



# Third Periodic Review

Colorado and North River Apartments  
245 5th Street NE  
East Wenatchee, Washington 98802

Facility/Site ID: 38247947  
Cleanup Site ID: 973

Prepared by:

Washington State Department of Ecology  
Central Regional Office  
Toxics Cleanup Program

February 2021

<b>1.0</b>	<b>Introduction</b> .....	<b>1</b>
<b>2.0</b>	<b>Summary of Site Conditions</b> .....	<b>2</b>
2.1	Site History.....	2
2.2	Site Investigations.....	2
2.2.1	Phase I ESA.....	2
2.2.2	Phase II ESA.....	2
2.3	Remedial Actions.....	3
2.4	Institutional Controls.....	4
<b>3.0</b>	<b>Periodic Review</b> .....	<b>7</b>
3.1	Effectiveness of completed cleanup actions.....	7
3.2	New scientific information for individual hazardous substances for mixtures present at the Site.....	7
3.3	New applicable state and federal laws for hazardous substances present at the Site... ..	7
3.4	Current and projected Site use.....	7
3.5	Availability and practicability of higher preference technologies.....	7
3.6	Availability of improved analytical techniques to evaluate compliance with cleanup levels.....	8
<b>4.0</b>	<b>Conclusions</b> .....	<b>8</b>
4.1	Next Review.....	8
<b>5.0</b>	<b>References</b> .....	<b>9</b>
<b>6.0</b>	<b>Appendices</b> .....	<b>10</b>
6.1	Vicinity Map.....	11
6.2	Site Plan.....	12
6.3	Environmental Covenant.....	13
6.4	Photo log.....	19

## 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 Colorado and North River Apartments property (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA), Chapter 173-340 of the Washington Administrative Code (WAC). This review evaluates the period from 2016 through 2021.

Cleanup activities at this Site were completed in 1999 through the Voluntary Cleanup Program (VCP) under VCP No. CE0041. 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). The MTCA Method A cleanup levels for soil are established under WAC 173-340-740(2). It was determined that institutional controls in the form of a restrictive covenant 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 of 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 Colorado and North River Apartment complex is located in the City of East Wenatchee in Douglas County, Washington. The Site is located in a residential area to the north and west of downtown East Wenatchee. The Site is bounded by 5th Street Northeast to the southeast, North Colorado Avenue to the northeast, and residential properties to the southwest and northwest. The Wenatchee Valley Mall is located one block to the southwest.

A vicinity map is available as Appendix 6.1 and a Site plan is available as Appendix 6.2.

An Environmental Site Assessment (ESA) conducted in 1996 indicated the property was an orchard in the 1940s. It was vacant from the 1950s until the 1990s. In 1999, an apartment complex was constructed at the Site. Following construction activities at the Site, restrictive covenants were recorded for the Site parcels in 1999 to address residual contaminated soils.

### **2.2 Site Investigations**

#### **2.2.1 Phase I ESA**

White Shield Environmental, Inc. (White Shield) completed a Phase I ESA of the subject property on November 15, 1996. Historical aerial photographs and interviews indicated the property operated as a fruit tree orchard prior to the early 1950s. The Site soils were considered as possibly containing lead arsenate. Based on this historical information and interviews White Shield recommended additional Site characterization determine if Site soils contained elevated concentrations of lead or arsenic.

#### **2.2.2 Phase II ESA**

In August, 1997, White Shield collected eleven soil samples from a grid pattern over the Site as part of a Phase II ESA. Samples were collected from depths ranging from 2 to 9 inches below ground surface (bgs). All soil samples were analyzed for arsenic. The sample with the highest level of arsenic was then selected to be analyzed for lead. Laboratory analysis indicated concentrations of 270 parts per million (ppm) arsenic and 1100 ppm lead. In addition, Toxicity Characteristic Leaching Procedure (TCLP) was completed for the same soil sample to whether or not it designated as a dangerous waste. TCLP analytical results were reported at 3.2 milligrams

per liter (mg/l) for arsenic and 1.7 mg/l for lead. These values are below the Washington State dangerous waste value of 5 mg/l for arsenic and lead.

All soil sample results from the Phase II ESA are available in table 1 below:

**Table 1: Phase II ESA Soil Sample Data**

SAMPLE #	LOCATION/DEPTH	ARSENIC	LEAD
VBC-0597-1	southeast corner/4-6" bgs	52 PPM	NT
VBC-0597-2	north of southeast corner/2-4" bgs	66 PPM	NT
VBC-0597-3	northeast corner/7-9" bgs	68 PPM	NT
VBC-0597-4	south of VBC-0597-3/7-9" bgs	31 PPM	NT
VBC-0597-5	south of VBC-0597-4/2" bgs	70 PPM	NT
VBC-0597-6	west of VBC-0597-5/2" bgs	58 PPM	NT
VBC-0597-7	north of VBC-0597-6/4-6" bgs	61 PPM	NT
VBC-0597-8	north of VBC-0597-7/2" bgs	160 PPM	NT
VBC-0597-9	northwest corner/4" bgs	38 PPM	NT
VBC-0597-10	south of VBC-0597-9/5-7" bgs	270 PPM	1100 PPM
VBC-0597-11	southwest corner/3-5" bgs	100 PPM	NT
MTCA METHOD A CLEANUP LEVEL		5 PPM	250 PPM
MTCA = Model Toxics Control Act PPM = Parts Per Million NT = Not Tested			

### 2.3 Remedial Actions

Based on the low leachability values of these metals, large volume of affected soils, significant depth to groundwater, and discussions with representatives from Ecology, it was determined that soil contamination did not pose a threat to groundwater quality and that on-site containment would be an effective remedy for the Site. The proposed remedy included the following actions:

- Surficial soil excavation;
- On-site burial pit excavation and geotextile lining;
- Deposition and compaction of affected surficial soils into the remedial burial pit;
- Capping of remedial burial pit with impermeable liner, and two feet of clean soil; and,
- Confirmatory grid sampling of Site upon completion of remedial action.
- Providing engineering controls to prevent precipitation and runoff from coming into contact with affected soils.

- Long term institutional controls including a restrictive covenant.

Vaughn Bay Construction of Tacoma, Washington contracted and managed surficial soil removal, excavation of remedial burial pit, and deposition of contaminated soils into remedial burial pit. Between August 12 and September 2, 1997 the upper six inches of soil throughout the Site was scraped into piles. These piles were estimated to contain 2,583 cubic yards of soil.

Based on soil characterization results, additional soil was excavated from two areas on the Site and deposited in the remedial burial pit. These areas included the Site drainage pond located on the southwest portion of the Site and an area of elevated arsenic concentrations along the eastern portion of the Site.

An estimated 337 cubic yards of affected soil was excavated from the Site drainage pond and a confirmational bottom sample was collected. The sample was analyzed for arsenic and reported as non-detect. An estimated 886 cubic yards of affected soil was excavated from the eastern portion of the Site. Confirmational soil samples were collected in a grid pattern. Laboratory results indicated cleanup levels had been achieved.

The excavation of the remedial burial pit began on September 9, 1997 on the southeast portion of the Site. Six millimeter visqueen was laid along the sidewalls and base of the excavation to minimize the potential for migration. On September 12, 1997 contaminated surficial soil scrapings were deposited within the excavation and compacted in lifts. The completed remedial excavation pit dimensions measured 35' east-west, 130' north-south, and 18' in depth. At the completion of remedial actions, the burial pit was covered with two feet of clean fill. A sample was collected from the clean fill source and analyzed for lead and arsenic prior to import. Lead or arsenic were not detected above MTCA Method A cleanup levels.

Excavated contaminated soils that exceeded the capacity of the burial pit were placed in excavations for the apartment buildings and beneath the footprint of asphalt parking areas. Following discussions with representatives from Ecology, it was determined that the building foundations and asphalt parking areas would provide sufficient protection from exposure to these soils.

In 1999, restrictive covenants were recorded for the two tax parcels that make up the Site. A No Further Action letter was sent to the property owner, and Ecology changed the Site status to reflect a No Further Action determination.

## **2.4 Institutional Controls**

Institutional controls in the form of restrictive covenants were implemented at the Site. Both restrictive covenants recorded for the Site in 1999 contained the same limitations, but were created separately for each tax parcel. The covenants impose the following restrictions:

- 1) A portion of the property contains lead and arsenic contaminated soil located in the following areas as identified in Figure 9 of the Independent Remedial Action Report.
  - A remedial burial pit;
  - The western portion of the Site underlying 6 mil visqueen and varying amounts of clean till as described in section 2.4 of the Independent Remedial Action Report;
  - The eastern entry to the Colorado Apartments underlying asphalt; and
  - Under the eastern most building.

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.

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.

- 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 (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, casement, 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 term 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.
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- 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 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 for the Colorado Apartments portion of the Site is available as Appendix 6.3.



## **3.0 Periodic Review**

### **3.1 Effectiveness of completed cleanup actions**

The Site continues to be occupied by the four apartment buildings that make up the Colorado and North River Apartment complex. Soils with arsenic and lead concentrations higher than MTCA Method A cleanup levels are still present at the Site; however these contaminated soils do not pose a risk of human exposure by ingestion and direct contact with soils. Asphalt, building structures and a clean soil cover continue to serve as a cap for the Site and eliminate the human exposure pathways (ingestion, contact). Based upon the Site visit conducted on February 2, 2021, no repair, maintenance or contingency actions have been required. A photo log is available as Appendix 6.4.

The restrictive covenants for the Sites have been recorded and remain active. There is no evidence that any new documents have been recorded that limit the effectiveness or applicability of the covenants. The covenants prohibit activities that will result in the release of contaminants contained as part of the cleanup without Ecology's approval, and prohibit any use of the property that is inconsistent with the covenants. These covenants serve to assure the long term integrity of the cap.

### **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**

Cleanup levels for lead and arsenic have not changed since remedial actions were conducted at the Site. 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 materials, 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 is protective of human health and the environment.
- Soil cleanup levels have not been met at the Sites; however, the cleanup actions are determined to comply with cleanup standards under WAC 173-340-740(6)(f), since the long-term integrity of the containment systems are ensured and the requirements for containment technologies have been met.
- The restrictive covenants for the Site are in place and will 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 covenants are being satisfactorily observed. 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 surface cover 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

White Shield Environmental. *Phase I Environmental Site Assessment*. November 26, 1996.

White Shield Environmental. *Phase II Soil Characterization Report*. August 27, 1997.

White Shield Environmental. *Independent Remedial Action Report*. October 2, 1998.

Ecology. *No Further Action Determination Letter*. June 9, 1999.

Ecology. *Restrictive Covenant*. August 12, 1999.

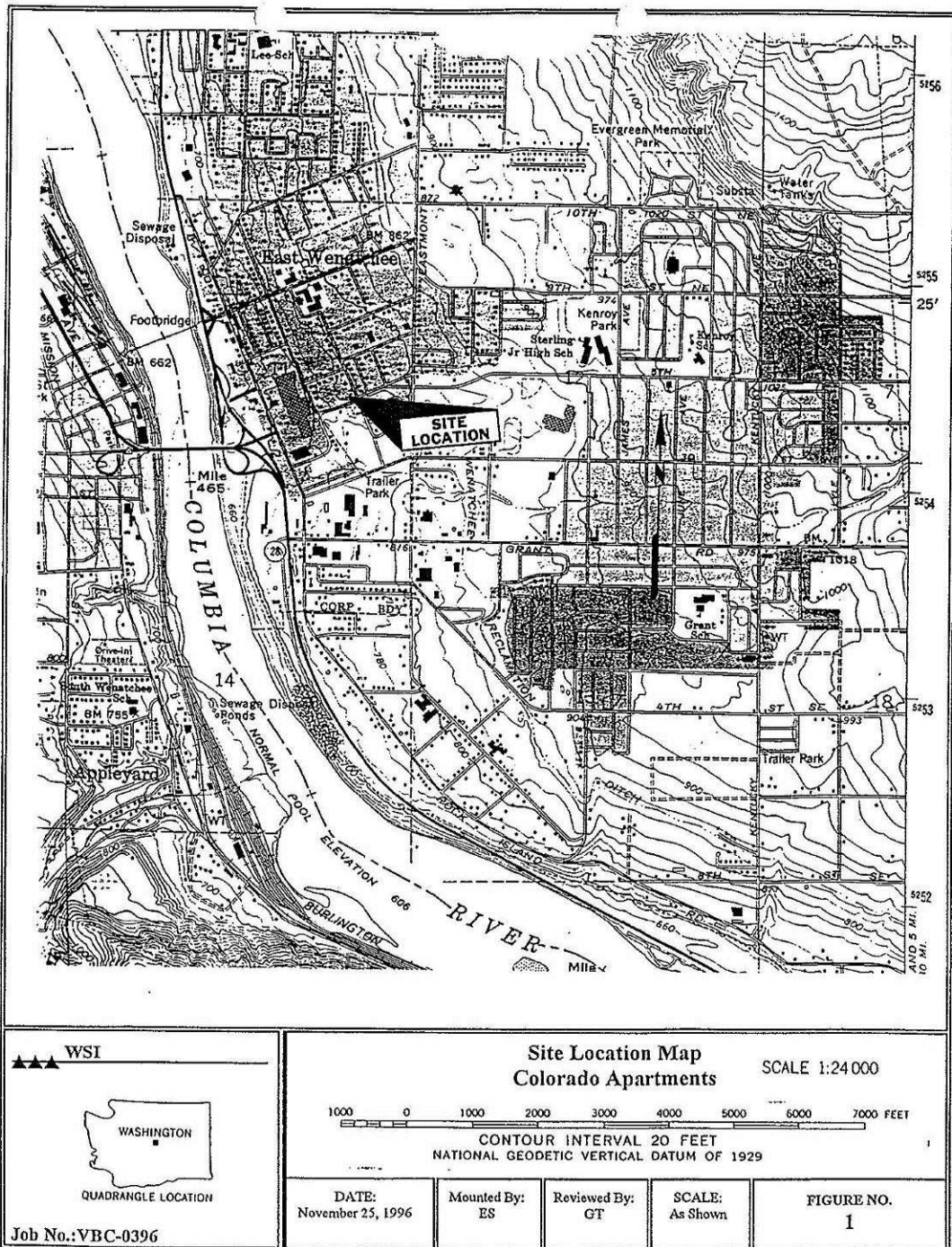
Ecology. *Periodic Review*. June 2011.

Ecology. *Periodic Review*. June 2016.

Ecology. *Site Visit*. February 2, 2021.

## **6.0 Appendices**

### 6.1 Vicinity Map



WSI

WASHINGTON

QUADRANGLE LOCATION

Job No.:VBC-0396

**Site Location Map**  
**Colorado Apartments**

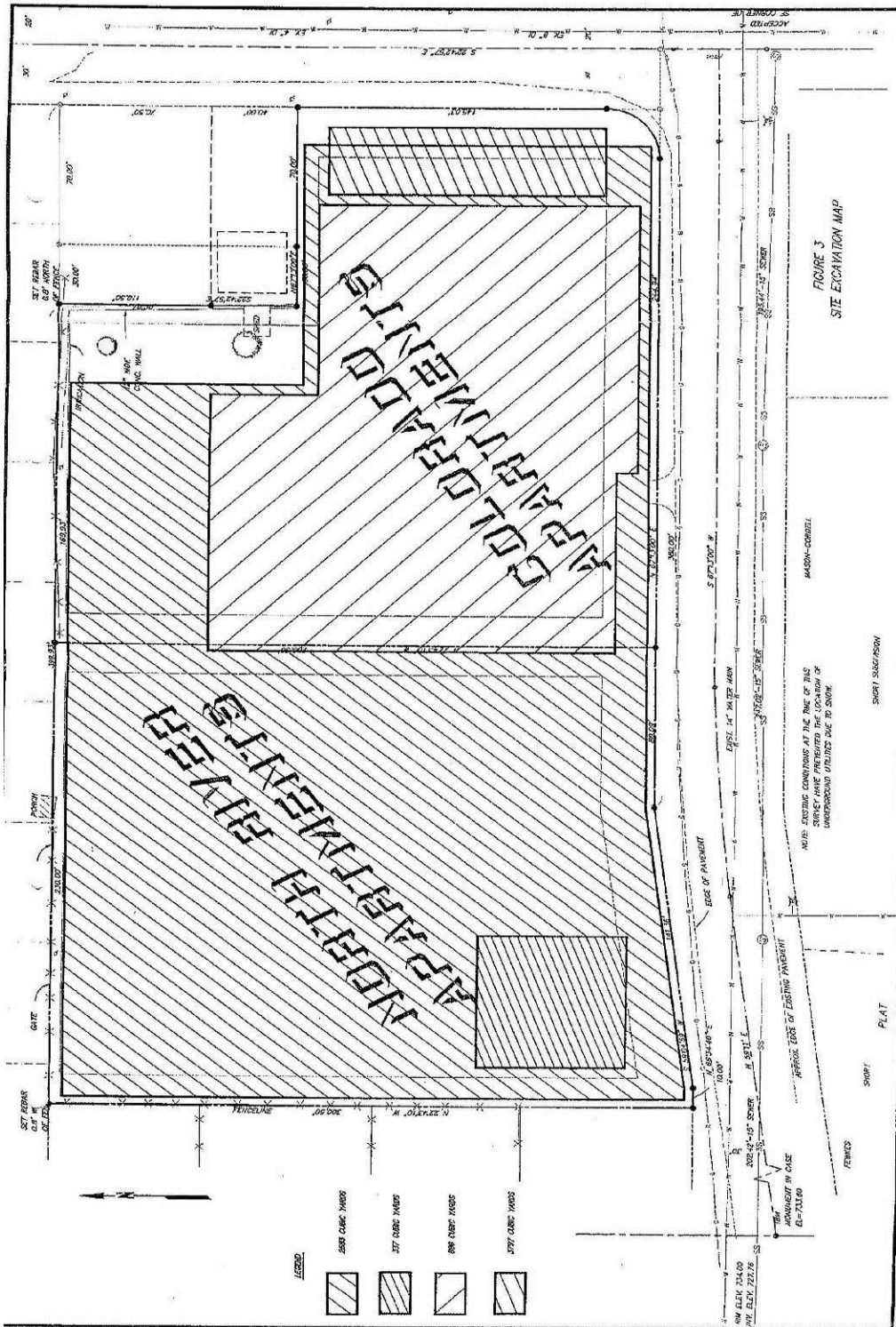
SCALE 1:24 000

1000 0 1000 2000 3000 4000 5000 6000 7000 FEET

CONTOUR INTERVAL 20 FEET  
 NATIONAL GEODETIC VERTICAL DATUM OF 1929

DATE: November 25, 1996	Mounted By: ES	Reviewed By: GT	SCALE: As Shown	FIGURE NO. 1
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## 6.2 Site Plan



### 6.3 Environmental Covenant



ORIGINAL

When recorded return to:

Eastern Plains Housing Limited Partnership  
1911 65<sup>th</sup> Avenue West  
Tacoma, WA 98466

D04144

**RESTRICTIVE COVENANT  
EASTERN PLAINS HOUSING LIMITED PARTNERSHIP  
COLORADO APARTMENTS**  
Coversheet Recording Information:

GRANTOR: Eastern Plains Housing Limited Partnership, a  
Washington limited partnership

GRANTEE: State of Washington Department of Ecology

LEGAL DESCRIPTION: Lot 2, North River Short Plat 19-96 EWLP 11/2-22-20,  
Douglas County, State of Washington, according to the  
plat thereof Recorded in Volume H of Plats, Page 464.

ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBERS:  
401 000 028 09

**RESTRICTIVE COVENANT  
EASTERN PLAINS HOUSING LIMITED PARTNERSHIP  
COLORADO APARTMENTS**

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Eastern Plains Housing Limited Partnership, 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:

- Independent Remedial Action Report  
White Shield Environmental
- Geotechnical Investigation Colorado Apartments\*  
White Shield, Inc. -- Steven D. Fischer
- Department of Ecology Water Well Report\*  
Tumwater Drilling, Inc.
- Phase I Environmental Site Assessment -- Colorado Apartments\*  
White Shield Environmental -- Stuart Fricke
- Phase II Characterization Report -- Colorado & North River Apartments\*  
White Shield Environmental -- Stuart Fricke
- Department of Ecology Letter Regarding On-Site Remediation\*  
Mark Peterschmidt
- Vaughn Bay Construction Documentation of Surface Soil Handling\*  
Photo Journal of Operation -- Terrance M. O'Brien
- Analytical Analysis\*  
OnSite Environmental Inc. -- David Baumeister  
Sound Analytical Services, Inc.

\*Items included as Attachments to the Independent Remedial Action Report.

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

This Restrictive Covenant is required because the Remedial Action resulted in residual

Page 2 of 6





concentrations of lead and arsenic which exceed the Model Toxics Control Act Method A Residential Cleanup Levels for soil established under WAC 173-340-740.

The undersigned, Eastern Plains Housing Limited Partnership, 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 AS FOLLOWS:

Lot 2, North River Short Plat 19-96 EWLP 11/2-22-20, Douglas County, Washington, according to the plat thereof Recorded in Volume H of Plats, Page 464.

Eastern Plains Housing Limited Partnership 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 portion of the Property contains lead and arsenic contaminated soil located in the following areas as identified in Figure 9 of the Independent Remedial Action Report.

- A remedial burial pit;
- The western portion of the site underlying 6 mil visqueen and varying amounts of clean fill as described in section 2.4 of the Independent Remedial Action Report;
- The eastern entry to the Colorado Apartments underlying asphalt; and
- Under the eastern most building (Building "A").

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.

Page 3 of 6



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.

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  
Page 4 of 6



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.

A handwritten signature in black ink, appearing to read "Paul Garcia", written over a horizontal line.

Paul Garcia, President

Eastern Plains Housing, Inc., General Partner

Eastern Plains Housing Limited Partnership

A handwritten date "3/23/99" written in black ink over a horizontal line.

Date



STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Placer )

On this 23<sup>rd</sup> day of March, 1999, before me, the undersigned, a Notary Public in and for the State of California, duly commissioned and sworn, personally appeared Paul Garcia, to me known to be the President of Eastern Plains Housing, Inc., a corporation which is a general partner in Eastern Plains Housing Limited Partnership, the partnership that executed the within the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation and said partnership, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument on behalf of the corporation acting on behalf of said partnership.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



By: Stephanie A. Stolz  
Name (print): STEPHANIE A. STOLZ  
NOTARY PUBLIC in and for the State of  
California, residing at Placer Co.  
My commission expires 12-5-00

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## 6.4 Photo log

**Photo 1: Property Entrance - from the east**



**Photo 2: Site Landscaping - from the northwest**





**Photo 3: Paved Parking Area - from the northeast**



**Photo 4: Stormwater Swale - from east**

