



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office, 3190 - 160th Ave S.E. • Bellevue, Washington 98008-5452 • (425) 649-7000

November 10, 1999

Mr. Jack A. Jackson  
P.O. Box 10061  
Bainbridge Island, Washington 98110

Dear Mr. Jackson

Re: Independent Remedial Action  
Jackson Property 3801 - 7<sup>th</sup> Avenue South, Seattle, WA

Thank you for submitting the results of your independent remedial action(s) for review by the State of Washington Department of Ecology (Ecology). Ecology appreciates your initiative in pursuing this administrative option under the Model Toxics Control Act (MTCA).

Ecology's Toxics Cleanup Program has reviewed the following information regarding the east tax parcel, as described in Attachment A to this letter, of the Jackson property located at 3801 - 7<sup>th</sup> Avenue South, Seattle, WA:

1. Request for Voluntary Cleanup Program Review of Completed Site Investigation and Remediation, 3801 7<sup>th</sup> Avenue South, Seattle, WA; November 12, 1998, Equipoise Corporation (Equipoise Job NO. 112-001-001)
2. Modification of VCP Request for Jack Jackson Property; May 26, 1999' Equipoise Corporation (Equipoise Job No. 112-001-001)

The report(s) listed above will be kept in the Central Files of the Northwest Regional Office (NWRO) of Ecology for review by appointment only. Appointments can be made by calling Central Records at the NWRO at (425) 649-7190 or -7239.

Based upon the information in the reports listed above, Ecology has determined that, at this time, the release of petroleum hydrocarbons into the soil no longer poses a threat to human health or the environment.

Therefore, Ecology is issuing this determination that no further remedial action is necessary at this site under MTCA, chapter 70.105D RCW. However, please note that because your actions were not conducted under a consent decree with Ecology, this letter is written pursuant to RCW 70.105D.030(1)(i) and does not constitute a settlement by the state under RCW 70.105D.040(4) and is not binding on Ecology.

Ecology's no further action determination is made only with respect to the release identified in the report(s) listed above. This no further action determination applies only to the area described

Jack Jackson  
June 29, 1999  
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as the west tax parcel, of the property affected by the release identified in the reports at 3801 7<sup>th</sup> Avenue South, Seattle, WA. It does not apply to any other releases or potential releases at the property, any other areas on the property, nor any other properties owned or operated by Jack Jackson.

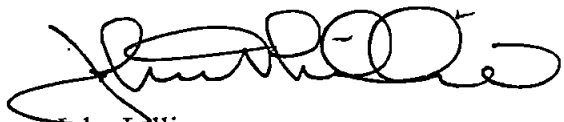
In addition, the Restrictive Covenant filed on your property dated November 5, 1999, is a condition to maintain Ecology's no further action determination. The Restrictive Covenant is attached to this letter as Attachment A. Ecology's no further action determination automatically terminates and will have no force and effect if any portion of the Restrictive Covenant is violated. WAC 173-340-440(6) requires you to notify and seek comment from a city or county department with land use planning authority for real property subject to the Restrictive Covenant.

Ecology will update its database to reflect this "No Further Action" determination. Your site will not appear in future publications of the Confirmed & Suspected Contaminated Sites Report (previously known as the Affected Media and Contaminants Report.)

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 determination.

If you have any questions, please contact me at 425-649-4446.

Sincerely,



John Lillie  
Toxics Cleanup Program

Initials  
Attachment A, Legal Description of Parcel Covered by Letter

cc: Brian Lawler Lawler & Burroughs, PC

**When Recorded Return To:**

**Brian E. Lawler, Esq.  
LAWLER & BURROUGHS, P.C.  
999 Third Ave, Suite 4750  
Seattle, WA 98104**

**COPY OF  
RECORDED DOCUMENT**  
King County Recorder's Office

**SECOND AMENDED & CORRECTED RESTRICTIVE COVENANT  
RE: REMEDIAL ACTION**

**GRANTOR:** Jackson, Jack A. and Jackson, Janet C., husband and wife

**GRANTEE:** The Public

**LEGAL DESCRIP. (Abbrev.)** Lts. 4-9, Blk. 7, South Seattle Add. Vol 1/35; Lts. 7-9, Blk. 262, Seattle Tidelands. Complete legal on Attachment A.

**TAX PARCEL NO.** 788610-0290-01

This Second Amended and Corrected Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Jack Jackson and Janet Jackson, their successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology"). This document replaces the Restrictive Covenant re: Remedial Action previously filed at King County Auditor's File No. 19990903000006 and the First Amended and Corrected Declaration of Restrictive Covenant Re: Remedial Action previously filed at King County Auditor's File No. 1999101301018.

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. Phase I Environmental Site Assessment, 3801 7th Avenue South, AdaPT Engineering, inc., October 16, 1997;
2. Preliminary Subsurface Investigation at 3801 7th Avenue South, Seattle, WA, Equipoise Corporation, January 15, 1998;
3. Request for Voluntary Cleanup program review of Completed Site Investigation and Remediation, 3801 7th Avenue South, Seattle, WA. Equipoise Corporation, November 12, 1998.
4. Request for Voluntary Cleanup program review of Completed Site Investigation and Remediation, 3801 7th Avenue South, Seattle, WA. Lawler & Burroughs, P.C. October 22, 1999.

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

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of Petroleum Hydrocarbons which exceed the Model Toxics Control

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DEPT. OF ECOLOGY

The undersigned, Jack Jackson and Janet Jackson (hereinafter "the Jacksons"), are the fee owners 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 Attachment A of this Restrictive Covenant and made a part hereof by reference.

The Jacksons make 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 petroleum hydrocarbon contaminated soil located under the north central portion of the shop section of the warehouse building. 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 creates 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 the contaminated soil that remains on the Property as part of the Remedial Action, or creates a new exposure pathway, is prohibited without prior written approval from Ecology.

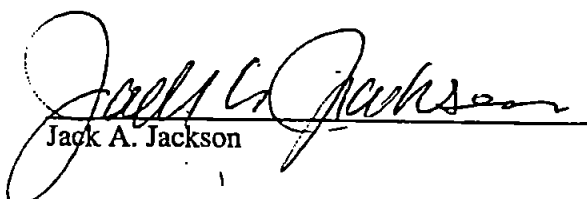
Section 4. The Owner of the Property must give thirty- (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision 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 the 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.

  
Jack A. Jackson

2 Nov 99  
Date



Nov 2 1999

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this day personally appeared before me Jack Jackson and Janet Jackson, to me known to be the Property Owners that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed, for the uses and purposes mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 2nd day of NOVEMBER, 1999.

Brian E. Lawler

BRIAN E. LAWLER  
NOTARY PUBLIC  
STATE OF WASHINGTON  
COMMISSION EXPIRES  
SEPTEMBER 5, 2002

Print: BRIAN E. LAWLER  
Notary Public in and for the State of Washington,  
residing at BAINBRIDGE ISLAND, WA  
My Commission Expires: 9-5-2002

ATTORNEYS AT LAW

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LAWLER & BURROUGHS, P.C.

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BLAIR B. BURROUGHS  
BRIAN E. LAWLER

DENISE M. HAMEL

4750 WELLS FARGO CENTER  
999 THIRD AVENUE  
SEATTLE, WASHINGTON 98104  
(206) 682-0191 • FAX (206) 682-3584

November 8, 1999

Mr. John Lilly  
DEPARTMENT OF ECOLOGY  
Northwest regional Office  
3190 - 160th Ave SE  
Bellevue, WA 98008-5452

RE: Restrictive Covenant  
Jackson Property 3801 7th Ave. South, Seattle WA

Dear Mr. Lilly:

Attached please find a copy of the recorded Restrictive Covenant, per your request as part of the VCP approval process. Please prepare and send the No Further Action ("NFA") letter at your early convenience.

Very truly yours,

LAWLER & BURROUGHS, P.C.

*Brian E. Lawler / jmf*

Brian E. Lawler

BEL/jmf

Enclosures

c: J. Jackson  
D. Williams, Chiles & Co.