



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

October 20, 2021

DER Ranches LLLP
1555 Shoreline Drive, Suite 320
Boise, ID 83702

RE: No Further Action at the following Site:

- **Site Name:** Silver Mountain Mine
- **Site Address:** County Road 4371, Loomis
- **Facility/Site No.:** 101
- **Cleanup Site No.:** 3033

To Whom it May Concern:

The Washington State Department of Ecology (Ecology) has reviewed recent records for the Silver Mountain Mine site (Site). This letter provides our updated opinion for the status of the Site. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

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 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:

- Arsenic into soil and groundwater.
- Cyanide into soil and groundwater.

Enclosure A is a diagram of the Site, as currently known to Ecology.

Please note 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. Environmental Protection Agency, Superfund Record of Decision, Silver Mountain Mine, WA, March 1990.
2. Environmental Protection Agency, Superfund Explanation of Significant Differences for the Record of Decision, Silver Mountain Mine, WA, August 1995.
3. James W. McDaniel, Declaration of Deed Restrictions, December 1996.
4. Environmental Protection Agency, Fifth Five-Year Review Report for Silver Mountain Mine Superfund Site, September 2017.

A number of these documents are accessible in electronic form from the Site webpage¹. The complete records are stored at the Central Regional Office of Ecology (CRO) for review by appointment only. Visit our Public Records Request page², to submit a public records request or get more information about the process. If you require assistance with this process, you may contact the Public Records Officer at PublicRecordsOfficer@ecy.wa.gov or 360-407-6040.

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

Analysis of the Cleanup

Ecology has concluded that no further remedial action is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

1. Characterization of the Site.

The Site was identified as a cyanide leach pile of previously mined material. The pile consisted of 5,300 tons of ore on top of a liner. The ore pile was sprayed with a sodium cyanide mixture to leach silver and gold. As a result, the ore pile was heavily impacted with cyanide. An additional pile with 5,200 tons of unprocessed material was also located at the site, but this material was not impacted by cyanide application.

Shallow groundwater beneath the Site was found to contain elevated levels of dissolved anions and cations, as well as cyanide associated with the mined material. It was determined that this shallow groundwater was a perched aquifer. Wells were installed, and were found not to produce measureable groundwater.

Other than these ore piles and impacted shallow groundwater, no other environmental impacts were identified at the Site.

The Site is described above and in **Enclosure A**.

¹ <https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=3033>

² <https://ecology.wa.gov/Footer/Public-records-requests>

2. Establishment of cleanup standards.

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

Cleanup Levels

It has been determined that MTCA Method A cleanup levels are appropriate for the Site. *The Site is used for agricultural purposes, but zoning does not prohibit residential use.* As a result, unrestricted land use cleanup levels are appropriate for the Site.

The following Method A Cleanup Levels for unrestricted land uses are appropriate for the Site:

Constituent	Soil Cleanup Level (mg/kg)	Method A Groundwater Cleanup Level (µg/L)
Arsenic	20	5
Cyanide	50	10

Point of Compliance (POC): Standard, throughout the Site extending from the surface to 15 feet below ground surface (ft bgs).

Terrestrial Ecological Evaluation (TEE): The Site is generally vacant with mixed agricultural use. The remedy included installation of a protective engineered barrier over the ore piles. This is an effective barrier to contaminants, and Ecology has eliminated the TEE pathway for further consideration at this Site.

3. Selection of cleanup action.

Ecology has determined the cleanup action selected for the Site meets the substantive requirements of MTCA. The cleanup included capping of contaminated soil.

4. Cleanup.

Ecology has determined the cleanup meets the cleanup standards established for the Site. This determination is dependent on the continued performance and effectiveness of the post-cleanup controls and monitoring specified below.

Site cleanup consisted of grading and consolidating the ore piles and capping with an engineered clay cover. The cap was constructed to minimize erosion and infiltration of precipitation. The area was fenced with barbed wire to prevent livestock from grazing on and damaging the cap. Long term monitoring is necessary to observe the integrity of the cap and repair as necessary. This will take place through the five-year review process. Institutional controls were also implemented to prevent use of the capped area for any purpose, as well as to restrict use of groundwater from the Site.

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 land use restriction preventing use of the capped area, and restricting extraction or use of groundwater from the Site.

To implement that control, a Restrictive Covenant was recorded with Okanogan County on December 4, 1996 with recording number 847844 on the following parcel of real property in Okanogan County:

- 3826340013

Ecology approved the recorded Covenant. A copy of the Covenant is included in **Enclosure B**.

Periodic Review of Post-Cleanup Conditions

EPA will continue to conduct five-year reviews of post-cleanup conditions at the Site to ensure that they remain protective of human health and the environment. If EPA or Ecology determine, based on a five-year review, that further remedial action is necessary at the Site, then Ecology will withdraw this opinion.

Listing of the Site

Based on this opinion, Ecology will remove the Site from our Confirmed and Suspected Contaminated Sites 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.

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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.180.

Termination of Agreement

If you have any questions about this opinion, please contact me by phone at 509-388-5223 or e-mail at Jeff.Newschwander@ecy.wa.gov.

Sincerely,



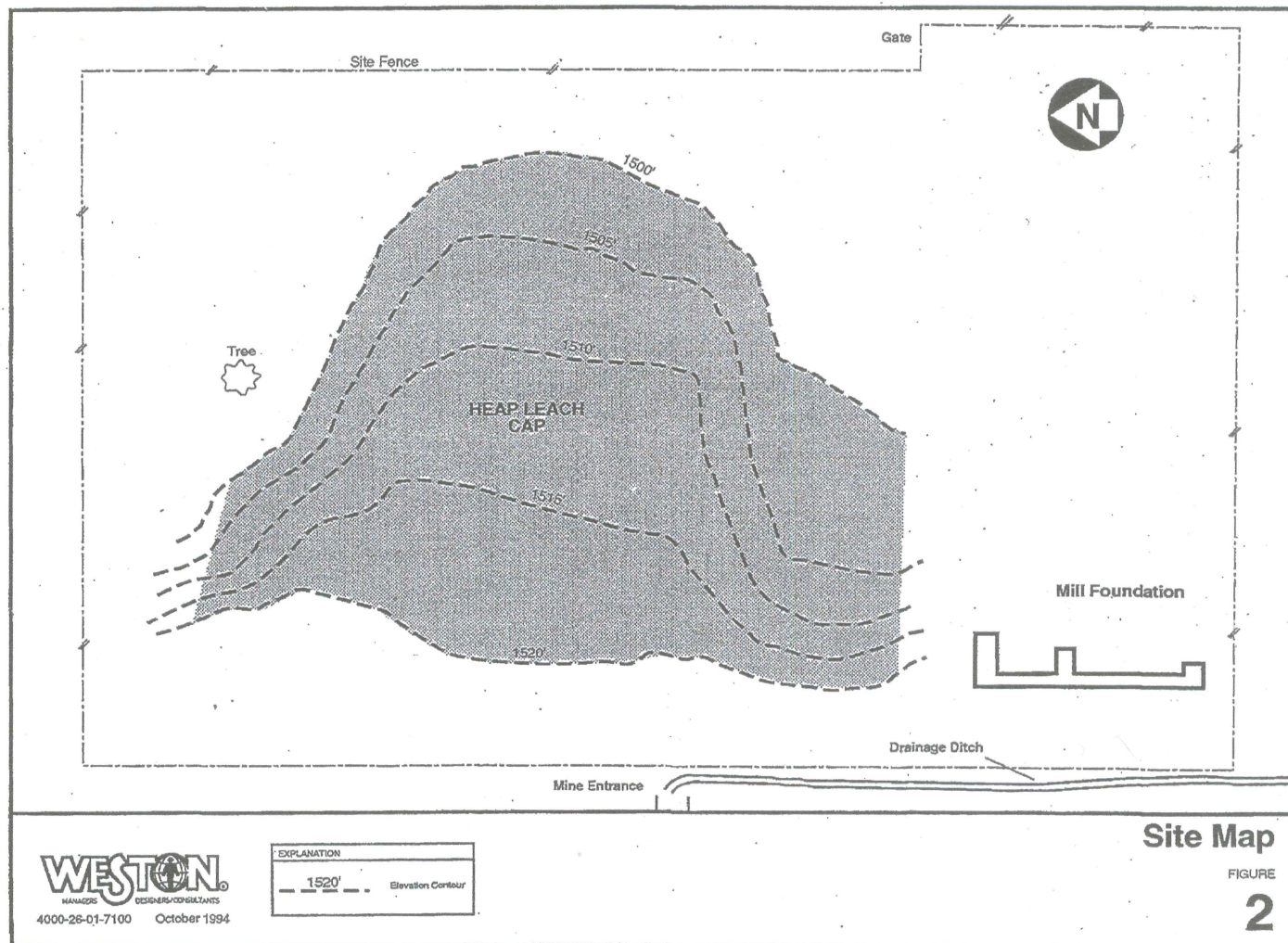
Jeff Newschwander
Toxics Cleanup Program
Central Regional Office

Enclosures (2): A – Site Diagram
 B – Deed Restriction for Institutional Controls

Enclosure A

Site Diagram

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100



Enclosure B

Environmental Covenant for Institutional Controls

847844

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acquire an interest in the Property, unless EPA Region 10 (or its successor) consents to an inconsistent use:

- 1) the owner of the property shall not make use of the property, which compromises the integrity of the soil/clay cap. Restricted uses include, but are not limited to, construction or landscaping on the cap or excavation of any part of it. However, the owner of the Property shall not be responsible for any other persons or entity who constructs, landscapes or otherwise excavates or compromises the integrity of the soil/clay cap.
- 2) the owner of the property shall not use any restricted water for human consumption. Restricted water includes, but is not limited to, mine drainage and groundwater beneath, or affected by, the side. However, the owner of the Property shall not be responsible for any consumption of any restricted water by any other human or animal.
- 3) these restrictive covenants shall restrict the Property and run with the land, and be binding on the current owners and all of their successors, assigns and transferees.

In Witness Whereof, the undersigned has executed this instrument on the day and year first written above.

James W. McDaniel
JAMES W. MCDANIEL, Property Owner

STATE OF WASHINGTON)
 : ss.
County of Okanogan)

Personally appeared before me JAMES W. MCDANIEL, this 20th day of December, 1994.

Cheryl E. Mullins
NOTARY PUBLIC in and for the
State of Washington. My
Commission Expires: 4-16-96

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MS Environment
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DECLARATION OF DEED RESTRICTIONS

THIS DECLARATION is hereby given that the property associated with the Silver Mountain Mine Superfund site legally described below hereto (the Property) is subject to use restrictions and other obligations:

That portion of the southwest quarter of Section 34, Township 38 North, Range 26 East of the Willamette Meridian, more particularly described as follows:

Commencing at the northeast corner of the Mill, said point bears north 86 degrees 05 minutes 33 seconds east, a distance of 26.78 feet from the northwest corner of said Mill; thence north 31 degrees 25 minutes 08 seconds east for a distance of 431.84 feet to the TRUE POINT OF BEGINNING; thence south for a distance of 100.00 feet; thence south 10 degrees 42 minutes 47 seconds west for a distance of 470.00 feet; thence east for a distance of 295.00 feet, more or less, to the TRUE POINT OF BEGINNING.

All situated in Okanogan County, State of Washington.

These use restrictions are put forth AS REQUESTED by the Environmental Protection Agency (EPA), Region 10 this 20th day of December, 1994, in accordance with the March 27, 1990, Record of Decision (ROD) for the Silver Mountain Mine Site, developed in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986.

The Property described above includes that portion of property (approximately five acres) located within a barbed wire fence. The Property is an abandoned mine dump where heap leaching operations left cyanide and arsenic contamination in soil, surface water, and groundwater. Approximately 7100 cubic yards of contaminated material have been consolidated and graded with the cyanide leach heap and covered with a soil/clay cap. Because the selected remedy will result in hazardous substances remaining on site above health-based levels, the following use restrictions will be instituted to protect human health and the environment.

The undersigned as owner of the above described property agree to burden the same real property with a restriction prohibiting use. The restrictions and obligations described below shall run with the land and shall be binding on any and all persons who