

EXHIBIT A

PARCEL RESTRICTIONS

This document is part of the alternative system used by the Washington State Department of Transportation (“WSDOT” or “Department”) to implement institutional controls pursuant to the Model Toxics Control Act (“MTCA”), Chapter 70.105D RCW and MTCA regulations, WAC 173-340-440 on parcel(s) of property owned by the Department. The following institutional controls and/or restrictions shall be implemented congruently with RCW 47.01.260, allowing the Department to retain its legal authority to design, build, operate and maintain the highway system. The purpose of this document is to describe the specific institutional controls that will be implemented at the Property. Accordingly, nothing in this document shall operate to either enlarge or reduce WSDOT’s obligation to comply with all applicable state and federal laws, including MTCA and CERCLA.

The Property that is the subject of these restrictions is part or all of a site commonly known as the Bingo Fuel Stop site, **FSID #388**. The Property is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter “Property”). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.

The Property is the subject of remedial action under MTCA. The restrictions on use described in this document are required because residual contamination remains on the Property after completion of remedial actions. Records describing the extent of residual contamination and remedial actions conducted are available through the Washington State Department of Ecology (“Ecology”). These include the following documents:

1. AGI Technologies. *Cleanup Action Plan*. April 7, 1995.
2. Ecology. *Agreed Order No. DE 02TCPCR-3976*. June 3, 2002.
3. CDM. *2010 Natural Attenuation Monitoring Report*. April 7, 2010
4. Ecology. *Periodic Review*. June 1, 2017.

Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	Gasoline-Range Petroleum Hydrocarbons
Groundwater	Gasoline-Range Petroleum Hydrocarbons
Surface Water/Sediment	None

Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

a. Interference with Remedial Action. WSDOT shall not engage in any activity on the Property that may impact or interfere with the remedial action. If any highway operation, maintenance, inspection or monitoring is determined to impact or interfere with the remedial action, no activities will commence without prior written approval from Ecology.

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- b. Protection of Human Health and the Environment.** Except as authorized by Section 2 (b) of this Parcel Restrictions document, WSDOT shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. Continued Compliance Required.** WSDOT shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with these restrictions.
- d. Leases.** WSDOT shall restrict any lease for any portion of the Property to uses and activities consistent with these restrictions and notify all lessees of the restrictions on the use of the Property.
- e. Amendment to this Parcel Restrictions document.** WSDOT must notify and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with these restrictions. Before approving any proposal, Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal. If Ecology approves the proposal, the restrictions will be amended to reflect the change.

Section 2. Specific Restrictions, Prohibitions, and Requirements.

In addition to the general restrictions in Section 1, the following additional specific restrictions and requirements shall apply to the Property.

- a. Land Use.** The remedial action for the Property is based on a cleanup designed for commercial property. As such, the Property shall be used in perpetuity only for highway right-of-way purposes and for commercial or industrial land uses as that term is defined in the rules promulgated under Chapter 70.105D RCW. Prohibited uses on the Property include but are not limited to residential uses, childcare facilities, K-12 public or private schools, parks, grazing of animals, and growing of food crops.
- b. Containment of Soil/Waste Materials.** The remedial action for the Property is based on containing contaminated soil under a cap consisting of asphalt road and clean soil located as illustrated in **Exhibit B**. The primary purpose of this cap is to minimize the potential for contact with contaminated soil and to minimize the leaching of contaminants to groundwater. As such, the following restrictions shall apply within the area illustrated in **Exhibit B**.

Any activity on the Property that will compromise the integrity of the cap including: drilling; digging; piercing the cap with sampling device, post, stake or similar device; grading; excavation; installation of underground utilities; removal of the cap; or, application of loads in excess of the cap load bearing capacity is prohibited, except as follows:

- i.** If the activity occurs 5 feet or less below ground surface, WSDOT shall promptly repair any damage to the cap by replacing the damaged area with similar materials and submit

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written documentation to Ecology documenting these repairs within ninety (90) days of completing the repairs.

ii. If the activity occurs more than 5 feet below ground surface, WSDOT shall consult with Ecology before the activity on appropriate precautions and restoration procedures, including appropriate disposal of contaminated materials encountered during excavation. Unless otherwise agreed to by Ecology during the consultation, WSDOT shall promptly repair any damage to the cap by replacing the damaged area with similar materials and submit written documentation to Ecology documenting these repairs within ninety (90) days of completing the repairs.

c. Stormwater facilities. To minimize the potential for mobilization of contaminants remaining in the soil and groundwater on the Property, no stormwater infiltration facilities or ponds shall be constructed on the property.

d. Vapor/gas controls. The residual contamination on the Property includes volatile chemicals that may generate harmful vapors. As such, the following restrictions shall apply on the Property to minimize the potential for exposure to these vapors:

No building or other permanent enclosed structure shall be constructed on the Property/within this area.

e. Groundwater use. The groundwater beneath the Property remains contaminated and shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted from the property for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.

Section 3. Access.

a. WSDOT shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor and maintain the remedial action.

b. WSDOT freely and voluntarily grants Ecology and its authorized representatives, upon reasonable written notice, the right to enter the Property at reasonable times as agreed upon by both parties to evaluate the effectiveness of these restrictions and associated remedial actions, and enforce compliance with these restrictions and those remedial actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.

c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

Section 4. Notice Requirements.

a. Conveyance of Any Interest. WSDOT, when conveying any interest in any part of the property, including but not limited to title, easement, leases, and security or other interests, must:

i. Notify Ecology at least thirty (30) days in advance of the conveyance.

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- ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of these restrictions:

NOTICE: THIS PROPERTY IS SUBJECT TO USE RESTRICTIONS DETAILED BY THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON JULY 15, 2015 AND AVAILABLE AT THE ECOLOGY FACILITY SITE DATABASE UNDER ECOLOGY SITE ID No. 9197 . USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THE RESTRICTIONS, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.
- iv. In the case of conveyance of title, require that within 30 days after conveyance the party accepting title must file with the county auditor an environmental covenant approved by Ecology.
- b. **Reporting Violations.** Should WSDOT become aware of any violation of these restrictions, WSDOT shall promptly report such violation to Ecology.
- c. **Emergencies.** For any emergency or significant change in site conditions due to Acts of Nature (for example, flood, fire, response to a vehicular accident or other emergency condition in the right of way) resulting in an inability to adhere to these restrictions, WSDOT is authorized to respond to such an event in accordance with state and federal law. WSDOT must notify Ecology of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.
- d. Any required written notice, approval, or communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to Ecology and WSDOT.

Contact Name (or his/her successor) Hazardous Materials Program Manager Office -- Cell -- Email Address	Jeff Newschwander (or his/her successor) Ecology Toxics Cleanup Program 1250 West Alder Union Gap, WA 98903 509-454-7842 jeff.newschwander@ecy.wa.gov
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As an alternative to providing written notice and change in contact information by mail, these documents may be provided electronically in an agreed upon format at the time of submittal.

Section 5. Modification or Termination.

- a. If the conditions at the site requiring these restrictions have changed or no longer exist, then WSDOT may submit a request to Ecology that these restrictions be amended or terminated.

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LEGAL DESCRIPTION

A legal description is not available for this tract. It is generally described as the eastbound Interstate 90 off-ramp and on-ramp right-of-way and under the Thorp Highway right-of-way adjacent to the site. See Exhibit B for a figure with detailed locations.

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Exhibit B

PROPERTY MAP

