Underground Storage Tank List.

**Limitations of the Opinion**

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**1. Opinion does not settle liability with the state.**

Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion **does not**:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

**2. Opinion does not constitute a determination of substantial equivalence.**

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

**3. State is immune from liability.**

The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

**Termination of Agreement**

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project (#EA0188).

For more information about the VCP and the cleanup process, please visit our web site: [www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm](http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm). If you have any questions about this opinion or the termination of the Agreement, please contact me by phone at 509/329-3522 or e-mail at [paca461@ecy.wa.gov](mailto:paca461@ecy.wa.gov).

Sincerely,



Patti Carter  
ERO Toxics Cleanup Program

Enclosures (2): A – Description and Diagrams of the Site  
B – Environmental Covenant for Institutional Controls

cc: Gary Panther, URS  
Brent Stanyer  
Dolores Mitchell - VCP Financial Manager (w/o enclosures)



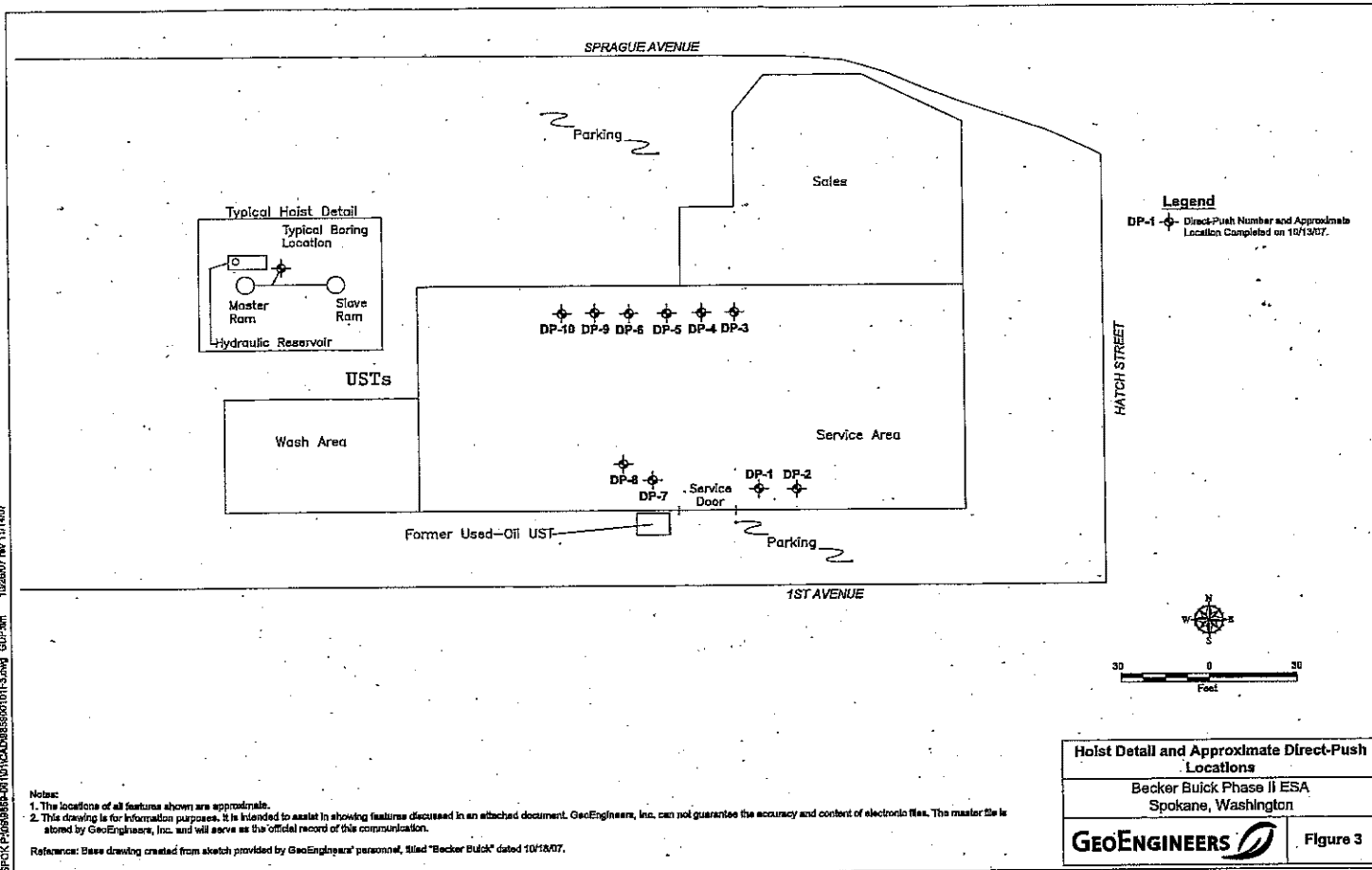
## **Enclosure A**

### **Description and Diagram of the Site**

## Site Description

- The facility was constructed in 1953 and has operated continuously as an automotive sales and service facility since that time.
- A 300-gallon waste oil underground storage tank (UST) was removed in 1991. Two 550-gallon gasoline USTs were removed in 2002 and the hydraulic hoists and piping were removed in 2008. Approximately 30 tons of petroleum contaminated soil was excavated and removed from the Site. Some contaminated soil remains in the former hoist area but could not be removed due to proximity of the building.
- Site soils consist of silty sand with gravel overlying basalt. Depth to basalt ranges from 2 to 9 feet below ground surface (bgs). Depth to groundwater is approximately 75 feet bgs.





Site Diagram

## **Enclosure B**

### **Environmental Covenant for Institutional Controls**



After Recording Return to:

Patti Carter  
Department of Ecology  
4601 N. Monroe Street  
Spokane, WA 99205

**Environmental Covenant – Becker Buick (Sprague Ave)**

Grantor: CORNWELL FAMILY, LLC  
Grantee: STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY  
Legal: NOSLER ADD AND ASSESSORS PLAT NO 2 LTS 1 THRU 6 BLK 3  
NOSLER ADD AND VAC STP N OF AND ADJ AND TRS 2 THRU 6  
ASSESSORS PLAT NO 2 EXC PTN DEEDED FOR ST TOG W/ E 1/2  
OF VAC SHERIDAN ST LYG W OF & ADJ TO (ORD# C33476).  
Tax Parcel No.: 35202.0101

Grantor, CORNWELL FAMILY, LLC, a Washington Limited Liability Company, 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 12<sup>th</sup> day of May, 2009 in favor of 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 Cornwell Family, LLC, its successors and assigns, and 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 following documents:

- Site Assessment Results on Underground Storage Tank System Closure, Becker Buick – GMC Trucks, E. 636 Sprague Avenue, Spokane, Washington: Rob's Demolition, December 1991.
- Independent Cleanup of Petroleum Contaminated Soil, Becker Buick, 636 E. Sprague Avenue, Spokane, WA: Rob's Demolition, May 2002.
- Phase II Environmental Site Assessment, Becker Buick, Inc., 636 East Sprague, Spokane, Washington: GeoEngineers, Inc., November 16, 2007.
- Underground Hoist Decommissioning and Soil Sampling Report, Becker Buick GMC, Inc., 636 East Sprague Avenue, Spokane, Washington: URS Corporation, December 19, 2008.

These documents are on file at Ecology's Eastern Regional Office.

This Covenant is required because the Remedial Action resulted in residual concentrations of Diesel- and Oil-range Petroleum Hydrocarbons which exceed the Model Toxics Control Act Method B Cleanup Levels for SOIL established under WAC 173-340-740.

The undersigned, Cornwell Family, LLC, is the fee owner of real property (hereafter "Property") in the County of Spokane, State of Washington that is subject to this Covenant. The Property is legally described on the Exhibit "A" attached hereto.

Cornwell Family, 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. 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. Some examples of activities that are 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.

Dated: May 12, 2009

CORNWELL FAMILY, LLC

By Dale R. Cornwell  
DALE R. CORNWELL, Manager

By Georgia L. Cornwell  
GEORGIA L. CORNWELL, Manager

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

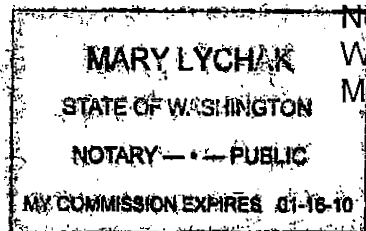
By Michael A. Hibbler  
MICHAEL A. HIBBLER, Section Manager,  
Toxics Cleanup Program

Dated: May 18, 2009

STATE OF WASHINGTON )

County of Spokane ) ss.

On this 17<sup>th</sup> day of May, 2009, I certify that DALE R. CORNWELL and GEORGIA L. CORNWELL, personally appeared before me, acknowledged that they are the Managers of CORNWELL FAMILY, LLC, a Washington Limited Liability Company, the Company that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said Company, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument for said Company.



Mary Lychak  
Notary Public in and for the State of  
Washington, residing at Spokane  
My appointment expires 1-16-10

**Exhibit A**  
**Legal Description**

Lots 1, 2, 3, 4, 5 and 6 in Block 3 of NOSLER'S ADDITION to Spokane, as per plat recorded in Volume "A" of Plats, Page 102, Records of Spokane County;

Also Tracts 3, 4, 5 and 6, Assessor's Plat No. 2, as per plat thereof recorded in Volume "C" of Plats, Page 90;

TOGETHER WITH a portion of a strip, as vacated by Spokane County Ordinance No. A-2915, Recorded August 6, 1907, under Auditor's File No. 178514, lying between lots 1, 2, 3, 4, 5 and 6 in Block 3 of said Nosler's Addition and Tracts 3, 4, 5 and 6 of said Assessor's Plat No. 2 and that portion of Tract 2 of said Assessor's Plat No. 2, described as follows:

BEGINNING at the Northeast corner of Lot 1 in Block 3 of said NOSLER'S ADDITION;

Thence West along the North line of said lots 1, 2, 3, 4, 5 and 6 in Block 3, to the Northwest corner of said Lot 6;

Thence North along the West line of said Lot 6, extended to the Southwest corner of Tract 6 of said ASSESSOR'S PLAT NO. 2;

Thence Easterly along the South line of Tracts 6, 5, 4 and 3 of said ASSESSOR'S PLAT NO. 2 to the Southeast corner of said Tract 3;

Thence North along East line of said Tract 3 to its intersection with the South line of Sprague Avenue as now located; thence Southeasterly along the Southerly line of Sprague Avenue to a point where same intersects the East line of Lot 1 in Block 3 of said NOSLER'S ADDITION, extended North;

Thence South along the said East line of Lot 1 Extended 17.7 feet, more or less, to Point of Beginning;

Situate in the City of Spokane, County of Spokane, State of Washington.

Together with the East half of vacated Sheridan Street from Sprague Avenue to 1<sup>st</sup> Avenue vacated by Ordinance No. C33476 and Recorded under Auditor's File No. 5373396 that would attach by operation of law.