

6.4 Environmental Covenant

FILED for Record at Request of
Name City of Seattle Law Dept.
Address 1600 4th Ave 10th Floor
City Seattle WA 98104



20010510002681

RESTRICTIVE COVENANT

2203 Airport Way South, Seattle, WA

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

An independent remedial action (hereafter "Remedial Action") occurred at the Property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the Property is described in the following documents. These documents are on file at Ecology's Northwest Regional Office.

1. Independent Remedial Action Report, Park 90/5 Office Park, Seattle, Washington, December 1996, Dalton, Olmstead & Fuglevand;
2. Letter Report with supplemental information for the Remedial Action Report, November 12, 1997, Dalton, Olmstead & Fuglevand;
3. Letter Report with additional information and analysis, July 17, 1999, Dalton, Olmstead & Fuglevand;
4. Letter Report with soil sampling results, November 22, 1999, Dalton, Olmstead & Fuglevand;
5. Technical Memorandum with chromium analysis results, September 22, 2000;
6. Technical Memorandum with boundaries of "Duwamish Industrial Area Hydrogeological Pathways Project", November 16, 2000, Dalton, Olmstead & Fuglevand;
7. Fax Memorandum with proposed boundaries of restrictive covenant for TPH, November 29, 2000, Dalton, Olmstead & Fuglevand.

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of petroleum hydrocarbons that exceed the Model Toxics Control Act Method A Cleanup Level for soil established under WAC 173-340-740. Some of this soil extends under the existing building and thus could not be excavated. Attached Figures # 4 and # 10 delineate the geographic area subject to the Restrictive Covenant. Areas on the Property outside of the dashed area shown on Figures #4 and # 10 are not subject to this Restrictive Covenant.

The undersigned, City, is the fee owner of real property (hereafter "Property") in the County of King, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described as follows:

ALL OF BLOCK 242, INCLUDING ALL OF VACATED ALLEY IN SAID BLOCK, EXCEPT THAT PORTION OF THE EAST 170 FEET THEREOF LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE SPURTRACK RIGHT OF WAY GRANTED TO NORTHERN PACIFIC RAILWAY COMPANY BY INSTRUMENT RECORDED MARCH 28, 1950, UNDER RECORDING NUMBER 3998467, AS A LIMITED BOUNDARY LINE;

LOTS 12 TO 22, INCLUSIVE, BLOCK 251;

ALL OF VACATED 8TH AVENUE SOUTH LYING BETWEEN SAID BLOCK 242 AND 251;

LOTS 1 THROUGH 11, INCLUSIVE, BLOCK 251, EXCEPT THE WEST 285 FEET THEREOF;

ALL IN SEATTLE TIDELANDS, IN KING COUNTY, WASHINGTON, AS SHOWN ON THE OFFICIAL MAPS ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS AT OLYMPIA, WASHINGTON; AND

EXCEPT ALL THOSE PARTS OF LOTS 1, 2 AND 3, BLOCK 251, SEATTLE TIDELANDS, IN KING COUNTY, WASHINGTON, AS SHOWN ON THE OFFICIAL MAPS ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS AT OLYMPIA, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF SAID BLOCK 251, 285 FEET EAST AS MEASURED ALONG SAID NORTH LINE FROM THE NORTHWEST CORNER OF SAID BLOCK, SAID POINT BEING IN THE EAST LINE OF THE PROPERTY CONVEYED TO THE GREAT NORTHERN RAILWAY COMPANY BY THE SEATTLE UNION STOCKYARDS BY WARRANTY DEED DATED JUNE 30, 1926, AND RECORDED MARCH 07, 1927, IN VOLUME 1346 OF DEEDS, PAGE 192;

THENCE SOUTH ALONG SAID EAST PROPERTY LINE, BEING PARALLEL WITH AND DISTANT 285 FEET EAST FROM THE WEST LINE OF SAID BLOCK 251, A DISTANCE OF 160 FEET;

THENCE NORTHEASTERLY IN A STRAIGHT LINE 164.92 FEET, MORE OR LESS, TO A POINT IN SAID NORTH LINE OF BLOCK 251, DISTANT 40 FEET EAST AS MEASURED ALONG SAID NORTH LINE, FROM THE POINT OF BEGINNING;

THENCE WEST ALONG SAID NORTH LINE 40 FEET TO THE POINT OF BEGINNING.

The City makes the following declaration as to limitations, restrictions, and uses to which the restricted area of 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.

Section 1. A portion of the Property contains petroleum hydrocarbon contaminated soil located under the southeast side of Building C, as shown on attached Figures #4 and #10. The City shall not alter, modify, or remove the existing structure (Building C) in any manner that may result in the release or

exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology.

Section 2. 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 creates a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 3. The City must give thirty (30) days advance written notice to Ecology of the City'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 City without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action, if appropriate.

Section 4. The City must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 5. The City must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 6. The City 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, and to inspect records that are related to the Remedial Action.

Section 7. The City reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant on the area depicted on Figures # 4 and # 10 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.

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CITY OF SEATTLE, a Washington municipal corporation

By [Signature]
Its Director of Fleets and Facilities

5-10-01
DATE

STATE OF WASHINGTON)
)ss.
COUNTY OF KING)

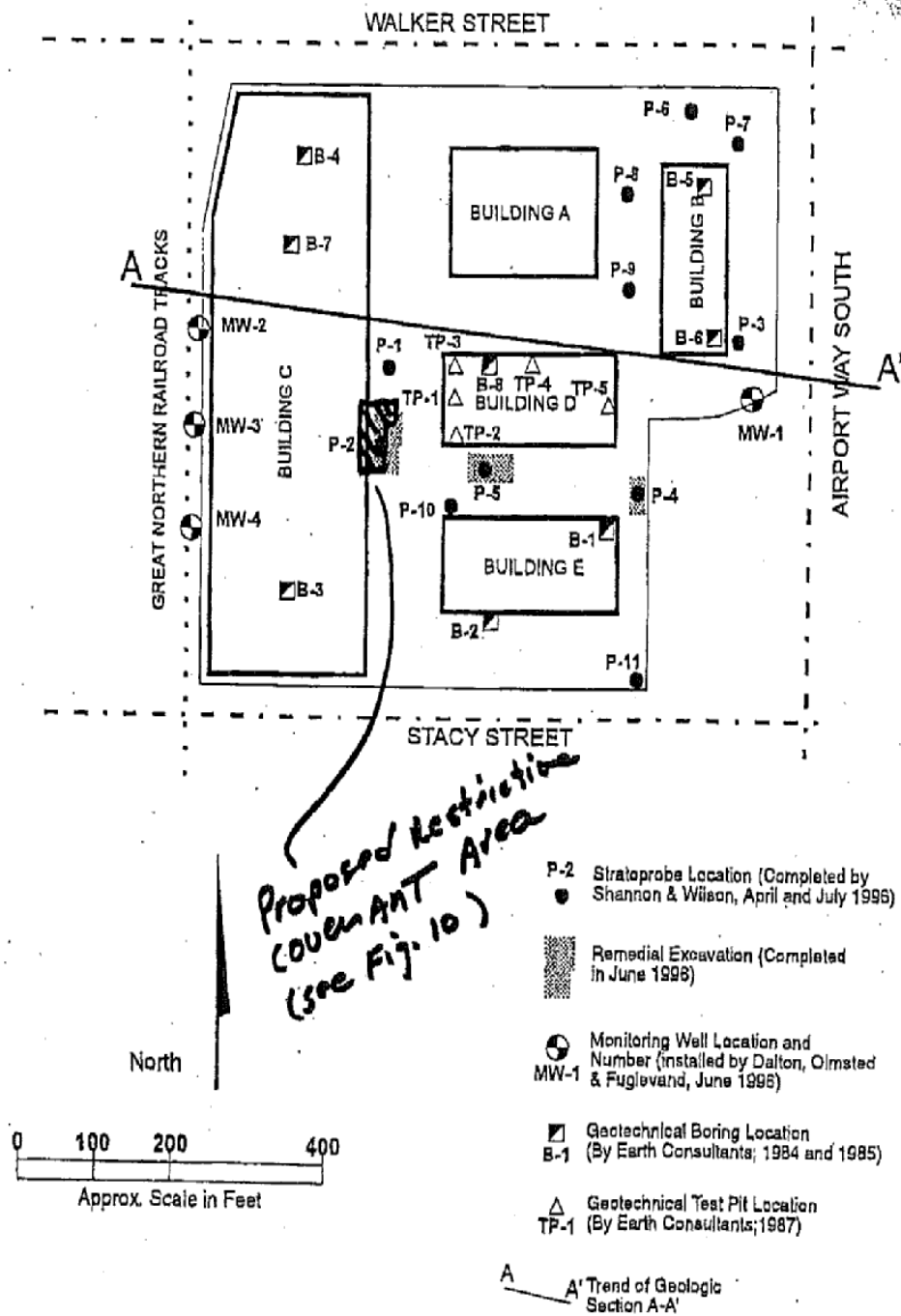
On this 10 day of May, 2001, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Dwight Dively, to me known to be the Director of Fleets and Facilities for the City of Seattle, a Washington municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument on behalf of the City of Seattle.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Janet L. Krogh
Printed Name: Janet L. Krogh
NOTARY PUBLIC in and for the State of
Washington, residing at Seattle
My Commission Expires: 4/22/05

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ref:waipin4.cdr

Park 90/5
Seattle, Washington

**SITE PLAN SHOWING
REMEDIAL EXCAVATIONS AND
BORING, PROBE AND WELL LOCATIONS**

SAB-C04 **FIGURE 4** October 1996
Dalton, Olmsted & Fuglevand, Inc.

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