

Periodic Review

US EPA Anderson Calhoun Mine Site Facility Site ID#: 8070626 Cleanup Site ID#: 4519

> Calhoun Road Leadpoint, Washington 99114

Prepared by the Washington State Department of Ecology Toxics Cleanup Program Eastern Region Office

September 2017

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1.0 INTRODUCTION

This document is a review by the Washington State Department of Ecology (Ecology) of postcleanup site conditions and monitoring data to ensure that human health and the environment are being protected at the Anderson Calhoun Mine Site (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 as removal actions under Comprehensive Environmental Response Compensation and Liability Act (CERCLA) authority by the United States Environmental Protection Agency (USEPA) in 2002 and 2010. The removal action did not address or completely remove all contaminated media, and concentrations of hazardous substances, pollutants, and contaminants in the tailings impoundment beneath the protective barrier may exceed MTCA cleanup levels. It was determined that institutional controls were necessary to maintain the integrity of the remedial action. WAC 173-340-420 (2) requires that Ecology conduct a periodic review of a site every five years under the following conditions:

- (a) Whenever the department conducts a cleanup action
- (b) Whenever the department approves a cleanup action under an order, agreed order or consent decree
- (c) Or, as resources permit, whenever the department issues a no further action opinion;
- (d) And one of the following conditions exists;
 - 1. Institutional controls or financial assurance are required as part of the cleanup
 - 2. Where the cleanup level is based on a practical quantitation limit
 - 3. 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 conducting a periodic review and evaluating whether human health and the environment are being protected, the factors the department 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.

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

2.0 SITE SUMMARY

2.1 Site History

The Anderson-Calhoun Mine and Mill Site is located 30 miles northeast of Colville, Washington. The Site is the location of former zinc, lead, and barium mining and milling operations. The Site is approximately 200 acres, and mining and milling operations affected approximately 92 acres of the property. Remnants of ore milling operations include a 43-acre tailings impoundment containing an estimated one million cubic yards of lead-zinc and barium tailings. A vicinity map is available as Appendix 6.1, and a Site plan is available as Appendix 6.2.

The Site is located at elevations between 2,140 and 2,500 feet above mean sea level within Sections 2 and 3, Township 39 North, Range 41 east of the Willamette meridian. The Site was established in 1910 to mine zinc ores. In 1965, a 1,200-ton-per-day flotation mill was constructed on the Site. The mill operated between 1965 and the early 1980s when the Site was abandoned. In the 1980s, the mill was used to process barite ores extracted from mines in the Flagstaff Mountain area about three miles southwest of Northport, Washington.

The Site was involuntarily acquired by Stevens County in the mid-1990s due to delinquent property taxes. The Site was purchased by Daniel and Dale Dawson from Stevens County at a tax sale in 2002. Mr. and Mrs. Dawson still own the Site.

During milling operations, about 900,000 cubic yards of lead-zinc tailings and an unknown quantity of barite tailings were deposited in an on-site impoundment.

2.2 Site Investigations and Removal Actions

USEPA first investigated the property as part of a preliminary assessment and site inspection conducted for Upper Columbia River Mines and Mills in 2001. The investigation of the property identified two small zinc pit mines, the remains of a 1,200-ton flotation mill, a tailings impoundment, numerous 55-gallon drums, oil-filled transformers and other electrical equipment, and other structures and equipment associated with mining and milling activities. The investigation also documented elevated concentrations of metals in the tailings impoundment and in soils near the mill.

Between October 27 and November 3, 2002, USEPA conducted a time-critical removal action to remove and dispose of containers and drums containing hazardous and non-hazardous substances and electrical equipment containing polychlorinated biphenyls. USEPA completed a Removal Action Report in March 2003, concluding that further assessment of the property was necessary and identifying potentially responsible parties. In August 2004, USEPA entered into an agreement with three potentially responsible parties to prepare an Engineering Evaluation and Cost Analysis (EE/CA).

The completed EE/CA concluded that the lead-zinc and barium tailings at the property presented unacceptable human health and ecological risks. The contaminants of concern included barium,

cadmium, copper, lead, selenium, and zinc. In an Action Memorandum dated October 11, 2007, USEPA selected a non-time critical removal action to address risks at the property. The selected removal action called for the excavation and consolidation of contaminated materials in the tailings impoundment, which would be covered with a protective barrier and protected with access controls. The protective barrier was composed of a minimum of 12 inches of coarse-grained soil seeded with a mix of dryland pasture grasses suitable for local climatic conditions. Access controls to the protective barrier consisted of metal T-posts and barbed wire fencing around the perimeter of the barrier.

In 2010, the USEPA implemented the selected removal action. The action generally consisted of consolidating and capping tailings, metals-contaminated soil and mine waste, demolishing several mine/mill structures, and installing barbed-wire fencing to control livestock access.

2.3 Cleanup Levels and Points of Compliance

WAC 173-340-704 states MTCA Method A may be used to establish cleanup levels at sites that have few hazardous substances, are undergoing a routine cleanup action, and where numerical standards are available for all indicator hazardous substances in the media for which the Method A cleanup level is being used.

MTCA Method A cleanup levels for unrestricted land use were determined to be appropriate for contaminants at this Site. The cleanup actions conducted at the Site were determined to be 'routine,' few hazardous substances were found at the Site, and numerical standards were available in the MTCA Method A table for each hazardous substance.

For soil, the point of compliance is the area where the soil cleanup levels shall be attained. For soil cleanup levels based on the protection of groundwater, as they are for this Site, the point of compliance is established as soils throughout the Site.

2.4 Long-Term Monitoring and Repair

The Agreement for Payment of Response Costs (CERCLA Docket Number 10-2010-0105), referred to as the Settlement Agreement, between USEPA and Blue Tee, Corp. (Blue Tee), a responsible party for the removal action, required Blue Tee to conduct monitoring and repair activities at the Site for a period of five years after USEPA completed the removal action.

Following the removal action, USEPA delayed the responsibility for maintenance and repair at the Site to Blue Tee because high surface water run-off flows in spring 2011 caused damage to the cap: erosion damaged drainage systems in the capped area and differential settling on the western portion of the cap created a large area of ponded water. The high surface water run-off conditions and cattle grazing also contributed to weak vegetation growth on the western portion and south slope of the cap. USEPA conducted repairs and improvements to the drainage system, backfilled the area of ponded water, and fertilized and re-seeded the western portion and south slope of the cap in October 2011 before turning the Site over to Blue Tee for the start of maintenance and repair activities.

The Settlement Agreement required Blue Tee to conduct semiannual and annual inspections of the capped tailings area and drainage systems at the Site to assess the continuing effectiveness of the removal action for a period of five years. The Maintenance and Repair Plan included field activities that will be conducted as part of Site inspections, laboratory analyses of samples collected in the field, and reporting. An annual inspection report was generated and submitted to Ecology through 2016, after which Blue Tee was no longer required to conduct inspections. Beginning in 2017, Ecology will conduct inspections every five years as part of the Periodic Review process.

2.5 Institutional Controls

Due to the presence of residual contamination in the tailings containment cell, it was determined that institutional controls were necessary to prevent exposure to hazardous materials and to protect the integrity of the remedial action. Institutional controls in the form of an environmental covenant were implemented at the Site in 2011. The covenant imposes the following limitations:

- 1. Any activity that may result in the release or exposure to the environment of hazardous substances beneath the protective barrier, create a new exposure pathway for hazardous substances beneath the protective barrier, or impair or interfere with the integrity of the protective barrier, shall be prohibited unless prior written approval for the activity is provided by Ecology. Some examples of activities that are prohibited in the protective barrier area without prior written approval include the following: drilling, digging, excavating, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capacity, piercing the surface with a rod, spike or similar item, bulldozing, or earthwork.
- 2. The Owner shall maintain the metal T-post fence and any associated access gates as depicted in Exhibit B for the purpose of restricting access to the protective barrier, and shall repair any damage that affects the integrity or functionality of the fence. The Owner shall obtain written approval from Ecology prior to replacing the metal t-post fence with an alternative access control. The Owner may allow for cattle grazing on the protective barrier, provided that grass is well established across the barrier, and provided that the requirements of this Covenant are satisfied.
- 3. The Owner shall notify and obtain written approval from Ecology prior to dismantling, demolishing, or otherwise removing structures, buildings, and appurtenances thereto that were used for ore mining and milling activities and are located on the Property. In the event such structures, buildings, and appurtenances must be dismantled, demolished, or removed to abate a safety or public health hazard caused by a sudden and unexpected event, Owner shall notify Ecology within 24 hours of the start of such abatement actions.
- 4. The Owner shall provide thirty days advanced written notice to Ecology of the Owner's intent to convey or transfer, in whole or in part, 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 maintenance of the metal t-post fence and associated access gates, and continued maintenance and repair of the twelve inch thick cap of clean soil.
- 5. The Owner shall restrict all permits, licenses, and leases at or on any portion of the Property to uses and activities consistent with this Environmental Covenant, and shall notify all permittees, licensees, and lessees of the restrictions and limitations placed on the Property by this Environmental Covenant.

- 6. The Owner shall allow authorized representatives of EPA, Ecology, and Blue Tee Corporation the right to enter the Property at reasonable times to evaluate the CERCLA action, the protective barrier, to take samples, to inspect any other response actions conducted at the Property, to conduct maintenance and repair activities, and to conduct any other action that may be necessary to ensure that the removal action continues to protect human health and the environment.
- 7. The Owner shall notify and obtain written approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Environmental Covenant. Ecology may approve any inconsistent use only after public notice and comment.

3.0 PERIODIC REVIEW

3.1 Effectiveness of Completed Cleanup Actions

Based upon the Site visit conducted on August 3, 2017, the remedy appears to be functioning as intended. Fencing around the tailings cell continues to prevent livestock from grazing on the cap, although there is visual evidence that gates have been left open allowing cattle to access the cap at times. Aerial photos also indicate that cattle have been grazing on the cap surface. The gate from the public roadway accessing the Site is typically open, but there is no evidence that the public is entering the fenced tailings cell. There is evidence of public access to other portions of the Site, but this does not pose a threat of exposure to hazardous materials; it only poses a threat of physical hazard from remaining mine and mill infrastructure.

There are signs of animal activity on the edges of the tailings cell. Burrowing animals appear to be exposing small amounts of tailings along the west cell perimeter. This area is not easily accessible by the general public and does not pose a threat of exposure to hazardous materials, but this disturbance should continue to be monitored during subsequent Site inspections.

The Site remains undeveloped. According to the Stevens County Assessor's Office, the Site is owned by Dale Dawson, et al. The current tax parcel identification numbers for the Site are 5658801 and 5658300. A photo log is available as Appendix 6.4.

3.1.1 Direct Contact

Cleanup actions at the Site were intended to eliminate human exposure to contaminated soil at the Site. Exposure pathways to contaminated soils (ingestion, direct contact) were reduced by a combination of physical access restrictions and institutional controls. Fencing and the lack of direct vehicular access are effective at preventing public access to the Site. The extensive amount of fill and overburden on the portions of the Site containing tailings effectively prevents possible exposure of these materials.

3.1.2 Institutional Controls

Institutional controls were implemented in the form of an environmental covenant. The covenant helps to prevent the exposure of hazardous materials contained beneath the Site surface by prohibiting excavation, drilling, and any use of the property that is inconsistent with the covenant. The restrictive covenant and subsequent amendments remain active, and there is no evidence that any instruments have been recorded that limit the effectiveness or applicability of the covenant.

3.2 New Scientific Information for Individual Hazardous Substances for Mixtures Present at the Site

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

3.3 New Applicable State and Federal Laws for Hazardous Substances Present at the Site

There are no new relevant or applicable state or federal laws for hazardous substances found at the Site.

3.4 Current and Projected Site Use

The Site remains vacant. The perimeter fencing at the Site remains in excellent condition and prevents public access to the tailings cell area. 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 MTCA Method A cleanup levels. The presence of improved analytical techniques would not impact 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.
- Soil cleanup levels have not been met at the Site; however, the cleanup action for the Property is determined to comply with cleanup standards under WAC 173-340-740(6)(f), since the long-term integrity of the containment system is ensured and the requirements for containment technologies have been met.
- The environmental covenant for the property is in place 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 environmental covenant are being satisfactorily met. No additional remedial actions are 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 cap is maintained.

4.1 Next Review

The next review for the Site will be scheduled five years from the date of 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.

5.0 REFERENCES

USEPA. Engineering Evaluation/Cost Analysis. April 2007.

USEPA. Oversight of Maintenance and Repair Activities. February 22, 2010.

Ecology. Environmental Covenant. August 10, 2011.

GeoEngineers, Inc. Final Maintenance and Repair Plan. May 4, 2012.

GeoEngineers, Inc. Annual Maintenance and Repair Report - Spring 2015. September 25, 2015.

Ecology. Site Visit. August 3, 2017.

6.0 APPENDICIES

6.1 Vicinity Map



6.2 Site Plan



6.3 Environmental Covenant

AFTER RECORDING RETURN TO:

Washington Department of Ecology

4601 North Monroe Street

Spokane, Washington 99205

Sandra Treccani



DEPARTMENT OF ECOLOGY EASTERN REGIONAL OFFICE

Auditor File #: 2011 0005409 Recorded at the request of: KARI DAWSON

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Total of 12 page(s) Paid: \$ 73.00 STEVENS COUNTY, WASHINGTON TIM GRAY, AUDITOR

AALLEN

GRANTORS:	Daniel Dawson, Joan D. Dawson, and Kari A. Dawson
GRANTEE/ HOLDER:	Washington State Department of Ecology
LEGAL DESCRIPTION: (abbreviated)	Section 2, Township 39 North, Range 41 East, Willamette Meridian, in Stevens County, Washington. Full legal description provided as Exhibit A.
TAX PARCEL NOS.:	5658801 and 5658300
CROSS REFERENCE:	Not applicable

ENVIRONMENTAL COVENANT

I. Purpose and Background

Grantor, Daniel Dawson, Joan D. Dawson, and Kari A. Dawson, hereby bind Grantor and its successors and assigns (collectively hereinafter, "Grantor") to the land use restrictions identified herein and grants such other rights under this Environmental Covenant made on this day of July, ∂ul . This instrument grants a valid and enforceable

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Environmental Covenant pursuant to the Washington State Uniform Environmental Covenant Act, RCW Chapter 64.70 (UECA) to Washington Department of Ecology and its successors and assigns (hereafter "Ecology" or "Holder"). By the signatures below, Grantor represents that they have the authority to legally execute and agree to the terms of this Covenant.

The covenants granted herein are part of a response action implemented under the authority of the Comprehensive Environmental Response, Cleanup and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, and pursuant to two settlement agreements between the United States Environmental Protection Agency ("EPA") and Blue Tee Corporation (Blue Tee), CERCLA Docket No. 10-2010-0105, and between EPA and Combustion Engineering, Inc. and Goldfield Corporation, CERCLA Docket No. 10-2009-0195.

The Anderson-Calhoun Mine and Mill Site ("Property") is approximately 200 acres in size and located 30 miles northeast of Colville, Washington. The Property is the location of former zinc, lead, and barium mining and milling operations, conducted between 1910 and the early 1980s. The mining and milling operations affected approximately 92 acres of the Property. Remnants of ore milling operations include a 43-acre tailings impoundment containing an estimated one million cubic yards of lead-zinc and barium tailings. A complete legal description of the Property is provided as Exhibit A, and a map depicting the Property and areas relevant to the restrictions contained in this covenant is provided as Exhibit B.

EPA first investigated the Property as part of a preliminary assessment and site inspection conducted for Upper Columbia River Mines and Mills in 2001. The investigation of the Property identified two small zinc pit mines, the remains of a 1,200 ton flotation mill, a tailings impoundment, number 55-gallon drums, oil filled transformers and other electrical equipment, and other structures and equipment associated with mining and milling activities. The investigation also documented elevated concentrations of metals in the tailings impoundment and in soils near the mill.

Between October 27, 2002 and November 3, 2002, EPA conducted a time-critical removal action to remove and dispose of containers and drums containing hazardous and nonhazardous substances and electrical equipment containing polychlorinated biphenyls. EPA completed a Removal Action Report in March 2003, concluding that further assessment of the Property was necessary and identifying potentially responsible parties. In August 2004, EPA

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entered into an agreement with three potentially responsible parties to prepare an Engineering Evaluation and Cost Analysis (EE/CA).

The completed EE/CA concluded that the lead-zinc and barium tailings at the Property presented unacceptable human health and ecological risks. The constituents of concern included barium, cadmium, copper, lead, selenium, and zinc. In an Action Memorandum dated October 11, 2007, EPA selected a non-time critical removal action to address risks at the Property. The selected removal action calls for the excavation and consolidation of contaminated materials in the tailings impoundment, which would be covered with a protective barrier and protected with access controls. The protective barrier is composed of a minimum of twelve inches of coarse-grained soil seeded with a mix of dryland pasture grasses suitable for local climatic conditions. A depiction of the footprint of the protective barrier is provided in Exhibit B. Access controls to the protective barrier consist of metal T-posts and barbed wire fencing erected around the perimeter of the barrier.

The selected removal action was intended to reduce or eliminate pathways of exposure to contaminants in order to reduce the overall threat to human health and the environment from contaminants on the Property. The removal action did not address or completely remove all contaminated media, and concentrations of hazardous substances, pollutants, and contaminants in the tailings impoundment beneath the protective barrier may exceed protective levels established under the state of Washington's Model Toxics Control Act (MTCA), Chapter 70.105D. Accordingly, long-term maintenance and repair of the completed action is necessary to ensure that the removal action remains protective of human health and the environment.

The Action Memorandum and supporting record are on file with EPA Region 10 or its successor agency. The regional office is currently located at 1200 6th Avenue Seattle, Washington 98101.

The purpose of this Environmental Covenant is to establish institutional controls to protect human health and the environment and to ensure the integrity of the response action implemented at the Property. Notwithstanding the response actions implemented and the terms and conditions of this Environmental Covenant, Ecology reserves all of its rights under the law, including but not limited to its rights to require different or additional remedial action under MTCA.

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II. Conveyance and Covenant

This instrument is an Environmental Covenant executed pursuant to UECA concerning the Property owned by the Grantor and legally described in Exhibit A and depicted in Exhibit B, which are attached hereto and incorporated herein. Grantor covenants to and with the Holder and its successor and assigns, that Grantor is lawfully seized in fee simple of the Property, that the Grantor has good and lawful right and power to sell and convey the Property or any interest therein, that the Property is free and clear of encumbrances, except those reviewed and approved by EPA, and that Grantor will forever warrant and defend the title thereto and the quiet possession thereof.

With this Environmental Covenant Grantor hereby binds Grantor, their heirs, executors, administrators, successors, and assigns to the restrictions and conditions set forth herein, and conveys to the Holder such restricted property interests. EPA and Ecology have the full rights to enforce the restrictions, conditions, or other rights set forth herein as provided by law including but not limited to CERCLA, MTCA, and UECA.

Grantor makes the following covenants as to limitations, restrictions, and uses to which the Property may be put and specifies that such covenants shall run with the land, as provided by law, shall inure to the benefit of the parties hereto, 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 (hereinafter "Owner"):

1. Any activity that may result in the release or exposure to the environment of hazardous substances beneath the protective barrier, create a new exposure pathway for hazardous substances beneath the protective barrier, or impair or interfere with the integrity of the protective barrier, shall be prohibited unless prior written approval for the activity is provided by Ecology. Some examples of activities that are prohibited in the protective barrier area without prior written approval include the following: drilling, digging, excavating, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capacity, piercing the surface with a rod, spike or similar item, bulldozing, or earthwork.

2. The Owner shall maintain the metal T-post fence and any associated access gates as depicted in Exhibit B for the purpose of restricting access to the protective barrier, and shall

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repair any damage that affects the integrity or functionality of the fence. The Owner shall obtain written approval from Ecology prior to replacing the metal t-post fence with an alternative access control. The Owner may allow for cattle grazing on the protective barrier, provided that grass is well established across the barrier, and provided that the requirements of this Covenant are satisfied.

3. The Owner shall notify and obtain written approval from Ecology prior to dismantling, demolishing, or otherwise removing structures, buildings, and appurtenances thereto that were used for ore mining and milling activities and are located on the Property. In the event such structures, buildings, and appurtenances must be dismantled, demolished, or removed to abate a safety or public health hazard caused by a sudden and unexpected event, Owner shall notify Ecology within 24 hours of the start of such abatement actions.

4. The Owner shall provide thirty days advanced written notice to Ecology of the Owner's intent to convey or transfer, in whole or in part, 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 maintenance of the metal t-post fence and associated access gates, and continued maintenance and repair of the twelve inch thick cap of clean soil.

5. The Owner shall restrict all permits, licenses, and leases at or on any portion of the Property to uses and activities consistent with this Environmental Covenant, and shall notify all permittees, licensees, and lessees of the restrictions and limitations placed on the Property by this Environmental Covenant.

6. The Owner shall allow authorized representatives of EPA, Ecology, and Blue Tee Corporation the right to enter the Property at reasonable times to evaluate the CERCLA action, the protective barrier, to take samples, to inspect any other response actions conducted at the Property, to conduct maintenance and repair activities, and to conduct any other action that may be necessary to ensure that the removal action continues to protect human health and the environment.

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

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III. Reservation of Rights

Grantor hereby reserves unto itself, its representatives, heirs, assigns, and successors all rights accruing from ownership of the Property that are not conditioned, restricted or prohibited by this Environmental Covenant.

IV. Enforcement

Compliance with this Environmental Covenant may be enforced pursuant to all applicable laws, including but not limited to CERCLA, UECA, and MTCA. EPA and Ecology shall have full enforcement rights. An action for equitable or injunctive relief for violation of this Environmental Covenant may also be maintained by the other persons and entities set forth in RCW 64.70.110. Failure by any party or person to enforce compliance with this Environmental Covenant in a timely manner shall not be deemed a waiver of the right to take subsequent enforcement actions.

V. Recordation

Grantor shall record this instrument in the official records of Stevens County, Washington and shall pay the costs associated with recording.

VI. General Provisions

<u>Agency's Interest</u>. Pursuant to RCW 64.70.030 the rights granted to EPA by this Environmental Covenant are not interests in real property.

<u>Liberal Construction</u>. This Environmental Covenant shall be construed in favor of effectuating the purpose of this Environmental Covenant. If any provision is found to be ambiguous, an interpretation consistent with the purposes of this Environmental Covenant that would render the provision valid shall be favored over any interpretation that would render it invalid.

<u>Severability</u>. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

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VII. **Termination and Modification**

This Environmental Covenant may only be amended or terminated in accordance with the procedures and process contained in the amendment and termination provisions of UECA, RCW 64.70.090 and 64.70.100, and with the provisions of WAC 173-340-440. Ecology may approve inconsistent uses (as described in Section II, paragraph 7 above), and/or termination only after public notice and opportunity for comment.

VIII. Signature and Acknowledgements

Grantor covenants that it is authorized to grant this Environmental Covenant and shall warrant and defend the same against all claims and demands challenging such authority. The undersigned parties represent and certify that they are authorized to execute this Environmental Covenant.

IN WITNESS WHEREOF, Daniel Dawson has executed this Environmental Covenant as owner of the real property subject to this Environmental Covenant on this \mathcal{S}^{+h} day of , 2011 .

Signatory's printed name

Daniel Dawson

Signature





 $\underline{\partial u u}$, in the year $\underline{\partial 0 | |}$, by the person(s) who appeared before me and who acknowledged it to be his/her/their free and voluntary act.

Name (signature)

My #

2011 0 STEVENS	005409 PAGE 8 OF -
	Notary Public for the state of WASHINGTON
	My Commission expires on 3.31.15
	Printed Name TONIE L. HEATH
IN WITNESS WHEREOF, Joa	n D. Dawson has executed this Environmental Covenant
as owner of the real property subject to	this Environmental Covenant on this 22 day of
Jane, 2011.	uy or
Signatory's printed name	Joan D. Dawson
Signature	Jan D. Dowson
STATE OF <u>Washington</u> COUNTY OF <u>States</u>) The foregoing instrument was acknowl <u>Acce</u> , in the year <u>Acii</u> , by the acknowledged it to be his/her/their free Notary Public State of Washington STEPHANIE J YOUNG Appointment Expires Jul 14, 2012	edged and signed in my presence on the 22 day of person(s) who appeared before me and who and voluntary act. Name (signature) <u>Lep Jyg</u> Notary Public for the state of <u>washington</u> My Commission expires on <u>7-14-12</u> Printed Name <u>Septem Yang</u>

IN WITNESS WHEREOF, Kari A. Dawson has executed this Environmental Covenant as owner of the real property subject to this Environmental Covenant on this $\underline{S^{TL}}$ day of \underline{JUL} , \underline{Jou} .

2011 0 STEVENS	1005409 PAGE 9 OF 12			
Signatory's printed name	Kari A. Dawson			
Signature	Kai a Dawson			
STATE OF $f_{U}A$ COUNTY OF $f_{u}A$ The foregoing instrument was acknowledged and signed formy provence on the $\underline{\delta}$ day of $\underline{\delta}_{u}A$, in the year $\underline{\delta}_{U}A$, by the person(s) who appeared before me and who acknowledged it to be his/her/their free and voluntary act.				
	Name (signature) Drie Alectu			
	Notary Public for the state of <u>klashington</u>			
	My Commission expires on March 31, 2015			
	Printed Name TONIE L. HEATH			
The forgoing Environmental Covenant is hereby approved and certified.				
	By: <u>Jan 7/26/11</u> Daniel 3. Opalski, Director DATE Office of Environmental Cleanup United States Environmental Protection Agency			

y: Wichael A. Hibbler, Regional Section Manager DATE By:

Michael A. Hibbler, Regional Section Manager DATE Toxics Cleanup Program Washington State Department of Ecology

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EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY SUBJECT TO COVENANT

Stevens County Parcel Number 5658300

The South ¹/₂ of the Northeast ¹/₄ and the North ¹/₂ of the Southeast ¹/₄ of Section 2, Township 39 North, Range 41 East, W.M., in Stevens County, Washington, LESS all mineral rights.

Stevens County Parcel Number 5658801

The East 400 feet of Southeast ¹/₄ of the Northwest ¹/₄ and the East 400 feet of Northeast ¹/₄ of the Southwest ¹/₄ of Section 2, Township 39 North, Range 41 East, W.M., in Stevens County, Washington, LESS all mineral rights.

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EXHIBIT B

DEPICTION OF SITE AND AREAS RELEVANT TO THE ENVIRONMENAL COVENANT



6.4 Photo Log

Photo 1: Wetland and Tailings Cap – from the west



Photo 2: Tailings Cap with Cattle Impacts – from the southwest



Photo 3: North Cap Fence line - from the east



Photo 4: Former Mill Area – from the northwest

