



Third Periodic Review

Willamette Court
Facility/Site ID #: 91231956
Cleanup Site ID #: 4480
581 and 583 Eastmont Avenue
East Wenatchee, Washington 98802

Prepared by:
Washington State Department of Ecology
Central Regional Office
Toxics Cleanup Program

January 2020

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1.0 INTRODUCTION

This document is the Department of Ecology's third periodic review of post-cleanup site conditions and monitoring data to assure that human health and the environment are being protected at the Willamette Court site (Site). The cleanup at this Site was implemented under the Model Toxics Control Act (MTCA), Chapter 173-340 of the Washington Administrative Code (WAC). The first periodic review for this Site was completed in December 2008 and the second completed in April 2014.

This periodic review will evaluate the period from 2014 through 2020.

Cleanup activities at this Site were completed through the Voluntary Cleanup Program. The cleanup actions resulted in residual concentrations of lead and arsenic that exceed MTCA Method A cleanup levels for soil established under WAC 173-340-740(2). As a result of residual contamination, institutional controls were required for the Site to be eligible for a no further action (NFA) determination. WAC 173-340-420(2) requires that Ecology 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. Institutional controls or financial assurance are required as part of the cleanup
 - 2. Where the cleanup level is based on a practical quantitation limit
 - 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;
- (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 use;
- (e) Availability and practicability of higher preference technologies; 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 History

The Willamette Court Site is located at 581 and 583 Eastmont Avenue in East Wenatchee, Washington. The Site consists of the portion of the property where contaminated soils are contained, and the Site is currently developed with two of the twelve apartment buildings that comprise the Willamette Court complex. The Site covers approximately 9,720 square feet. The perimeter of the buildings are covered by grass, landscaping (bark, bushes, and shrubs), and gravel.

Based on information provided by the former owner, the Site was occupied by a fruit tree orchard prior to 1940. The orchard was removed sometime prior to 1970, after which the Site remained vacant until 1997. In 1997, the apartment buildings that currently occupy the property were constructed. A vicinity map is presented in Appendix 6.1 and a Site plan is presented in Appendix 6.2.

2.2 Cleanup Levels and Point of Compliance

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 contaminants at 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. The MTCA Method A cleanup level for arsenic and lead is 20 parts per million (ppm) and 250 ppm, respectively.

For soil, the standard point of compliance is the area where the soil cleanup levels must be attained. For this Site, the point of compliance is established as soils throughout the Site.

2.3 Site Investigations

Samples collected by the property owner in 1995 confirmed lead and arsenic concentrations above MTCA Method A cleanup levels at the subject property, which consisted of the two parcels where buildings 581 and 583 were later constructed. Lead was detected up to 655 parts per million (ppm) and arsenic was detected up to 212 ppm. Additional sampling was recommended to be conducted at the Site. A Phase I ESA was conducted in 1997 that also confirmed the Site had been occupied by a fruit orchard.

In 2001, LNR Affordable Housing contracted AMEC to collect near surface soil samples from the Site to assess whether soils continued to contain lead and arsenic concentrations above MTCA Method A cleanup levels. Laboratory results indicated that the upper 18 inches of soil surrounding buildings 581 and 583 contained lead and arsenic at concentrations exceeding MTCA Method A cleanup levels.

2.4 Remedial Actions

In 2001, a remedial action was conducted at the Site. Contaminated surface soils were excavated to a depth of 18 inches below ground surface (bgs). Approximately 400 cubic yards of soil were removed during excavation activities. All excavated soils were disposed of at the Greater Wenatchee Landfill in East Wenatchee.

A nonwoven geotextile fabric was placed across the Site to provide a barrier between the remaining lead and arsenic-contaminated soil and the clean fill that was placed on the surface. Approximately 12 inches of gravelly sand was placed on top of the geotextile fabric as a base material. This material was screened with a photoionization detector and sampled for lead and arsenic prior to use. Contamination was not detected in any of the samples or during screening activities. A total of 326 cubic yards of base material was imported to the Site. Following the placement of the base material, a six-inch layer of clean topsoil soil was imported and placed across the Site. Samples were collected from the topsoil source and analyzed for lead and arsenic prior to import. Lead or arsenic were not detected above MTCA Method A cleanup levels. A total of 242 cubic yards of topsoil were imported.

In 2001, a restrictive covenant was recorded for the Site and a No Further Action determination was issued for the Site. The Site status was changed to reflect the No Further Action determination.

2.5 Institutional Controls

Because contamination was capped on the Site at concentrations exceeding MTCA Method A cleanup levels, institutional controls were required for the Site to be eligible for a NFA determination. Institutional controls in the form of a restrictive covenant were recorded for the Site in 1998 and a NFA determination was issued in February 1998. The conditions of the restrictive covenant are available below:

1.
 - a. A portion of the Property is underlain by lead and arsenic contaminated soils at depths of 18 inches below ground level (bgl) throughout the majority of the site and at 16 inches in the vicinity of the transformer as indicated on Figure 2. A geotextile membrane layer has been laid at 16 to 18 inches bgl as a visual indication of the boundary between clean and contaminated soils. Lead and arsenic contaminated soils are also potentially located beneath the ground floor slab of the residential structures located at 581 and 583 Eastmont Avenue, East Wenatchee, Washington. A full description of the distribution of the contaminated soils is given in the attached documents. 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.

- b. A portion of the Property contains lead and arsenic contaminated soil located under asphalt pavement to north of the day care building (see Appendix 6.2). Due to limited soil-sampling programs conducted during the Phase I and Phase II Environmental Site Assessments, the remaining portion of the Property may contain lead and arsenic contaminated soil-above the MTCA Method A cleanup levels--located under buildings, asphalt pavement, and landscape vegetation. The Owner shall not alter, modify, or remove existing structures, pavement, and landscape vegetation/soil covering in any manner that may result in the release or exposure to the environment of that known/suspected contaminated soil or create a new exposure pathway without prior written approval from Ecology.
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.
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.
4. The Owner of the property must give thirty-day (30) 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.
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.
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.
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.
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.

A copy of the restrictive covenant is available as appendix 6.3.

3.0 PERIODIC REVIEW

3.1 Effectiveness of completed cleanup actions

The Willamette Court Site is currently owned by the Willamette Court Apartments Limited Partnership, and continues to be occupied by a residential apartment complex. Clean soil, building foundations and asphalt continue to serve as a cap for the Site and prevent human exposure pathways (ingestion, contact) to contaminated soils. Based upon the Site visit conducted on January 14, 2020, no repair, maintenance or contingency actions have been required. A photo log is provided in Appendix 6.4.

The Restrictive Covenant for the Site was recorded and is in place. Appendix 6.3 is a copy of this Restrictive Covenant. This Restrictive Covenant prohibits activities that will result in the release of contaminants contained as part of the cleanup without Ecology's approval, and prohibits any use of the property that is inconsistent with the Covenant. This Restrictive Covenant serves to assure the long-term integrity of the cap.

Soils with arsenic and lead concentrations higher than MTCA Method A cleanup levels are still present at the Site. However, the cap prevents human exposure to this contamination by ingestion and direct contact with soils. The Restrictive Covenant for the property is expected to ensure that the integrity of the cap will be protected through maintaining the current use of the Site.

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

There is no new pertinent scientific information for the contaminants related to the Site.

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

The cleanup at the Site was governed by Chapter 173-340 WAC (1996 ed.). WAC 173-340-702(12) (c) [2001 ed.] provides that,

A release cleaned up under the cleanup levels determined in (a) or (b) of this subsection shall not be subject to further cleanup action due solely to subsequent amendments to the provision in this chapter on cleanup levels, unless the department determines, on a case-by-case basis, that the previous cleanup action is no longer sufficiently protective of human health and the environment.

Contamination remains at the Site above MTCA Method A cleanup levels and the cleanup action is still protective of human health and the environment.

3.4 Current and projected Site use

The Site is currently used for residential purposes. There have been no changes in current or projected future Site or resource uses.

3.5 Availability and practicability of higher preference technologies

The remedy implemented included containment of hazardous substances and it continues to be protective of human health and the environment. While higher preference cleanup technologies 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 action were capable of detection well below MTCA Method A cleanup levels. The presence of improved analytical techniques would not effect decisions or recommendations made for the Site.

4.0 CONCLUSIONS

- The cleanup actions completed at the Site are protective of human health and the environment.
- Soil cleanup levels have not been met at the Site; however, the cleanup action for the Property is determined to comply with cleanup standards under WAC 173-340-740(6) (f), since the long-term integrity of the containment system is provided for through institutional controls.
- The Restrictive Covenant for the property is in place and is expected to be effective in protecting public health and the environment 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 are being satisfactorily followed. No additional remedial actions are required by the property owner. It is the property owner's responsibility to continue to inspect the Site to assure that the integrity of the cap 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

Giles Engineering Associates, Inc., *Phase 1 Environmental Site Assessment*, 1997.

AMEC, *Soil Management Plan – Willamette Court*, 2001.

AMEC, *Soil Remediation Report*, 2001.

Ecology, *Restrictive Covenant*, May 15, 1998.

Ecology, *No Further Action Determination Letter*, February 1998.

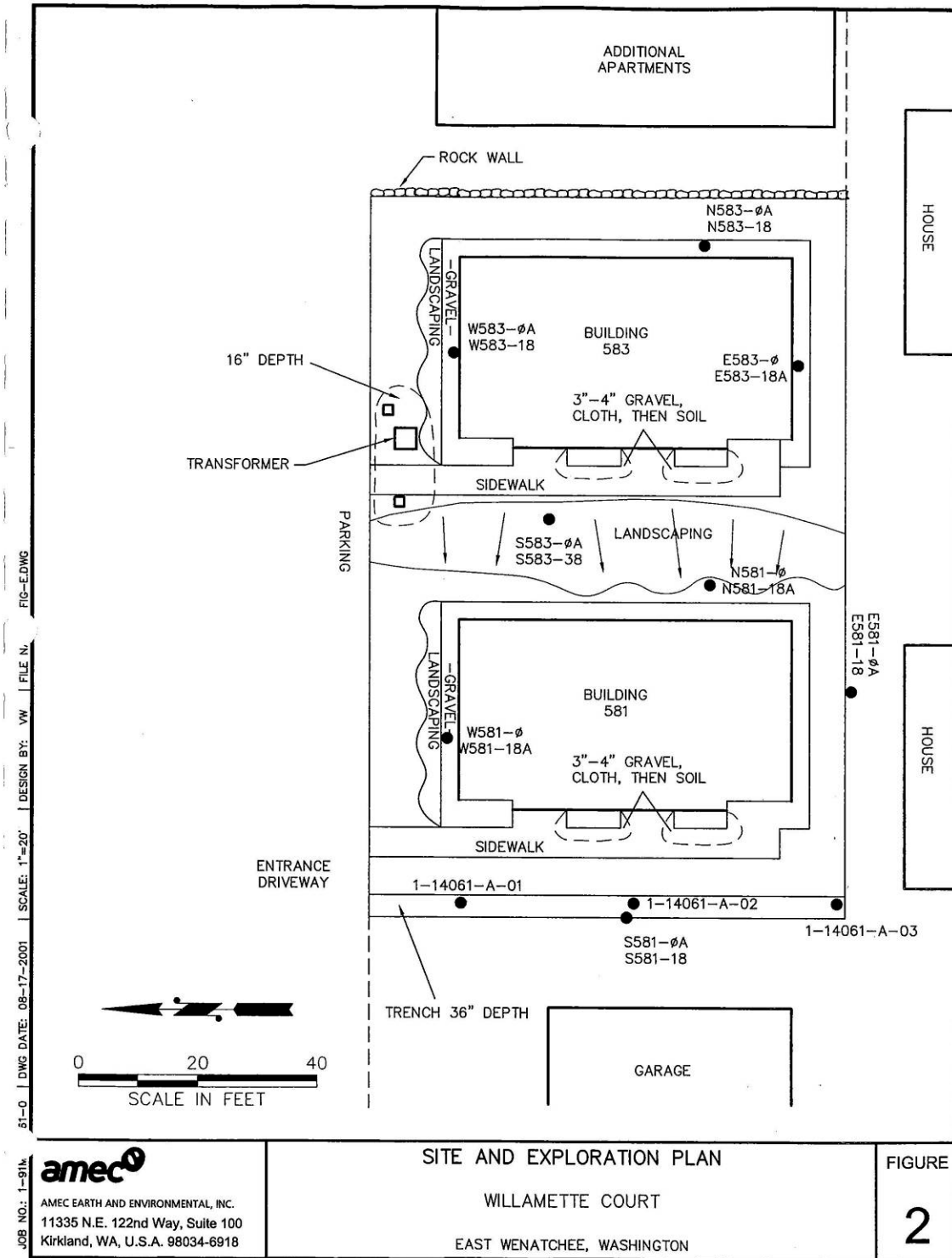
Ecology, *Periodic Review*, December 2008.

Ecology, *Periodic Review*, April 2014.

Ecology, *Site Visit*, January 14, 2020.

6.0 APPENDICES

6.2 Site Map



6.3 Environmental Covenant



Recording requested by:
Stoel Rives LLP
900 SW Fifth Avenue, Suite 2600
Portland, OR 97204
Pamela M. Sloper

After recording, return to:
Stoel Rives LLP
900 SW Fifth Avenue, Suite 2600
Portland, OR 97204
Pamela M. Sloper
75112

RESTRICTIVE COVENANT

Grantor:

1. **Willamette Court Apartments Limited Partnership,**
a Washington limited partnership

Grantee:

1. **Willamette Court Apartments Limited Partnership,**
a Washington limited partnership
2. **State of Washington Department of Ecology**

Legal Description:

1. Abbreviated legal description (lot, block, plat name, section-township-range):
Lots 12 and 13, LINDELL & QUICK RIDGE, Vol. H Plats, page 397
2. Legal description is on **Exhibit A** of the document

Assessor's Property Tax Parcel Account Numbers:

- **686-000-012-00**
- **686-000-013-00**

PortInd1-2083683.1 0031024-00110



RESTRICTIVE COVENANT

**WILLAMETTE COURT APARTMENTS, WILLAMETTE COURT, 581 and 583
Eastmont Ave, East Wenatchee, Washington**

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Willamette Court Apartments Limited Partnership, a Washington Limited Partnership (hereafter "Willamette Court"), 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:

1. Report titled "Phase I Environmental Site Assessment: Proposed Willamette Court Apartments, 581 and 583 Eastmont Ave., East Wenatchee, Washington", prepared for Steel Lake Enterprises, Seattle, WA. by Giles Engineering Associates, Inc., and dated March 5, 1997.
2. Report titled "Limited Soil Sampling for Willamette Court, 581 and 583 Eastmont Ave., East Wenatchee, Washington," prepared for LNR Affordable Housing, Inc. ("LNR") by AMEC Earth and Environmental, Inc. (AMEC), Kirkland, WA., and dated July 2, 2001.
3. Report titled "Soil Remediation for Willamette Court, 581 and 583 Eastmont Ave., East Wenatchee, Washington", prepared for LNR by AMEC, and dated August 13, 2001.
4. Report titled "Soil Management Plan for Willamette Court, 581 and 583, Eastmont Avenue, East Wenatchee, Washington," prepared for LNR by AMEC, and dated August 17, 2001.



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

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of lead and arsenic which exceed the Model Toxics Control Act Method A Residential Cleanup Levels for soil established under WAC 173-340-704.

The undersigned, Willamette Court, is the fee owner of real property (hereafter "Property") in the County of Douglas, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described in Attachment A of this Restrictive Covenant and made a part hereof by reference.

Willamette Court 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. A portion of the Property is underlain by lead and arsenic contaminated soils at depths of 18 inches below ground level (bgl) throughout the majority of the site and at 16 inches in the vicinity of the transformer as indicated on Figure 2. A geotextile membrane layer has been laid at 16 to 18 inches bgl as a visual indication of the boundary between clean and contaminated soils. Lead and arsenic



contaminated soils are also potentially located beneath the ground floor slab of the residential structures located at 581 and 583 Eastmont Avenue, East Wenatchee, Washington. A full description of the distribution of the contaminated soils is given in the attached documents. 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.

b. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in the capped areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

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 without prior written approval from Ecology.

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.



EXHIBIT A

TO RESTRICTIVE COVENANT

The Property referred to in this Restrictive Covenant is situated in the county of Douglas, state of Washington, and is more fully described as follows:

Lots 12 and 13, Lindell & Quick Ridge, Douglas County, Washington, according to the plat thereof recorded in Volume H of Plats, Page 397.



Dated at Portland, Oregon, this 28th day of August, 2001.

By General Partner of Willamette Court: LNR Willamette Court Limited, Inc.


Charles A. Park


WITNESSED BY A NOTARY:

STATE OF OREGON
County of Multnomah

ss.

This instrument was witnessed before me on August 28, 2001, by Charles A. Park.




Notary Public for Oregon

6.4 Photo log

Photo 1: Landscaped area between buildings 581 and 583 - from the north.



Photo 2: North side of buildings 581 and 583 - from the northeast.



Photo 3: West side of building 581 - from the north.



Photo 4: Close-up of exposed landscape fabric at southern end of area between 581 & 583.

