



PERIODIC REVIEW

Unocal Friday Harbor Bulk Plant

FSID # 2653

1st and Court Street

Friday Harbor, WA 98250

Prepared by
Washington State Department of Ecology
Northwest Regional Office
Toxics Cleanup Program
Bellevue, WA

October 2018

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1.0 INTRODUCTION

This document is a review by the Washington State Department of Ecology (Ecology) of post-cleanup site conditions and monitoring data at the Unocal Friday Harbor Bulk Plant site (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA) regulations, Chapter 173-340 Washington Administrative Code (WAC).

The purpose of this periodic review is to determine whether the cleanup remedy at the Site continues to be protective of human health and the environment.

Cleanup actions at this Site were conducted through Ecology's Voluntary Cleanup Program (VCP). The VCP identification number for this Site is NW0072. The remedy involved the containment of hazardous materials. At the time cleanup activities were completed, concentrations of gasoline and diesel-range total petroleum hydrocarbons (TPH-G and TPH-D, respectively) remained in soil at concentrations exceeding MTCA Method A cleanup levels. The MTCA Method A 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 that Ecology (also referred to as "the department") 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. Where an institutional control and/or financial assurance is required as part of the cleanup action;
 - 2. Where the cleanup level is based on a practical quantitation limit; or
 - 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 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 or mixtures present at the Site;
- c) New applicable state and federal laws for hazardous substances present at the Site;

- d) Current and projected Site and resource uses;
- e) The availability and practicability of more permanent remedies; 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 SUMMARY OF SITE CONDITIONS

2.1 Site Description and History

The Site is located on Front Street, San Juan Island, Washington, in the waterfront area of the Town of Friday Harbor. A Vicinity Map is available as Appendix 6.1.

The Site includes a vacant property owned by the Port of Friday Harbor (tax parcel number 351350502000) and the north-adjacent Front Street right-of-way owned by the Town of Friday Harbor. The layout of the Site and surrounding properties is shown in the Site Plan (available as Appendix 6.2).

A portion of the Site (Port of Friday Harbor property with tax parcel number 351350502000) was previously owned by Unocal. The former bulk plant stored and distributed gasoline and diesel fuel between 1924 and 1983. The bulk plant facility included ASTs, a garage, a concrete containment wall down slope of the ASTs, and a truck loading rack outside the containment wall (eastern side). Underground and aboveground steel pipelines formerly connected the storage tanks with a fuel dock. The pipelines have also been removed.

Land use immediately surrounding the Site includes Port of Friday Harbor offices to the north; parking lot to the northwest; Fairweather Park to the east; Friday Harbor House (hotel), Whale Museum, and American Legion to the south; and San Juan Island Grange to the west.

The properties to the south and west are considerably higher in elevation than the Site due to the steep slope. The Site surface slopes down steeply to the northeast, toward Front Street. The shoreline of San Juan Channel is located approximately 100 feet northeast of the Site.

2.2 Site Investigations

GeoEngineers completed six hand-auger borings on the Site in 1987, four hand-auger borings and seventeen off-Site test pit explorations in 1990, twelve hand-auger borings in 1997, and four direct-push soil borings in 1998. A 1/2-inch-diameter piezometer was installed in each of the direct-push soil borings in 1998 (P-1 through P-4). Based on the results of past assessments, petroleum-impacted soil beneath and adjacent to the Site appears to be related to historical spills during fueling operations at the loading rack and on the Site.

The concentrations of petroleum in soil beneath the Site ranged up to 1,850 milligrams per kilogram (mg/kg) for gasoline-range total petroleum hydrocarbons (TPH-G), 2,640 mg/kg for diesel-range total petroleum hydrocarbons (TPH-D), and 1,020 mg/kg for heavy oil-range total petroleum hydrocarbons (TPH-O). The concentrations in soil in 1997 were determined to be less than the Site-specific MTCA Method B cleanup levels for direct contact exposure calculated using Ecology's "Interim Interpretative and Policy Statement, Cleanup of Total Petroleum Hydrocarbons" (Interim TPH Policy). However, the concentrations of petroleum in soil were determined to not be protective of ground water.

2.3 Remedial Activities

Remedial excavation activities were performed by Wyser of Bothell, Washington from October 7 to November 14, 2002. The remedial excavation extended both on the property and off the property into Front Street. The maximum depth of remedial excavation was approximately 20 feet bgs, in the northern portion of the excavation. Bedrock bounded the south and east sides of the excavation.

Groundwater seeped into the excavation from the exposed bedrock at varying depths and from sand lenses on the north side wall at depths ranging from approximately 10 to 20 feet bgs.

A total of 3,710.85 tons of petroleum-contaminated soil and 6,000 gallons of petroleum-impacted groundwater with free product were removed from the Site during Unocal's October and November 2002 remedial action. Forty-two soil samples were obtained from the final limits of the remedial excavation. No soil samples were obtained where soil was excavated to bedrock. The soil samples were field screened and submitted for the chemical analyses.

Based on analytical results from confirmation soil samples obtained from the final limits of the 2002 excavation, soil with petroleum concentrations greater than the 2001 MTCA Method A cleanup levels was successfully removed from the Site with the exception of one localized area along the west wall of the excavation. The area was near a grove of trees and could not be safely excavated further without removing the trees or excavating near an active electrical line. This area consists of Town of Friday Harbor right-of-way.

Benzene, TPH-D, and TPH-G concentrations exceeded MTCA Method A cleanup levels in this area; however, these samples met the following three criteria specified in MTCA for statistical evaluation.

- (a) Less than 10 percent of the samples had concentrations that exceeded the corresponding cleanup levels.
- (b) No single sample concentrations were more than two times the corresponding cleanup levels.
- (c) The 95 percent upper confidence limits (UCL) of the data sets were less than the corresponding cleanup levels. Specifically, the 95 percent UCLs for benzene were 0.0166 mg/kg and 0.0175 mg/kg for lognormal and normal distributions, respectively; the 95 percent UCLs for TPH-G were 4.49 mg/kg and 5.67 mg/kg for lognormal and normal distributions, respectively; and the 95 percent UCLs for TPH-D were 61 and 175 mg/kg for lognormal and normal distributions, respectively.

2.4 Cleanup Levels and Points of Compliance

2.4.1 Cleanup Levels

WAC 173-340-704 states that 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 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.

Cleanup Levels for the constituents of concern at the Site are available in the table below.

Cleanup Levels

Indicator Hazardous Substance	2001 MTCA Method A Soil Cleanup Level (mg/kg)	2001 MTCA Method A Ground Water Cleanup Level (µg/l)
Benzene	0.03	5
Ethylbenzene	6	700
Toluene	7	1,000
Xylenes	9	1,000
Ethylene dibromide (EDB)	0.005	0.01
1,2-Dichloroethane (EDC)	NA	5
Methyl tert-butyl ether (MTBE)	0.1	20
Naphthalene	5	160
Lead	250	15
TPH	Gasoline = 30 Diesel = 2,000 Heavy Oil = 2,000	Gasoline = 800 Diesel = 500 Heavy Oil = 500

2.4.2 Ground Water Point of Compliance

For groundwater, the point of compliance is the point or points where the groundwater cleanup levels must be attained for a site to be in compliance with the cleanup standards. The groundwater standard

point of compliance is established throughout the Site from the uppermost levels of the saturated zone extending vertically to the lowest most depth which could potentially be affected by the Site.

2.4.3 Soil Point of Compliance

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.

2.5 Institutional Controls

Following remedial activities, concentrations of TPH remained at the Site that exceed MTCA Method A cleanup levels for soil. However, it was determined that the remedy would be protective of human health and the environment if institutional controls in the form of a Restrictive Covenant were implemented to prevent exposure to contaminated soils capped at the Site.

Ecology issued a determination of No Further Action for soil on October 23, 2003. The NFA stipulated the implementation of institutional controls in the form of a Restrictive Covenant addressing residual soil contamination, which was filed with San Juan County in May of 2003. The NFA also required a groundwater compliance monitoring program to assure the Site does not pose a threat to human health or the environment.

The Restrictive Covenant imposed the following limitations:

- 1)
 - a) **Subsurface Activities.** Subsurface fill material in the Restricted Area shall not be disturbed because the soil may be affected by known, potential or suspected contamination. Any activity which disrupts the subsurface fill material in the Restricted Area and causes any exposure of contaminated material and/or soils is strictly prohibited. The Owner shall guarantee the preservation of the surface facilities, such as buildings or parking lots, stormwater infiltration controls and surface fill material at the Restricted Area. In the event any subsurface material or soils at the Restricted Area be disturbed, through removal, repair, renovation, or any other action which may, might or could expose these materials and soils, the Department of Ecology shall be notified within thirty (30) days and appropriate action will be required as may be determined by the appropriate regulatory body or agency.
 - b) Some examples of activities that are prohibited include: drilling, trenching, utilities excavation, bulldozing or earthwork. The infiltration controls include all pervious and impervious landscape features, such as parking lots and bioswales, and stormwater management components, such as building drains and drain clean-out stations. Normal surface activities, such as landscaping or building maintenance, would not apply to these restrictions.

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- c) Notice Requirement for Change of Use. The Right of Way (ROW) Property shall continue to be used for commercial or industrial land use. Any change in the use of the premises shall require notice to the Department of Ecology for review of the proposed use of the ROW Property.
 - d) Groundwater Use. Owner will not withdraw, or allow others to withdraw, groundwater from the ROW Property without permission from Ecology. An example of permitted withdrawal would be for Ecology required monitoring or remedial action.
- 2) Any activity on the ROW Property that may interfere with the integrity of the Restricted Area or Remedial Action and continued protection of human health and the environment is prohibited.
 - 3) Any activity on the ROW Property that may result in the release or exposure to the environment of a hazardous substance that remains on the ROW Property as part of the Remedial Action or Restricted Area, or create a new exposure pathway, is prohibited without prior written approval from Ecology.
 - 4) The Owner of the ROW Property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the ROW Property. No conveyance of title, easement, lease, or other interest in the ROW Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.
 - 5) 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 ROW Property.
 - 6) The Owner must notify and obtain approval from Ecology prior to any use of the ROW Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.
 - 7) The Owner shall allow authorized representatives of Ecology the right to enter the ROW Property at reasonable times for the purpose of evaluating the Remedial Action or Restricted Area; to take samples, to inspect Remedial Actions conducted at the ROW Property or Restricted Area, and to inspect records that are related to the Remedial Action and Restricted Area.
 - 8) The Owner of the ROW Property reserves the right under NAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the ROW 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.

A copy of the Restrictive Covenant is available as Appendix 6.3.

Quarterly groundwater monitoring began in November 2004. Groundwater samples were analyzed for benzene, ethylbenzene, toluene, and total xylenes (BETX), total petroleum hydrocarbons (TPH) as gasoline, TPH as diesel, and TPH as heavy oil. During the October 2005 sampling event, the groundwater samples were also analyzed for volatile organic compounds, polynuclear aromatic hydrocarbons, and total and dissolved lead.

Groundwater monitoring results indicated that the Site had 4 consecutive quarters of results below the MTCA Method A Cleanup Levels. This indicated that the remedial excavation was successful, and that the residual soil contamination was not resulting in adverse impacts to groundwater quality.

In 2006, Ecology issued a second no further action determination that no longer required groundwater monitoring. A restriction on groundwater extraction and use at the Site remains in the Restrictive Covenant.

A map of the area where contamination remains (and where the restrictions apply) is included as an attachment to the Restrictive Covenant. The remaining contamination is in a small area owned by the Town of Friday Harbor that is between the concrete stairway (that leads to First Street) and a parking lot access road.

3.0 PERIODIC REVIEW

3.1 Effectiveness of completed cleanup actions

3.1.1 Soil and Direct Contact

Ecology visited the Site on October 3, 2018 and was accompanied by Mr. Todd Nicholson (Director) and Ms. Tami Hayes (Harbormaster) of the Port of Friday Harbor. The Site currently consists of a vacant, steeply-sloped, vegetated property owned by the Port of Friday Harbor (tax parcel number 351350502000) and the north-adjacent Front Street right-of-way (including streets, sidewalks, and landscaped areas) owned by the Town of Friday Harbor.

The remaining contamination is in a small area between the concrete stairway (that climbs up the slope to First Street) and a parking access road located next to the Front Street roundabout. The contaminated area is covered by soil, trees, a rockery retaining wall (due to the steep slope), and a concrete stairway. The pavement and soil cover in the area remains intact and effectively eliminates direct exposure pathways (ingestions, direct contact) to contaminated soils that remain beneath the surface.

Ecology also spoke to Mr. Duncan Wilson, the Town of Friday Harbor Administrator, over the phone to confirm that the Town of Friday Harbor is also aware of the Restrictive Covenant.

A photo log is available as Appendix 6.4.

3.1.2 Institutional Controls

Institutional controls are required at the Site as a condition of the no further action determination. Institutional controls have been implemented in the form of a Restrictive Covenant. The Restrictive Covenant serves to restrict property use, prevent groundwater extraction and use, require notice of property transfer, and maintain stormwater infiltration controls.

3.1.3 Ground Water

Groundwater monitoring was conducted for 6 consecutive quarters at the Site beginning in November 2004. The final five quarters did not detect contamination at concentrations exceeding MTCA Method A cleanup levels. Remaining soil contamination at the Site does not appear to be impacting groundwater quality.

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

Cleanup levels at the Site were based on regulatory standards rather than calculated risk for chemicals and/or media. These standards were sufficient to be protective of Site-specific conditions.

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

There is no new relevant state or federal standards applicable to the contaminants of concern at the Site.

3.4 Current and projected Site and resource use

There have been no changes in current or projected Site uses or resource uses since the remedial action was completed and the no further action determination was issued.

3.5 Availability and practicability of more permanent remedies

The remedy implemented included containment of hazardous substances, and it continues to be protective of human health and the environment. While more permanent remedies 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 actions were capable of detection below cleanup levels for contaminants of concern at the Site. The presence of improved analytical techniques would not affect decisions or recommendations made for the Site.

4.0 CONCLUSIONS

The following conclusions have been made as a result of this periodic review:

- The cleanup actions completed at the Site appear to be protective of human health and the environment.
- The Restrictive Covenant for the property is in place and continues to be effective in protecting public health from exposure to hazardous substances and protecting the integrity of the cleanup action.

Based on this periodic review, the Department of Ecology has determined that the requirements of the Restrictive Covenant continue to be met. No additional cleanup actions are required by the property owner at this time. 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 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

GeoEngineers. *Summary Report – Interim TPH Policy Data Evaluation*. January 7, 1998.

GeoEngineers. *Revised Supplemental Site Characterization*. January 6, 1999.

GeoEngineers. *Revised Cleanup Action Plan*. May 23, 2002.

GeoEngineers. *Final Cleanup Report*. January 28, 2003.

Town of Friday Harbor. *Restrictive Covenant*. May 16, 2003.

GeoEngineers. *Revised Groundwater Compliance Monitoring Plan*. August 1, 2003.

ENSR International. *Site Review and No Further Action Request*. October 19, 2005.

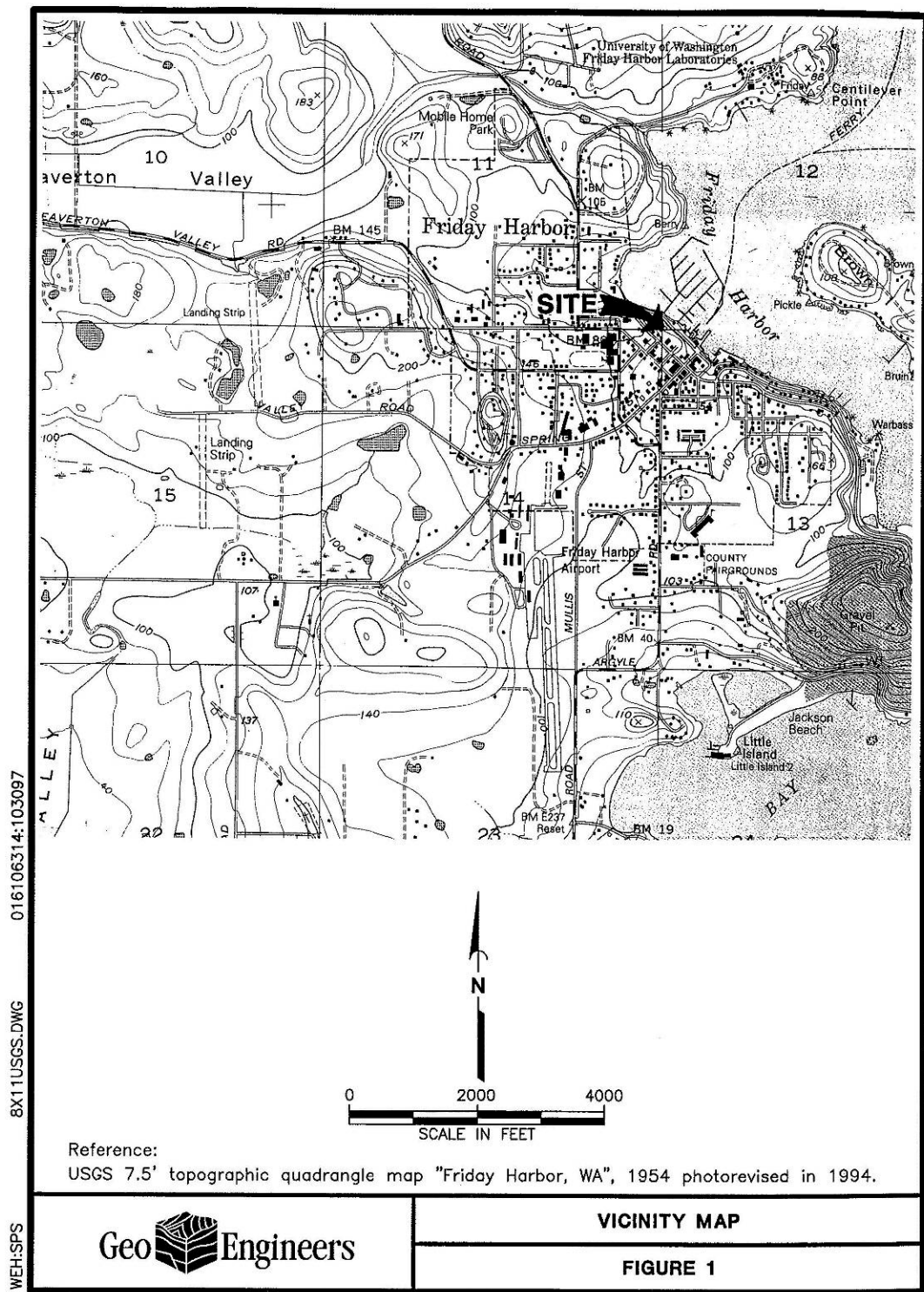
ENSR International. *Site Review*. April 12, 2006.

Ecology. *No Further Action Determination*. August 15, 2006.

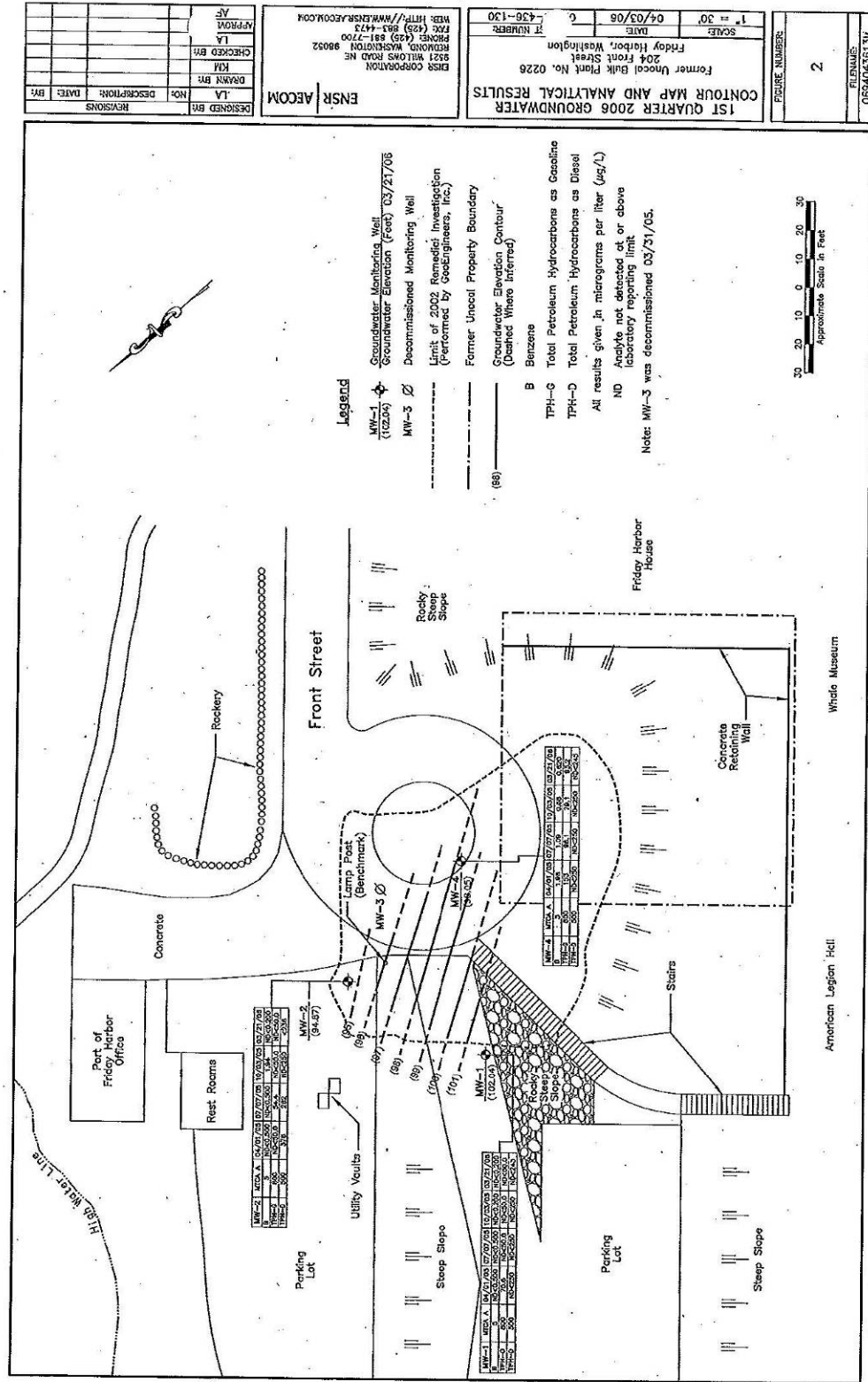
Ecology. *Site Visit*. October 3, 2018.

6.0 APPENDICES

6.1 Vicinity Map



6.2 Site Plan



6.3 Restrictive Covenant

Auditor file #: 2003 0516031

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SAN JUAN COUNTY, WASHINGTON

SI A. STEPHENS, AUDITOR

DFG

FILED AT THE REQUEST OF:
LAW OFFICE OF DONALD E. EATON
P.O. Box 460
Friday Harbor, WA 98250

DOCUMENT TITLE: DECLARATION RESTRICTIVE COVENANT
GRANTOR: TOWN OF FRIDAY HARBOR,
A Washington Municipal Corporation
GRANTEES: STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY
ABBREVIATED LEGAL DESCRIPTION: PTD. OF LOT 6, SEC 12, T35N, R30,
San Juan County, Washington
ASSESSOR'S TAX PARCEL NUMBER: 51350502

DECLARATION OF RESTRICTIVE COVENANT
Town of Friday Harbor Court Street Right-Of-Way

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the Town of Friday Harbor (Town), a Washington municipality, its successors and assigns, as simple fee owners of the real property commonly referred to as that portion of the Court Street Right-Of-Way which is located northeasterly of First Street (hereinafter "the ROW Property"), adjacent to the former Unocal Petroleum Bulk Plant #0266 property currently owned by the Port of Friday Harbor (Port), located between Front and First Streets in the Town of Friday Harbor, County of San Juan, State of Washington, and the State of Washington Department of Ecology, its successors and assigns (hereafter referred to as "Ecology").

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An independent remedial action (hereafter referred to as "Remedial Action") occurred at the ROW Property and the adjacent former Unocal Petroleum Bulk Plant #0266 (Figure 1) that is the subject of this restrictive covenant (hereafter referred to as "Restrictive Covenant"). The Remedial Action conducted at these properties is described in the following documents:

1. Report titled "Groundwater Compliance Monitoring Plan, Former Unocal Bulk Plant 0266, Facility Site ID No. 2653, Friday Harbor, Washington", prepared by GeoEngineers, Inc. (GeoEngineers), Redmond, WA., for Unocal AMG - West Region (Unocal), Edmonds, WA., and dated April 15, 2003.
2. Report titled "Final Cleanup Report, Former Unocal Bulk Plant 0226 and Vicinity, Facility Site ID No. 2653, Friday Harbor, Washington", prepared by GeoEngineers for Unocal, and dated January 28, 2003.
3. Report titled "June 2002 Groundwater Monitoring, Former Unocal Bulk Plant 0226, Front Street, Friday Harbor, Washington", prepared by GeoEngineers for Unocal, and dated July 25, 2002.
4. Report titled "Final Revised Cleanup Action Plan, Former Unocal Bulk Plant 0226 and Vicinity, Facility Site ID No. 2653, Friday Harbor House Expansion and Front Street Turnaround Projects, Friday Harbor, Washington", prepared by GeoEngineers for Unocal, and dated May 23, 2002.
5. Report titled "March 2002 Ground Water Monitoring, Former Unocal Bulk Plant 0226, Front Street, Friday Harbor, Washington", prepared by GeoEngineers for Unocal, and dated May 1, 2002.
6. Report titled "December 2001 Groundwater Monitoring, Former Unocal Bulk Plant 0226, Front Street, Friday Harbor, Washington", prepared by GeoEngineers for Unocal, and dated February 6, 2002.
7. Report titled "Draft Cleanup Action Plan, Former Unocal Bulk Plant 0226, and Vicinity, Port Expansion and Front Street Turnaround Projects, Friday Harbor, Washington", prepared by GeoEngineers for Unocal, and dated November 28, 2001.

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8. Report titled "September 2001 Groundwater Monitoring, Former Unocal Bulk Plant 0226, Front Street, Friday Harbor, Washington", prepared by GeoEngineers for Unocal, and dated November 28, 2001.
9. Report titled "April/May 2001 Groundwater Monitoring, Former Unocal Bulk Plant 0226, Front Street, Friday Harbor, Washington", prepared by GeoEngineers for Unocal, and dated November 27, 2001.
10. Report titled "April/May 2001 Groundwater Monitoring, Former Unocal Bulk Plant 0226, Front Street, Friday Harbor, Washington", prepared by GeoEngineers for Unocal, and dated June 29, 2001.
11. Report titled "Revised Supplemental Site Characterization; Former Unocal Bulk Plant 0226, Friday Harbor, WA.", prepared by GeoEngineers for Unocal, and dated January 06, 1999.
12. Report titled "Supplemental Site Characterization; Former Unocal Bulk Plant 0266, Friday Harbor, WA.", prepared by GeoEngineers for Unocal, and dated October 23, 1998.
13. Ecology's draft Opinion Letter to Port of Friday Harbor regarding environmental concerns at the former Unocal Bulk Terminal 0266, and dated May 28, 1998.
14. Report titled "Summary Report: Interim TPH Policy - Data Evaluation, Former Bulk Fuel Terminal 0226, Friday Harbor, WA.", prepared by GeoEngineers for Unocal, and dated January 07, 1998.
15. Report titled "Supplemental Report: Subsurface Contamination Study, Former Fuel Bulk Plant, Friday Harbor, WA.", prepared by GeoEngineers for Unocal, and dated January 28, 1991.
16. Report titled "Report of Geoenvironmental Services: Subsurface Contamination Study, Former Fuel Bulk Plant, Friday Harbor, WA.", prepared by GeoEngineers for Unocal, and dated October 26, 1987.

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

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This Restrictive Covenant is required because the ROW Property may contain contaminated soils which may require soil remediation if such areas are disturbed. During the course of making certain capital improvements and Remedial Action, as provided for in Chapter 173-340 WAC, it was determined that a limited area of the ROW Property had petroleum contaminated soil and groundwater from historical commercial/industrial land uses. Soil remediation involved removal of petroleum contaminated soil and replacement with clean soil to the excavated area. Since contaminated native or fill material is known to remain in a limited area of the ROW Property (hereinafter "the Restricted Area"), adjacent to the Remedial Action excavation, contaminated materials or soil in the subsurface of the Restricted Area should not be disturbed until properly investigated.

The Restricted Area is shown on Figure 2 attached hereto and is (legally described in Exhibit "A" attached hereto.

Town, as owner, makes the following declaration as to limitations, restrictions, and uses to which the Restricted Area and ROW 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 ROW Property (hereafter referred to as "Owner").

Declaration of Restrictive Covenant - 4

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Section 1.

A. Subsurface Activities. Subsurface fill material in the Restricted Area shall not be disturbed because the soil may be affected by known, potential or suspected contamination. Any activity which disrupts the subsurface fill material in the Restricted Area and causes any exposure of contaminated material and/or soils is strictly prohibited. The Owner shall guarantee the preservation of the surface facilities, such as buildings or parking lots, stormwater infiltration controls and surface fill material at the Restricted Area. In the event any subsurface material or soils at the Restricted Area be disturbed, through removal, repair, renovation, or any other action which may, might or could expose these materials and soils, the Department of Ecology shall be notified within thirty (30) days and appropriate action will be required as may be determined by the appropriate regulatory body or agency. Some examples of activities that are prohibited include: drilling, trenching, utilities excavation, bulldozing or earthwork. The infiltration controls include all pervious and impervious landscape features, such as parking lots and bioswales, and stormwater management components, such as building drains and drain clean-out stations. Normal surface activities, such as landscaping or building maintenance, would not apply to these restrictions.

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B. Notice Requirement for Change of Use. The ROW Property shall continue to be used for commercial or industrial land-use. Any change in the use of the premises shall require notice to the Department of Ecology for review of the proposed use of the ROW Property.

C. Groundwater Use. Owner will not withdraw, or allow others to withdraw, groundwater from the ROW Property without permission from Ecology. An example of permitted withdrawal would be for Ecology required monitoring or remedial action.

Section 2. Any activity on the ROW Property that may interfere with the integrity of the Restricted Area or Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the ROW Property that may result in the release or exposure to the environment of a hazardous substance that remains on the ROW Property as part of the Remedial Action or Restricted Area, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the ROW Property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the ROW Property. No conveyance of title, easement, lease, or other interest in the ROW Property shall be consummated by the Owner without adequate and complete provision for continued monitoring,
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operation, and maintenance of the Remedial Action.

Section 5. 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 ROW Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the ROW Property that is inconsistent with the terms of this Restrictive 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 ROW Property at reasonable times for the purpose of evaluating the Remedial Action or Restricted Area; to take samples, to inspect Remedial Actions conducted at the ROW Property or Restricted Area, and to inspect records that are related to the Remedial Action and Restricted Area.

Section 8. The Owner of the ROW 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 ROW 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.

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SAN JUAN COUNTY, WASHINGTON

Dated at Friday Harbor, Washington, this 15th day of May,
2003.

TOWN OF FRIDAY HARBOR

By: Gary G. Boothman
Gary G. Boothman, Mayor

SEAL of the
Town of Friday Harbor

ATTEST:
Kelle' Wilson
Kelle' Wilson, Town Clerk

STATE OF WASHINGTON)
County of San Juan)

On this 15th day May, 2003, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared GARY G. BOOTHMAN to me known to be the Mayor of THE TOWN OF FRIDAY HARBOR, a Washington Municipal Corporation, the corporation that executed the foregoing instrument, and acknowledged the 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 authorized to execute the said instrument.

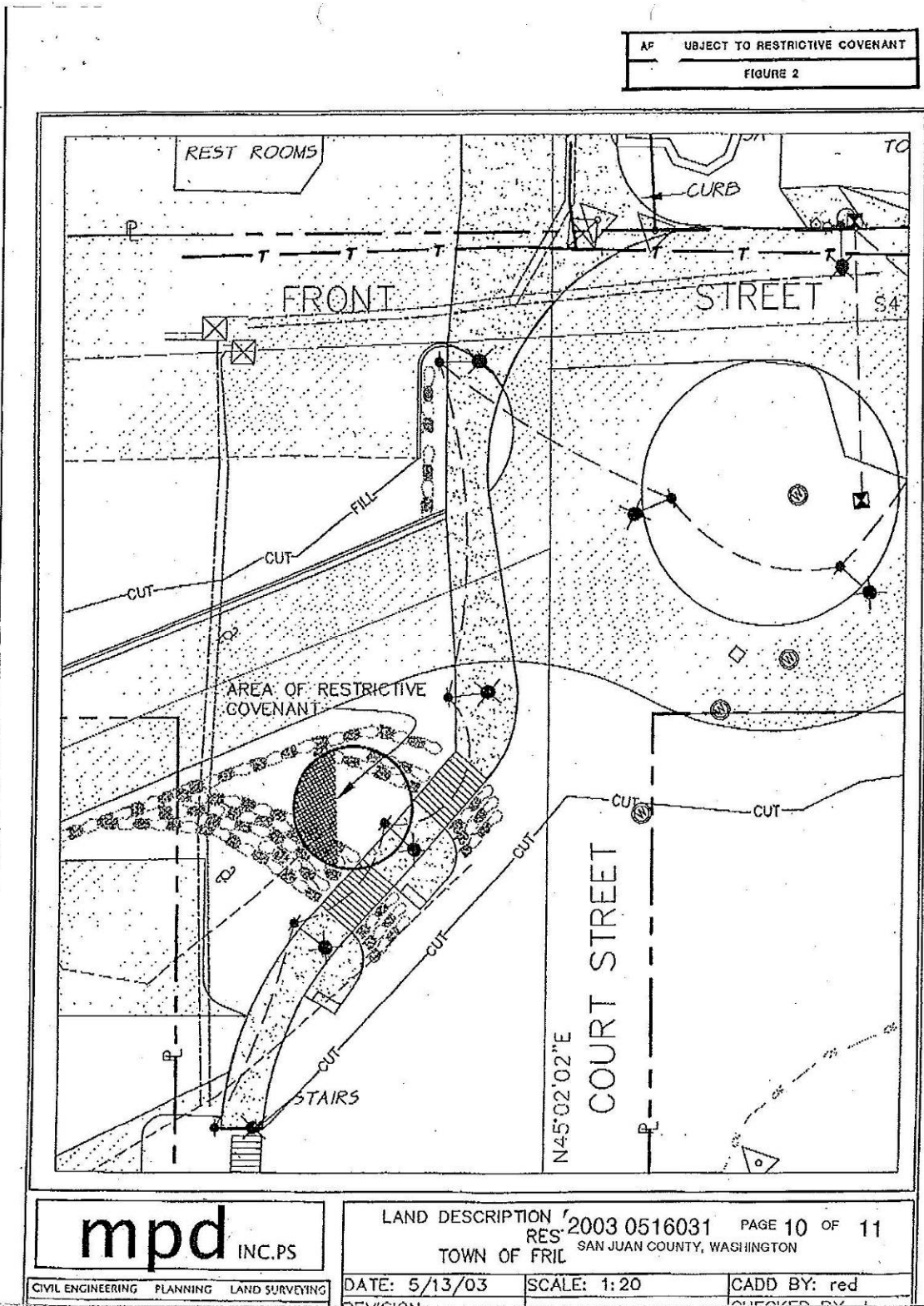
WITNESS MY HAND and official seal hereto affixed the day and year first above written.



Kelle' Wilson
NOTARY PUBLIC in and for the
State of Washington, residing
at Friday Harbor
My Commission Expires: 3/1/07
Kelle' Wilson

Declaration of Restrictive Covenant - 8

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SAN JUAN COUNTY, WASHINGTON



6.4 Photo log

Photo 1: View of the Site from across the Front Street roundabout, facing west.



Photo 2: Contamination remains between the stairway and parking lot access road.



Photo 3: The cap includes pavement, soil, trees, and a rockery retaining wall.



Photo 4: View of the Site from the slope, facing northeast.

