



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000
711 for Washington Relay Service • Persons with a speech disability can call (877) 833-6341*

June 26, 2020

Susan Penoyar
Sound Transit
401 South Jackson Street
Seattle, WA 98104

**Re: Environmental Covenant – Ecology Approval for Activities at King County
Parcel 2423200050**

Dear Susan Penoyar:

Washington Department of Ecology (Ecology) has received your *Selection of Preferred Alternative* letter for the Y Pay Mor Drycleaner facility (Site). In this letter you have made two requests: (1) Ecology approves certain activities at King County parcel 2423200050 (Property) currently prohibited under a restrictive covenant; and (2) Ecology limits the area where activity is restricted under the two restrictive covenants.

Two restrictive covenants are in place for the Property: a 1998 restrictive covenant (King County Recording No. 199808101434), and a 1995 restrictive covenant (King County Recording No. 199510121424).

With regards to your first request, the 1998 restrictive covenant includes the following restrictions:

- The owner shall not alter, modify, or remove the existing structure(s) 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.
- 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.
- 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.

Ecology understands that you wish to undertake an interim action at the Property and conduct development activities. The interim action would involve halogenated volatile organic compounds (HVOC)-contaminated soil excavation. This activity would be prohibited under the terms of the 1998 restrictive covenant unless approved in writing by Ecology. **Ecology approves your proposed interim action, as detailed in the *Selection of Preferred Alternative* letter, dated June 19, 2020.**

Ecology also understands that you wish to deposit approximately 15 additional feet of clean fill across the entire Property as part of development activities. This development activity would be prohibited under the terms of the 1998 restrictive covenant unless approved in writing by Ecology. **Ecology approves your proposed development activity, as detailed in the *Selection of Preferred Alternative* letter, dated June 19, 2020.**

Ecology provides this approval as the Holder of the restrictive covenant for this Property. This approval does not address whether or not the interim action will meet the requirements of cleanup under the Model Toxics Control Act (MTCA). This Site is currently enrolled in Ecology's Voluntary Cleanup Program (VCP). Ecology has issued a VCP opinion letter regarding your cleanup, explaining how additional Site Characterization and cleanup will be necessary to meet the requirements of MTCA.

Under the conditions of the 1995 and 1998 restrictive covenants, **future additional activities on the Property that may result in the contaminants release or exposure to the environment, or create a new exposure pathway, must be approved in advance by Ecology.** Such activities would include, but not be limited to, construction dewatering to facilitate installation of subsurface structures, such as stormwater vaults or utility conduits. Dewatering has the potential to intercept and redistribute ground water contamination that is present beneath the Site.

With regards to your second request, that Ecology change the area of the Property subject to the restrictive covenant, **Ecology does not approve any change to the 1998 or 1995 restrictive covenants.**

- Ecology issued a *Response to Additional Information* letter on April 29, 2020. The letter accepts the interpretation that the restrictive covenant “*cover only the portion of parcel 242320-0050-00 (FL-358) that encompasses the former Y Pay Mor dry cleaner (space A-6) and associated contamination.*” Enclosure E of the April 29, 2020 letter provides a map showing the restricted area.
- Due to the lack of permanent monitoring wells, the extent of HVOC-contaminated ground water plume is not sufficiently delineated. Ecology cannot approve the change in restricted area because there is insufficient Site characterization.

After Sound Transit submits a remedial investigation and feasibility study (RI/FS) to Ecology's VCP, and conducts a cleanup action addressing the remaining soil and ground water contamination that is not removed by the interim action, Ecology will work with Sound Transit

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to determine the need for revising or potentially terminating then re-establishing covenants on the Property.

Please note that while Ecology has approved the interim action and fill placement, the 1998 and 1995 restrictive covenants are still in place and will remain in place until they are modified or terminated pursuant to WAC 173-340-440. Please request further Ecology approval(s) as needed for future activities on the Property.

If you have any questions about this letter, please contact me by phone at 425-649-7109 or by email at jing.song@ecy.wa.gov.

Sincerely,



Jing Song
Site Manager
NWRO Toxics Cleanup Program

ecc: Tricia DeOme, GeoEngineers, Inc.
Ivy Anderson, Assistant Attorney General
Louise Bardy, Ecology Toxics Cleanup Program
Ecology Periodic Review Site File