



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

April 20, 2010

Mr. Tony Chiovare
13940 Magnolia Ave
Chino CA 91710

Re: No Further Action at the following Site:

- **Site Name:** Custom Built Metals
- **Site Address:** 233 D Street NW, Auburn WA
- **Facility/Site No.:** 77573648
- **VCP Project No.:** NW0857

Dear Chiovare:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Custom Built Metals facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

1. Is further remedial action necessary to clean up contamination at the Site?

NO. Ecology has determined that no further remedial action is necessary to clean up contamination at the Site.

This opinion is dependent on the continued performance and effectiveness of the post-cleanup controls and monitoring specified below.

This NFA Determination supersedes the Partial Sufficiency Determination by Ecology of 8/25/08

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

Description of the Site

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following releases:

- **CPAHs, PCBs (A1254), Cadmium & Lead in the Soil**
- **TPH diesel, oil & gasoline, BETX & Nephthalene in Soil**
- **CPAHs & TPH diesel, oil & gasoline, BETX, PCBs (A1254), Lead & Cadmium & Nephthalene potentially in the Groundwater**

Enclosure A includes a detailed description and diagram of the Site, as currently known to Ecology.

Please note that a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

Basis for the Opinion

This opinion is based on the information contained in the following documents:

1. Subsurface Phase II Environmental Site Assessment: Custom Built Metals by EnCo Envr. Corp. Job #E2JK-PoppsDrew-2 of 8/15/01
2. IRAR Addendum Lot 2, Custom Built Metals by SHANNON & WILSON Job 21-1-12074-004 of Oct 9, 2002
3. UST Removal by GEOTECH Consultants Inc Job 93247E of 10/15/93
4. Soil Remediation by Removal: Custom Built Metals by EnCo Envr. Corp. Job #E3JK-PoppsDrew-3 of 2/14/02
5. SAP: Custom Built Metals by SHANNON & WILSON Job 21-1-12074-004 of Oct 9, 2002
6. Ecology's Interim NFA letter of 4/8/02 for portions of Lot 2 by Grant Yang
7. Ecology's Interim NFA letter of 10/16/02 for Lot 2 by Grant Yang
8. Ecology's Request for Review 11/5/02-- Soil Assessment Work Plan Lot 1 by G. Yang.
9. Custom-BILT METALS Facility Remediation by SHANNON & WILSON Job 21-1-12074-006 of 12/18/02
10. Ecology's Request for RC of 1/6/03 by Grant Yang
11. RC # 20030710001132 King CO of 7/10/03 for Lots 1, 2, 3 & 10 Tax Parcel 446340-0071-08
12. Ecology's Notification of Pending Inactive Determination due to Dormancy of 4/26/06
13. Ecology 5 year review under WAC 173-340-515(5) of 8/18/08
14. Ecology Partial Sufficiency Determination for Site Soils Of 8/25/08
15. Groundwater Performance Monitoring Report by Shannon & Wilson Inc of 3/19/10

Those documents are kept in the Central Files of the Northwest Regional Office of Ecology

(NWRO) for review by appointment only. You can make an appointment by calling the NWRO resource contact at 425-649-7190.

This opinion is void if any of the information contained in those documents is materially false or misleading.

Analysis of the Cleanup

This opinion is based on the following analysis:

1. Characterization of the Site.

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards and select a cleanup action. The Site is described above and in **Enclosure A**.

2. Establishment of cleanup standards.

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA.

a. Cleanup levels.

Indicator Haz. Substance	Soil Cleanup Level mg/kg	GW Cleanup Level ug/l
Diesel	2000	500
Gasoline	30	800/1000
Oil	2000	500
CPAHs (Total)	0.10	0.1
Lead	250	15
Cadmium	2000	5
Benzene	0.03	5
Toluene	7	1000
Ethylbenzene	6	700
Total Xylenes	9	1000
Naphthalene	5	160
PCBs (A1254)	1	0.1

b. Points of compliance.

A standard point of compliance throughout the site where contamination has come to be located for soil, groundwater and vapor is applicable.

3. Selection of cleanup action & cleanup.

Ecology has determined the cleanup action (excavation of contaminated soils) you selected for the Site meets the substantive requirements of MTCA.

Post-Cleanup Controls and Monitoring

Post-cleanup controls and monitoring are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued performance and effectiveness of the following:

1. Compliance with institutional controls.

Institutional controls prohibit or limit activities that may interfere with the integrity of engineered controls or result in exposure to hazardous substances. The following institutional control is necessary at the Site:

- A portion of the site is confirmed to contain residual contaminated CPAHs soils above the MTCA Method A levels and is located beneath the south central of the warehouse. The owner shall not expose, nor create new exposure pathways to release these contaminants to the environment without prior written approval by Ecology.

To implement this control, an Environmental Covenant has been recorded on the following parcel of real property at the Site:

- [TAX PARCEL #1] 446340-0071-08

Ecology approved the recorded **Environmental Covenant No. 20030710001132 of 7/10/03 with the King County Auditor**. A copy of the Covenant is included in **Enclosure B**.

- You may petition Ecology at a future date to amend the accompanying Restrictive Covenant filed at this site if any planned additional future cleanup action for this site conflicts with any of the prohibitions contained in the restrictive covenant. Ecology will need enough advance notice of your need to modify the Restrictive Covenant to provide for public notice and comment, as required by WAC 173-340-440. Please do not delay in contacting Ecology if you need to modify the existing Restrictive Covenant on your property. Please, also note, that you are responsible for satisfying the requirements of WAC 173-340-440(10) regarding notifying the local government of the status of the Restrictive Covenant.

Periodic Review of Post-Cleanup Conditions

Since No Further Action Determination was made on 4/20/10 based on the Performance Monitoring Report of 3/19/10, the next Periodic review for this site under the statute will be due on 4/20/15.

- **Frequency of confirmation (Post NFA) ground water quality monitoring:** Client may collect groundwater quality data quarterly every other year pending the 5 yr review in 2015.
- **Early Review to discontinue monitoring:** Following the first year of confirmation monitoring where the result is non-detect for all the wells, client may petition Ecology for an early review to either modify the monitoring frequency or discontinue monitoring and abandon the wells on site.

Listing of the Site

Based on this opinion, Ecology will remove the Site from our Confirmed and Suspected Contaminated Sites List and Leaking Underground Storage Tank List.

Limitations of the Opinion

1. Opinion does not settle liability with the state.

Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion **does not**:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

2. Opinion does not constitute a determination of substantial equivalence.

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

3. State is immune from liability.

The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. See RCW 70.105D.030(1)(i).

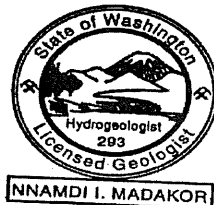
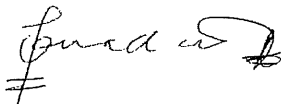
Termination of Agreement

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project NW0857.

Contact Information

For more information about the VCP and the cleanup process, please visit our web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion, please contact me at 360 407 7244 or nmad461@ecy.wa.gov.

Sincerely,



Nnamdi Madakor P.Hg., P.G.
Statewide VCP Coordinator
Policy & Technical Manager
HQ, Toxics Cleanup Program

NM:nm

Enclosures (2): A – Diagram of the Site
B – Environmental Covenants for Institutional Controls

cc: Daniel N. Clayton
Senior Vice President
Shannon & Wilson, Inc
400 N 34th Street, Suite 100
Seattle WA 98103

Dolores Mitchell VCP FINANCIAL MANAGER (without enclosures)

Enclosure A

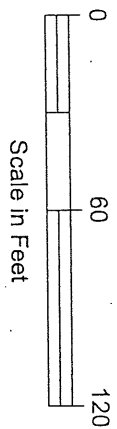


LEGEND

MW-2 ② Groundwater Monitoring Well

NOTE

Map adapted from "Excavation Detail" and "Site Plan and Sample Location Diagram" drawings prepared by Enco Environmental Corporation, both dated 7-15-2002.



Custom-Bilt Metals
Auburn, Washington

MONITORING WELL LOCATIONS

March 2010

21-1-12275-006

SHANNON & WILSON, INC.
Geotechnical and Environmental Consultants

FIG. 2

FIG. 2



Enclosure B

Environmental Covenants for Institutional Controls

CONFORMED COPY

RETURN ADDRESS:

David H. Oswald, Esq.
Ryan, Swanson & Cleveland, PLLC
1201 Third Avenue, Suite 3400
Seattle, WA 98101-3034

20030710001132

RYAN COV 25.00
PAGE 001 OF 006
07/10/2003 10:49
KING COUNTY, WA

COPY

COVERSHEET TO
RESTRICTIVE COVENANT

GRANTOR(S):

T.P.D. AUBURN; STATE OF WASHINGTON

GRANTEE(S):

PUBLIC

ABBREVIATED

LEGAL DESCRIPTION:

Portion Lots 1, 2, 3 & 10, Block B, Lunn's Garden
Tracts to Auburn, Vol. 10, Pg. 33 (See Page 5 for full
legal description)

ASSESSOR'S TAX PARCEL NO.: 446340-0071-08

T.P.D. Auburn
825 Central Ave. S.
Kent, WA 98032

RESTRICTIVE COVENANT

This declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f and g), and WAC 173-340-440 by T.P.D. Auburn, its successors and assigns, and the Washington State Department of Ecology, its successors and assigns.

Legal Description: See Exhibit A

Tax Parcel I.D. #: 446340-0071-08

RESTRICTIVE COVENANT

T.P.D. Auburn, property at 23 D St. NW, Auburn, WA

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by T.P.D. Auburn (a California general partnership), 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 document[s]:

- a) Geotech Consultants, Inc., October 15, 1993, Closure Report: Underground Storage Tank, 233 D Street NW, Auburn, Washington.
- b) Enco Environmental Corporation, 2001, Subsurface Phase II Environmental Site Assessment, Custom-Bilt Metals, 233 D Street NW, Auburn, Washington.
- c) Enco Environmental Corporation, February 12, 2002, Soil Remediation by Removal, Custom-Bilt Metals, 233 D Street NW, Auburn, Washington.
- d) Shannon & Wilson, Inc., October 9, 2002, Independent Remedial Action Report, Addendum, Lot 2, Custom-Bilt Metals, 233 D Street NW, Auburn, Washington.
- e) Shannon & Wilson, Inc., December 18, 2002, Letter Report to Mr. Grant Yang documenting the results of environmental sampling under building on Lot 1, Custom-Bilt Metals, 233 D Street NW, Auburn, Washington.

These documents are on file at Ecology's NWRO.

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of total carcinogenic polycyclic aromatic hydrocarbons, as well as the following individual carcinogenic polycyclic aromatic hydrocarbons: benzo(a)anthracene, chrysene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, indeno(1,2,3-c,d)pyrene, and benzo(g,h,i)perylene, which exceed the Model Toxics Control Act Method A Residential Cleanup Levels for soil established under WAC 173-340-740.

The undersigned, T.P.D. Auburn, 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 in Exhibit A to this Restrictive Covenant and made a part hereof by

reference.

T.P.D. Auburn makes the following declaration as to limitations, restrictions, and uses to which 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 (hereafter "Owner").

Section 1. A portion of the Property contains soil contaminated with slightly elevated concentrations of total carcinogenic polycyclic aromatic hydrocarbons, as well as the following individual carcinogenic polycyclic aromatic hydrocarbons: benzo(a)anthracene, chrysene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, indeno(1,2,3-c,d)pyrene, and benzo(g,h,i)perylene. These contaminated soils are located under the south-central part of the warehouse building, and may also be present under a concrete ramp adjoining the south side of the warehouse. The Owner shall not alter, modify, or remove the existing structures 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 interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. 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 create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner'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 Owner without adequate and complete provision for continued monitoring, 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 Property.

Section 6. The Owner 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 7. The Owner 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 8. The Owner of the 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 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.

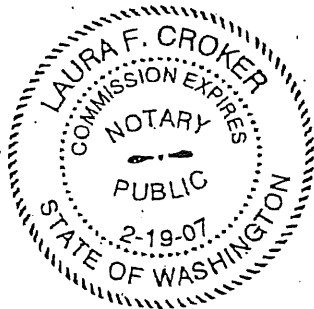
T.P.D. Auburn

by 
Its Partner
Dated: 6/25/03

STATE OF WA)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that George Popson is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the General Partner of T.P.D. AUBURN, to be the free and voluntary act of such general partnership, for the uses and purposes mentioned in the in the instrument.

WITNESS my hand and official seal hereto affixed this 25 day of June 2003, 2003.



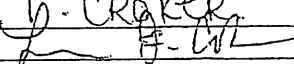
Laura F. Croker
(Print name) 
Notary Public in and for the State of WA
My appointment expires 2/19/07

EXHIBIT A

A PORTION OF LOTS 1, 2, 3 AND 10, BLOCK "B", LUNN'S GARDEN TRACTS TO AUBURN, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 10 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON, BEING A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., KING COUNTY, WASHINGTON AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 3; THENCE NORTH $87^{\circ}58'52''$ WEST, ALONG THE SOUTH LINE THEREOF, 33 FEET; THENCE NORTH $03^{\circ}45'30''$ WEST, 166.82 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH $03^{\circ}45'30''$ WEST, 173.50 FEET, TO THE SOUTHERLY LINE OF THE NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY; THENCE NORTH $86^{\circ}46'06''$ EAST, ALONG SAID SOUTHERLY LINE 336.31 FEET, TO THE EASTERLY LINE OF SAID LOT 10; THENCE SOUTH $03^{\circ}05'54''$ EAST, ALONG SAID EASTERLY LINE, 170.41 FEET; THENCE SOUTH $86^{\circ}14'30''$ WEST, 334.33 FEET TO THE TRUE POINT OF BEGINNING.

(ALSO KNOWN AS LOT 1 OF CITY OF AUBURN LOT LINE ADJUSTMENT NO. LLA-01-0012, RECORDED UNDER RECORDING NO. 20010723001875.)

SITUATE IN THE CITY OF AUBURN, COUNTY OF KING, STATE OF WASHINGTON.