

6.3 Environmental Covenant

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DECLARATION OF RESTRICTIVE COVENANT
RECORDED
CATHY PEARSALL-STIPEK
AUDITOR PIERCE CO. WASH

The property that is the subject of this Restrictive Covenant is the subject of remedial action under Chapter 70.105D RCW. The work done to clean up the property (hereafter the "Cleanup Action") is described in Washington State Department of Ecology Consent Decree No. 94TC-S167, and in attachments to the Decree. This Restrictive Covenant is required by WAC 173-340-440 because the Cleanup Action at the Site will result in residual concentrations of arsenic and lead which exceed Ecology's Method A cleanup levels for Industrial soil established under WAC 173-340-745.

The Port of Tacoma is the fee owner of real property known as the Cascade Timber No. 3 log sort yard in the County of Pierce, State of Washington of which 10.7 acres are referred to as the "Site" (legal description attached in Exhibit B of Consent Decree No. 94TC-S167).

As a result of the Cleanup Action, the Site will include a woodwaste, soil, and slag mixture which will be covered with a cap system equipped with a surface water collection system. The Site will also include monitoring wells.

The Port of Tacoma makes the following declaration as to limitations, restrictions, and uses to which the Site 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,

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including all current and future owners of any portion of or interest in the Site.

Section 1 The Site may be used only for Industrial uses as defined in and allowed under the City of Tacoma's Zoning Regulations codified in the Tacoma City Code as of the date of this Restrictive Covenant.

Section 2 Any activity on the Site that interferes with or reduces the effectiveness of the Cleanup Action or any operation, maintenance, monitoring, or other activity required by the Order (or any Ecology-approved modification or amendment to the Order) is prohibited. Any activity that would threaten the structural integrity of the cap is prohibited. Any activity on the Site that would result in the release of a hazardous substance that was contained as a part of the Cleanup Action is prohibited. It is understood that disturbance of the cap may be required in the future for installation of utilities or other activities associated with future industrial use of the site. The Port shall obtain approval from Ecology prior to initiating any disturbance of the cap stormwater drainage and/or monitoring system. Ecology shall not deny approval if the Port can show (1) that no releases of hazardous materials will occur; (2) integrity of the cap and stormwater drainage and monitoring systems will be restored to their original condition in a timely manner; and (3) that material will be handled and disposed of in accordance with State law.

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Section 3 The owner of the Site must give written notice to the Department of Ecology, or to a successor agency, of the owner's intent to convey any interest in the Site. No conveyance of title, easement, lease or other interest in the Site shall be consummated by the owner without adequate and complete provision for the continued operation, maintenance and monitoring of the Cleanup Action.

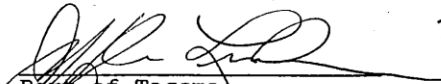
Section 4 The owner shall allow authorized representatives of the Department of Ecology, or of a successor agency, the right to enter the Site at reasonable times for the purpose of evaluating compliance with the Cleanup Action Plan and the Order, to take samples, to inspect Cleanup Actions conducted at the Site, and to inspect records that are related to the Cleanup Action.

Section 5 The owner of the Site and owner's assigns and successors in interest reserve the right under WAC 173-340-730 and WAC 173-340-440 to record an instrument which provides that this Restrictive Covenant shall no longer limit the use of the Site or be of any further force or effect. However, such an instrument may be recorded only with the consent of the Department of Ecology or of a successor agency. The Department of Ecology or a successor agency may consent to the recording of such an instrument only after public notice and comment. The Port of Tacoma agrees to file this Restrictive Covenant in

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the Site property deed with the Pierce County Auditor and
provide the Department of Ecology with a filed copy.

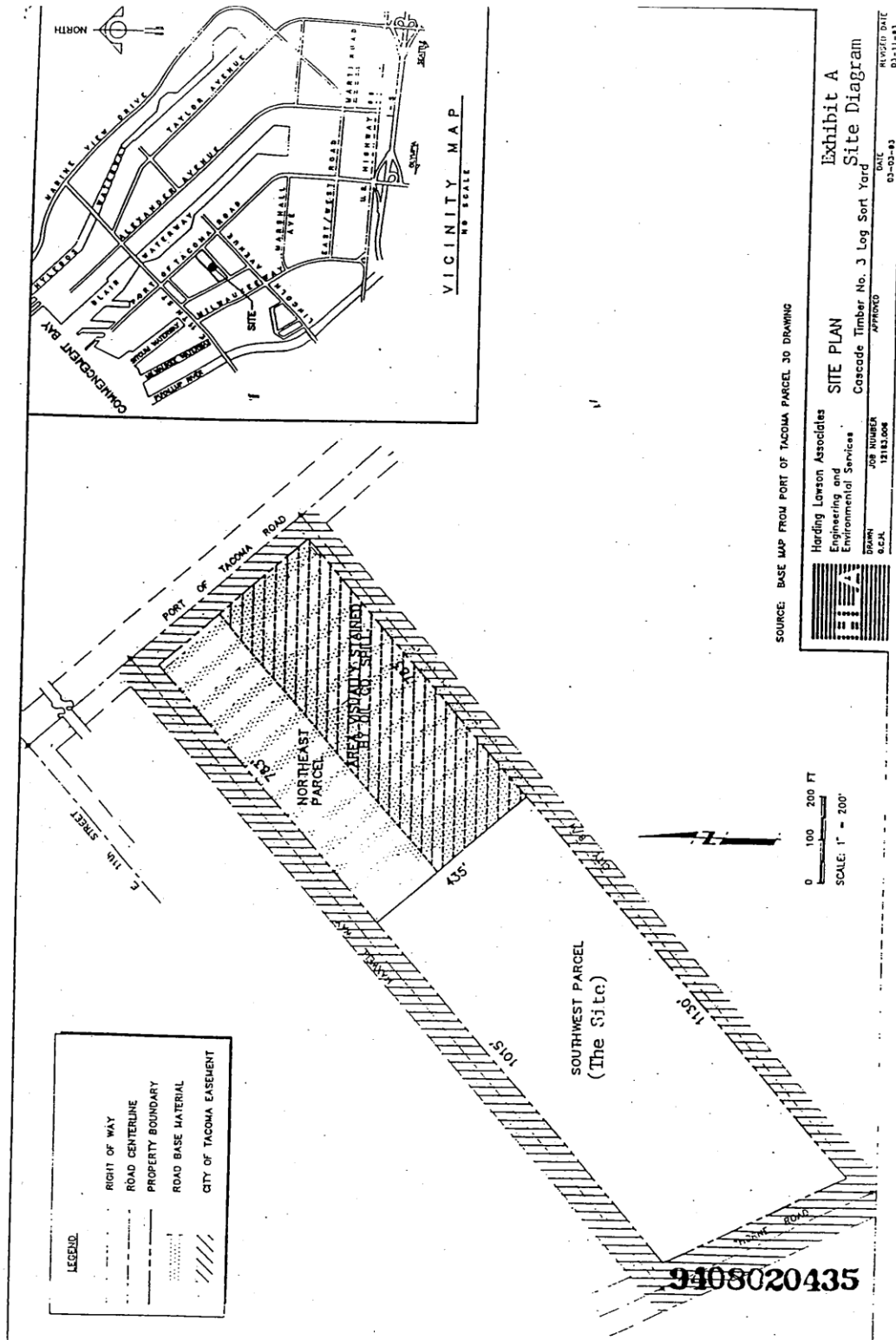

Port of Tacoma

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Jeffrey A. Lincoln
Sr. Dir. Facility Development

8/2/94
Date

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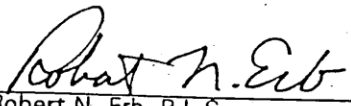
EXHIBIT B

Description - Consent Decree
Cascade Timber No. 3 Log Yard

A parcel of land situate in the Southeast Quarter of Section 34, Township 21 North, Range 3 East of the Willamette Meridian, County of Pierce, State of Washington and being more particularly described as follows:

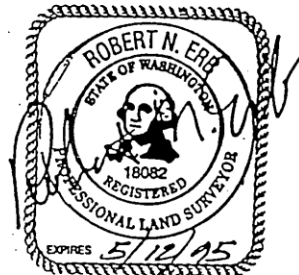
Lots 8 through 18 inclusive of Block 12 of the Port of Tacoma Industrial District First Addition as recorded in Volume 18 of Plats at Page 18.

Containing 10.73 acres, more or less.


Robert N. Erb, P.L.S.
Washington State Registration No. 18082

Sitts & Hill Engineers, Inc.
2901 South 40th Street
Tacoma, Washington 98409
(206) 474-9449

December 27, 1993
Project No. 7763



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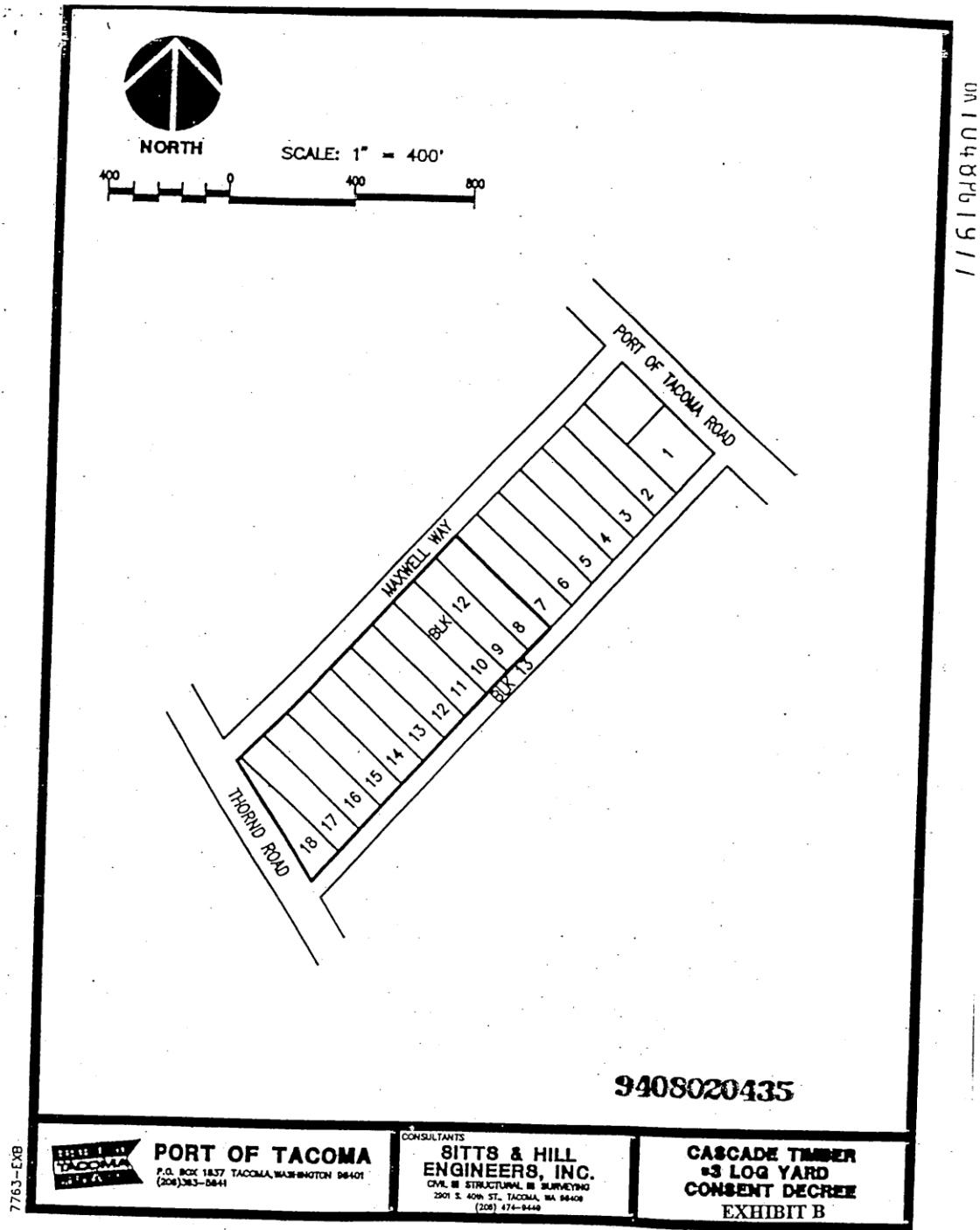


EXHIBIT B _ PAGE 2 of 2

6.4 Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

Former Log Yard Groundwater Monitoring and Cap Inspection

This Memorandum of Understanding (MOU) is entered into this 12 day of September 2011 between the Washington State Department of Ecology ("Ecology") and the Port of Tacoma ("Port") (collectively the "Parties") to memorialize the Parties' agreement to modify the requirements for future groundwater monitoring and cap inspection frequencies for five Port sites, as set forth below.

These sites affected by this agreement are Cascade Timber No. 3, Murray Pacific No. 2, Wasser Winters, Portac, and Louisiana-Pacific (aka Pony Lumber) ("Monitored Sites").

Each Monitored Site was cleaned up under an administrative agreement between Ecology and the Port, either as an original party or successor interest, as follows: Cascade Timber No. 3, Murray Pacific No. 2, and Wasser Winters were cleaned up under Consent Decrees, Louisiana-Pacific under an Enforcement Order, and Portac under a pre-Model Toxics Control Act (MTCA) Order On Consent (cumulatively referred to as: "Ecology Orders"). Portac, Inc. was also a respondent to the Portac Order on Consent along with the Port.

Each Monitored Site addressed similar contaminants of concern (COCs), which included arsenic, copper, lead, and zinc. However, each Ecology Order had site-specific requirements with respect to cleanup levels, and cap and groundwater monitoring frequencies.

In Spring 2010, the Port initiated a request to Ecology to standardize the monitoring requirements for the Monitored Sites in an effort to align the timing of the periodic monitoring/inspections at the sites so that the Port may better align a contractor to do the work all at once, as required.

In August 2010, to supplement the information already provided to Ecology, the Port provided Ecology with a tour of the Monitored Sites. As part of the tour, Ecology inspected the type and condition of the caps; the current site uses, specifically on the capped areas, and the locations and conditions of existing monitoring wells and stormwater basins.

Ecology has reviewed the information provided by the Port, as well as observations made during the site tour, and has chosen to provide a response in the form of this MOU.

This MOU was created for the Parties to understand and agree upon the requirements associated with Ecology's response, and to memorialize the decisions made with respect to each of the Port's requests.

In preparing this MOU, Ecology took into account, for each site, the type and condition of the cap and stormwater collection system, the adequacy of the groundwater monitoring system, and the recent groundwater compliance history.

Based on the above, Ecology and the Port agree as follows:

A. CAP MONITORING FREQUENCY

1. The Port may standardize the cap monitoring (inspection and reporting) frequency for the Monitored Sites to 30 months as requested. However, the following shall also occur:
 - During the site tours, Ecology noted that some of the stormwater basins were in better condition than others. Stormwater basins at each of the Monitored Sites should be inspected quarterly and cleaned out as needed, such that they are continuously operational.
 - Any unanticipated breaches of the cap for any of the Monitored Sites shall be reported to Ecology and repaired as soon as practicable. As per the respective Ecology Orders, the Port shall provide Ecology with a plan for each of the sites that summarizes intended action and reporting by the Port for unanticipated cap breaches.
 - Advance notice shall be provided and prior approval shall be obtained from Ecology for any planned cap breaches and repairs that are not otherwise permitted under the respective Ecology Order for each Monitored Site.
 - Minor cracking and normal wear and tear shall be repaired and reported as anticipated by and according to each Monitored Site's Ecology Order.
 - The appropriate Ecology Site Manager shall be informed, in writing, of any changes in site use on capped areas.
2. The next cap monitoring for the Monitored Sites based on this new 30-month frequency shall be February 2012, which corresponds to the next 30-month groundwater monitoring event for Wasser Winters described below. Unless changed by Ecology, all future cap monitoring for the Monitored Sites shall occur every 30 months beginning February 2012 to coincide with the groundwater monitoring that is intended to target alternating wet and dry seasons.

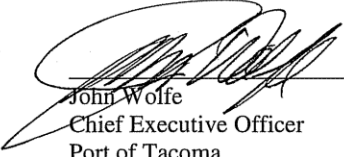
B. GROUNDWATER MONITORING FREQUENCY

1. The Port may standardize the groundwater monitoring frequency for each of the Monitored Sites as requested, which included the following:
 - Cascade Timber No. 3 – 18 months (formerly 12 months).
 - Murray Pacific No. 2 – 18 months (formerly 6 months).
 - Wasser Winters – No change (currently 30 months).
 - Portac – No change (currently discontinued).
 - Louisiana-Pacific – 30 months (formerly 24 months wet/dry).

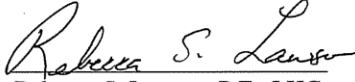
2. The next groundwater monitoring for the Monitored Sites shall be conducted in February 2012. Unless changed by Ecology, all future groundwater monitoring for the Monitored Sites shall occur according to the frequency identified above beginning February 2012.

C. EFFECT OF MODIFICATION

1. Except as modified herein, all provisions of the Original Ecology Orders for each Monitored Site as existing and as may have been amended, including addressing any potential data compliance issues, remain in full force and effect.
2. A copy of this MOU shall be filed with the Ecology Project Manager for each of the Monitored Sites.


John Wolfe
Chief Executive Officer
Port of Tacoma

9.1.11
Date


Rebecca S. Lawson, P.E., LHG
Section Manager, Toxics Cleanup Program
Southwest Regional Office
Washington State Department of Ecology

9/12/2011
Date

cc:
Jason Jordan – Port of Tacoma
Mark Rettmann – Port of Tacoma
William Evans – Port of Tacoma
Leslee Connor – Port of Tacoma
Scott Hooton – Port of Tacoma
Dom Reale – Ecology
Marv Coleman – Ecology
Guy Barrett – Ecology
James DeMay – Ecology
Scott Rose – Ecology
Rebecca Lawson – Ecology