



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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

March 5, 2008

JOE KENNY
NORTHWEST BUILDING CORPORATION LLC
1300 NORTON BUILDING
801 SECOND AVENUE
SEATTLE WA 98104

**Re: Restrictive (Environmental) Covenant Required under WAC 173-340-515(5)
for the following Hazardous Waste Site Pending NFA Determination:**

- Site Name: FORMER CAR WASH RENTON SHOPPING CENTER SITE
- Site Address: 351 HARDIE AVENUE S.W. RENTON WA
- Facility/Site No.: 26515148
- VCP No.: NW1740

DEAR MR KENNY:

The Toxics Cleanup Program has completed its review of the remedial action report submitted for the referenced property. The Department of Ecology (Ecology) is prepared to issue a No Further Action (NFA) determination for the site provided a Restrictive Covenant for the residual TPH & CPAH impacted soils are filed with the Kitsap County Assessor's or Records' office.

The Model Toxics Control Act regulation, specifically WAC 173-340-440(10) requires you to notify and seek comment from the City of Port Orchard Department of Community Development, which is the agency with land use planning authority (or the appropriate agency) for the real property subject to the Restrictive Covenant.

The enclosed Draft Restrictive (Environmental) Covenant is based on a model that has been approved by the Office of the Attorney General. Any changes to the Covenant with regard to its prohibitions, terms or requirements will generally not be considered or accepted. If you believe there is an error in the technical details regarding the contamination remaining on site, please contact me so we can discuss the issue and revise the covenant, if necessary.

Please provide Ecology with:

Restrictive (Environmental) Covenant Required
Renton Car Wash
VCP, TCP ID# NW1740
March 5, 2008

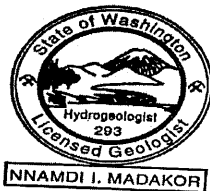
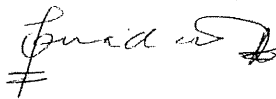
1. A notarized copy of the Restrictive Covenant once it has been recorded. Copies must be legible and the recording number must be evident.
2. A copy of the correspondence to, and the response from, the department with land use planning authority for the real property subject to the Restrictive Covenant

Once we have received confirmation that the covenant has been recorded, we will issue the No Further Action letter for the site. The NFA determination will automatically terminate if any portions of the Restrictive Covenant are violated or if you fail to conduct the extended groundwater compliance monitoring.

If you fail to record this Restrictive Covenant, Ecology will not issue the No Further Action determination and the site will continue to appear in future publications of the *Confirmed & Suspected Contaminated Sites Report*.

Please contact me at (360) 407-7244 if you have any questions regarding the process or the Restrictive Covenant.

Sincerely



Nnamdi Madakor, P.G., P.HG
VCP Coordinator
HQ - Toxic Cleanup Program

cc: Russ Olsen, NWRO VCP Unit Manager.
Sara Maser, NWRO Data Coordinator
Dolores Mitchell, Ecology (NW1740)

NM: nm

Enclosures: Old-Model and Un-filed 1997 Draft RC
Current Boiler Plate Restrictive (Environmental) Covenant

RESTRICTIVE COVENANT

Northwest Building Corporation

Former Car Wash Facility – Renton Shopping Center

351 Hardie Avenue S.W. Renton, Washington.

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Northwest Building Corporation, 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]:

1. Preliminary Remediation Characterization, Renton Shopping Center – Car Wash Facility (Area 1), January 1992, by RZA AGRA, Inc.
2. Interim Soil Remediation, Former Car Wash Area – Renton Shopping Center, November 3, 1992 by RZA AGRA, Inc.
3. Interim Remediation/Groundwater Monitoring, Renton Shopping Center, January 1993 by RZA AGRA, Inc.
4. Off-Site Assessment and Groundwater Monitoring, Former Car Wash Area Renton - Shopping Center, August 16, 1993 by RZA AGRA, Inc.
5. Additional Subsurface Investigation and Groundwater Aeration Feasibility Study Summary Report, Former Car Wash Area Renton - Shopping Center, August 16, 1994 by RZA AGRA, and Earth & Environmental, Inc.
6. Remediation System and Groundwater Monitoring Status Report, Former Car Wash Area

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- Renton Shopping Center, December 29, 1995 by RZA AGRA, and Earth & Environmental, Inc.
7. Remediation System and Groundwater Monitoring Status Report, Former Car Wash Area Renton Shopping Center, May 14, 1996 by RZA AGRA, and Earth & Environmental, Inc.
 8. Remediation System and Groundwater Monitoring Status Report, Former Car Wash Area Renton Shopping Center, July 12, 1996 by RZA AGRA, and Earth & Environmental, Inc.
 9. Remediation System and Groundwater Monitoring Status Report, Former Car Wash Area Renton Shopping Center, October 1, 1996 by RZA AGRA, and Earth & Environmental, Inc.
 10. Remediation System and Groundwater Monitoring Status Report, Former Car Wash Area Renton Shopping Center, January 14, 1997 by RZA AGRA, and Earth & Environmental, Inc.
 11. Remediation System and Groundwater Monitoring Status Report, Former Car Wash Area Renton Shopping Center, May 12, 1997 by RZA AGRA, and Earth & Environmental, Inc.
 12. Remediation System and Groundwater Monitoring Status Report, Former Car Wash Area Renton Shopping Center, October 6, 1997 by RZA AGRA, and Earth & Environmental, Inc.
 13. Second Quarter and Groundwater Monitoring Status Report, 351 Hardie Avenue, SW

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Former Car Wash Area, Renton Shopping Center, April 30, 1998, by AGRA Earth &
Environmental, Inc.

THESE documents are on file at Ecology's NWRO.

This Restrictive Covenant is required because the Remedial Action resulted in remnant concentrations of TPH-G, present beneath the vertical bedrock cliff of the western corner of the Former Renton Car Wash Facility, and because dissolved petroleum hydrocarbons in groundwater are also present above State Standards on the site (See Enclosed Map, Figs. 1 and 2). This remnant and inaccessible contaminated soil is estimated to be about 330 cubic yards in volume.

The undersigned Northwest Building Corporation is the fee owner of real property (hereafter "Property") in the County of Snohomish, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described in Exhibit A, of this Restrictive Covenant and made a part hereof by reference (*attach document containing legal description*).

The Northwest Building Corporation 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").

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Section 1.

The Property shall be used only for traditional industrial uses, as described in RCW 70.105D.020(23) and defined in and allowed under the COUNTY of Snohomish's zoning regulations codified in the [OFFICIAL NAME OF ZONING REGULATION] as of the date of this Restrictive Covenant.

2. No groundwater may be taken for any use from the Property without meeting all relevant substantive requirements applicable to the State and County laws.

3. A portion of the Property contains remnant concentrations of TPH-G, present beneath the vertical bedrock cliff of the western corner of the Former Renton Car Wash Facility, and dissolved petroleum hydrocarbons in groundwater are also present above State Standards on the site. 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, groundwater, vapors 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, groundwater, or vapors 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,

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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.

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

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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.

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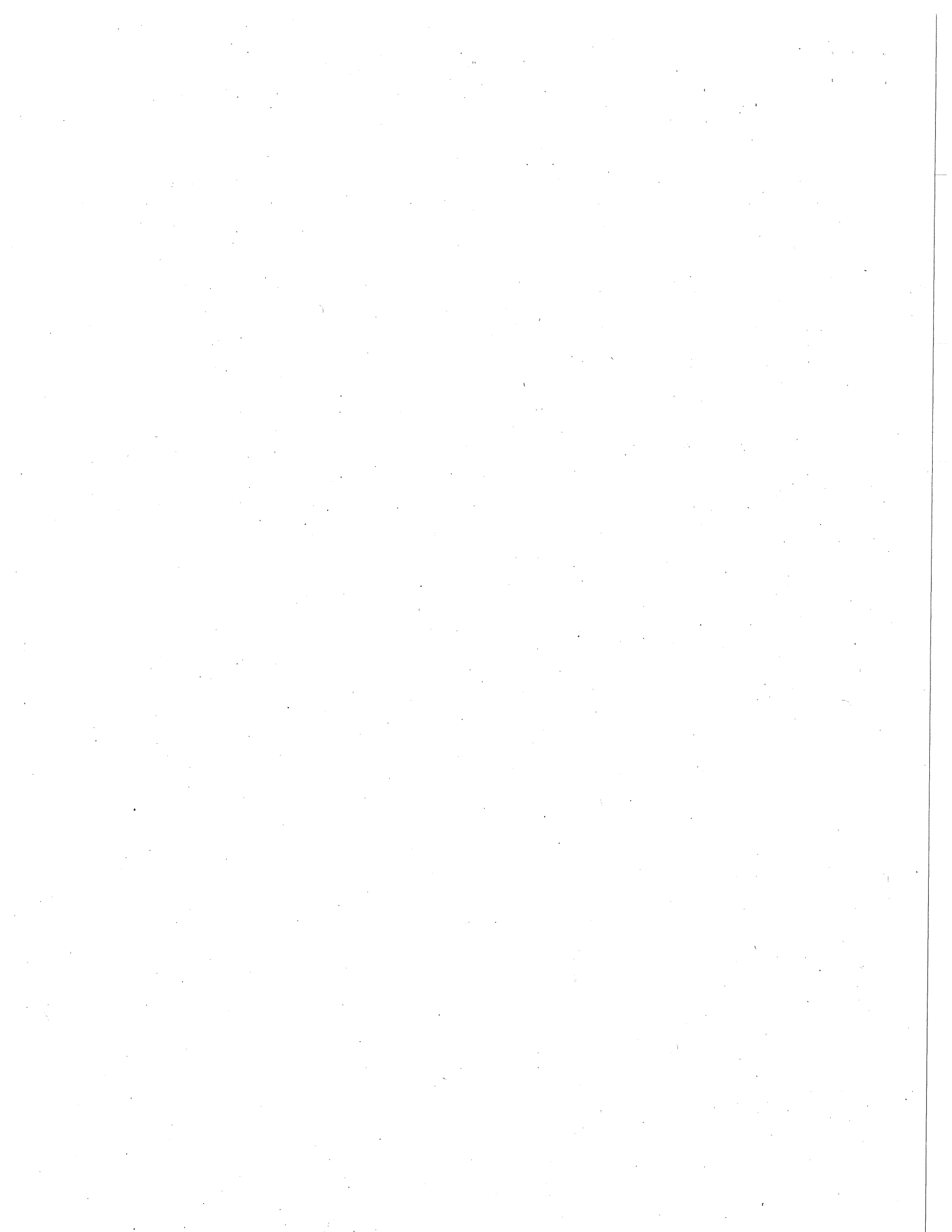
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[NAME OF PROPERTY OWNER]

[DATE SIGNED]

[NOTE: The Property Owner must have this Restrictive Covenant notarized.]

1997 DRAFT RC



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[NAME OF PROPERTY OWNER]

[DATE SIGNED]

[NOTE: The Property Owner must have this Restrictive Covenant notarized.]

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