



Second Periodic Review

Associated Grocers
Facility/Site ID #: 36633115
Cleanup Site ID #: 3587
1001 South 3rd Street
Yakima, Washington 98902

Prepared by:
Washington State Department of Ecology
Central Regional Office
Toxics Cleanup Program

June 2013

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1.0 INTRODUCTION

This document is the Washington State Department of Ecology's second periodic review of post-cleanup site conditions and monitoring data to assure that human health and the environment are being protected at the Associated Grocers site (Site). The Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA), Chapter 173-340 of the Washington Administrative Code (WAC). The first periodic review for this Site was completed in June 2008. This periodic review will evaluate the period from 2008 through 2013.

Cleanup activities at this Site were completed through the Independent Remedial Action Program. The cleanup actions resulted in residual concentrations of diesel-range petroleum hydrocarbons (TPH-D) that exceed MTCA Method A cleanup levels for soil established under WAC 173-340-740(2). As a result of residual contamination, institutional controls 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 or 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 Associated Grocers Site is located in the City of Yakima, Yakima County, Washington. The Site is located on South Third Street in a mixed use area. The property is bordered by commercial and industrial use to the south and west, and by residential properties to the north and east. A vicinity map is available as Appendix 6.1 and a Site plan is available as Appendix 6.2.

2.2 Site Investigations and Remedial Activities

As part of a Phase II Site assessment completed at the Site in 1994, samples were collected from two dry wells, DW-13 and DW-14. The samples contained TPH-D at concentrations exceeding MTCA Method A cleanup levels. The dry wells were decommissioned in 1995, and approximately 380 tons of petroleum hydrocarbon-contaminated soils (PCS) were generated and disposed of at Anderson's Petroleum Recycling facility in Yakima, Washington. Confirmation samples indicated that contamination remained in place at concentrations exceeding MTCA Method A cleanup levels. In 1996, an additional 413 tons of PCS was removed from the Site and was also shipped to Anderson's Petroleum Recycling facility. Following this second remedial activity, confirmation samples indicated that soils at the Site still contained TPH-D contamination at concentrations exceeding MTCA Method A cleanup levels.

Four monitoring wells were installed late in June 1996. Three consecutive quarterly groundwater monitoring events were conducted and did not reveal groundwater contamination exceeding MTCA Method A cleanup levels.

In 1997, five soil borings and one additional groundwater monitoring well were installed at the Site. Samples collected from B-6, at the center of the previous excavation location, contained TPH-D concentrations of 2,500 ppm at 19 feet below ground surface (bgs). TPH-D was not detected in the sample collected from 23' bgs, or in any of the other four soil borings. This sampling event confirmed that contamination was contained at the Site and did not pose a risk of migration to groundwater.

2.3 Cleanup Levels and Point of Compliance

WAC 173-340-704 states that MTCA Method A may be used to establish cleanup levels at sites that have few hazardous substances, are undergoing a routine cleanup action, and where numerical standards are available for all indicator hazardous substances in the media for which the Method A cleanup level is being used.

MTCA Method A cleanup levels for unrestricted land use were determined to be appropriate for contaminants at this Site. The cleanup actions conducted at the Site were determined to be 'routine', few hazardous substances were found at the Site, and numerical standards were available in the MTCA Method A table for each hazardous substance; however, the MTCA Method A cleanup levels for TPH-D is 2000 milligrams per kilogram (mg/kg). At the time of the cleanup action, the cleanup level for TPH-D was 200 mg/kg.

For soil, the point of compliance is the area where the soil cleanup levels must be attained. For this Site, the point of compliance is established as soils throughout the Site.

2.4 Final Remedial Action

It was determined that protective capping would be the final remedial action for the Site. Asphalt was used to cover the majority of the Site that did not fall under the building footprint. In addition, all drywells were abandoned, and all other drains in the area were filled with concrete.

2.5 Institutional Controls

Because contamination was capped at the Site at concentrations exceeding MTCA Method A Cleanup levels, institutional controls were required for the Site to be eligible for a NFA determination. Institutional controls in the form of a restrictive covenant were recorded for the property in 1998 and a NFA determination was issued for the Site. The conditions of the restrictive covenant are available below:

1. The Property shall be used only for traditional industrial uses, as described in RCW 70.1050.020(23) and defined in and allowed under the City of Yakima's zoning regulations codified in the Uniform Amended Zoning Ordinance in effect as of the date of this Restrictive Covenant.
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 on this Site 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 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

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. This provision shall not require notification of residents of individual beds or suites within the Property while being used essentially in its present fashion.
 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.
 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
 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 to comment, finds it appropriate to do so.
- .

3.0 FIVE-YEAR REVIEW

3.1 Effectiveness of completed cleanup actions

The asphalt cap over the former drywell location continues to eliminate the human exposure pathways (ingestion, contact) to contaminated soils. Based upon the Site visit conducted on May 29, 2013, no repair, maintenance or contingency actions have been required. A photo log is available as Appendix 6.3.

The restrictive covenant for the Site was recorded and is in place. Appendix 6.2 is a copy of the restrictive covenant for the Site. This restrictive covenant prohibits activities that will result in the release of contaminants contained as part of the cleanup without Ecology's approval, and prohibits any use of the property that is inconsistent with the covenant. This restrictive covenant serves to assure the long term integrity of the cap.

In 2009, the property owner demolished a small building located near the former drywell and remaining contaminated soil. As required by the restrictive covenant, Ecology was notified of this demolition, and granted written permission to the property owner to proceed. These demolition activities did not expose hazardous materials, and the remedy remains protective of human health and the environment.

Conclusions:

Soils with TPH-D concentrations higher than MTCA Method A cleanup levels are still present at the Site. However, the asphalt cap prevents human exposure to this contamination by ingestion and direct contact with soils. The restrictive covenant for the property will ensure that the integrity of the cap will be protected through maintaining the current use of the Site.

3.2 New scientific information for individual hazardous substances for mixtures present at the Site

There is no new scientific information for the petroleum contaminants related to the Site.

3.3 New applicable state and federal laws for hazardous substances present at the Site

The cleanup at the Site was governed by Chapter 173-340 WAC (1996 ed.). WAC 173-340-702(12)(c) [2001 ed.] provides that,

“A release cleaned up under the cleanup levels determined in (a) or (b) of this subsection shall not be subject to further cleanup action due solely to subsequent amendments to the provision in this chapter on cleanup levels, unless the department determines, on a case-by-case basis, that the

previous cleanup action is no longer sufficiently protective of human health and the environment.”

Although cleanup levels changed for gasoline, diesel, and volatile organic compounds as a result of modifications to MTCA in 2001, 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 industrial 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 removal/recycling of hazardous substances as well as containment, 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 Site; however, the cleanup action is determined to comply with cleanup standards under WAC 173-340-740(6)(f), since the long-term integrity of the containment system is ensured and the requirements for containment technologies have been met.
- The Restrictive Covenant for the property is 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 Covenant are being followed. 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 cap is maintained.

5.0 REFERENCES

Hahn and Associates. *Drywell Decommissioning and Soil Removal Activities*. March 1996

Hahn and Associates. *Additional Drywell Decommissioning and Soil Removal Activities*. August 1996.

Hahn and Associates. *Subsurface Investigation and Groundwater Monitoring*. November 1996

Hahn and Associates. *Groundwater Monitoring Report*. March 1997.

Hahn and Associates. *Supplemental Subsurface Investigation and Groundwater Monitoring*. November 1997

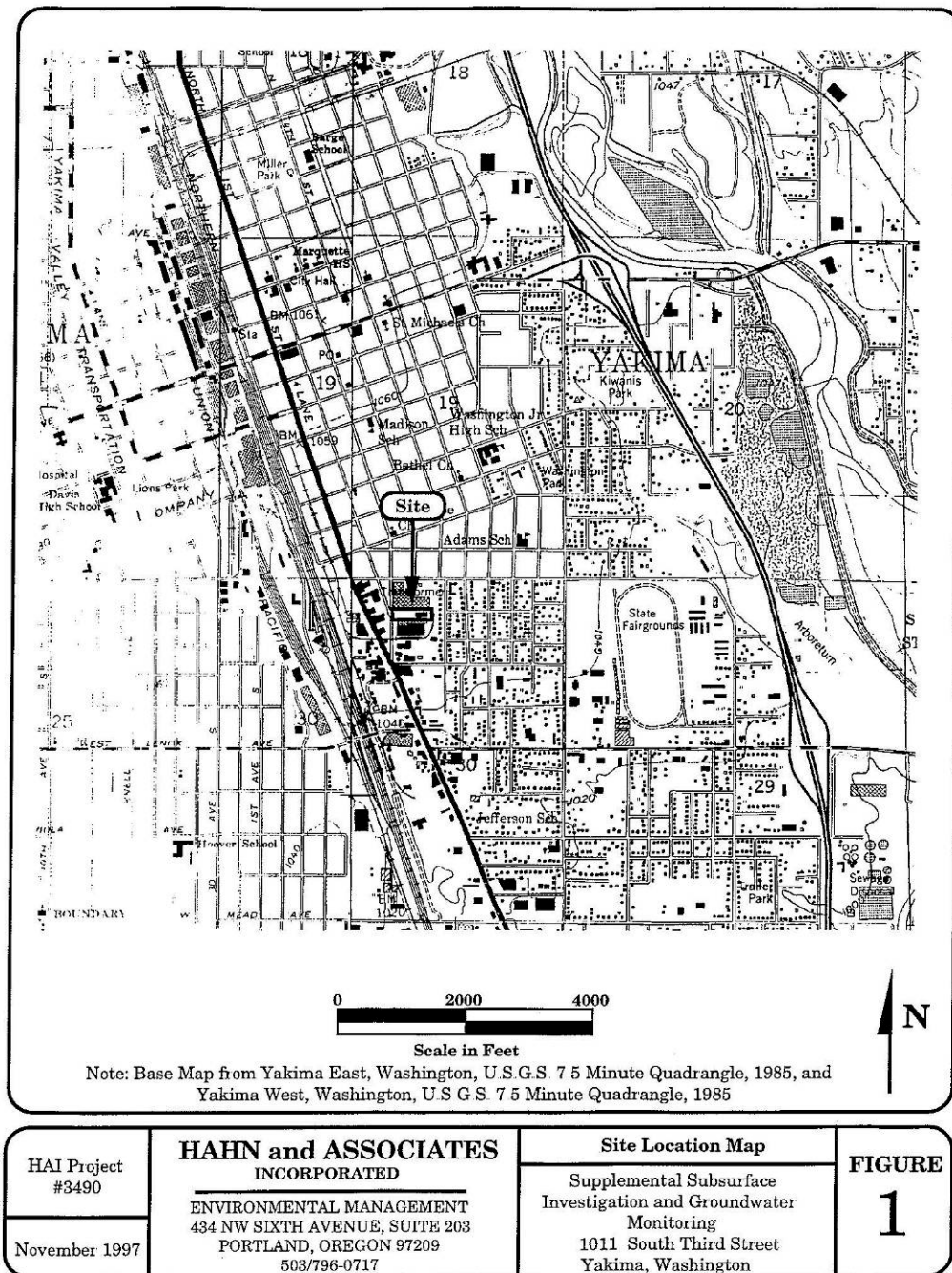
Ecology. *No Further Action Letter*. 1998

Ecology. *Restrictive Covenant*. 1998.

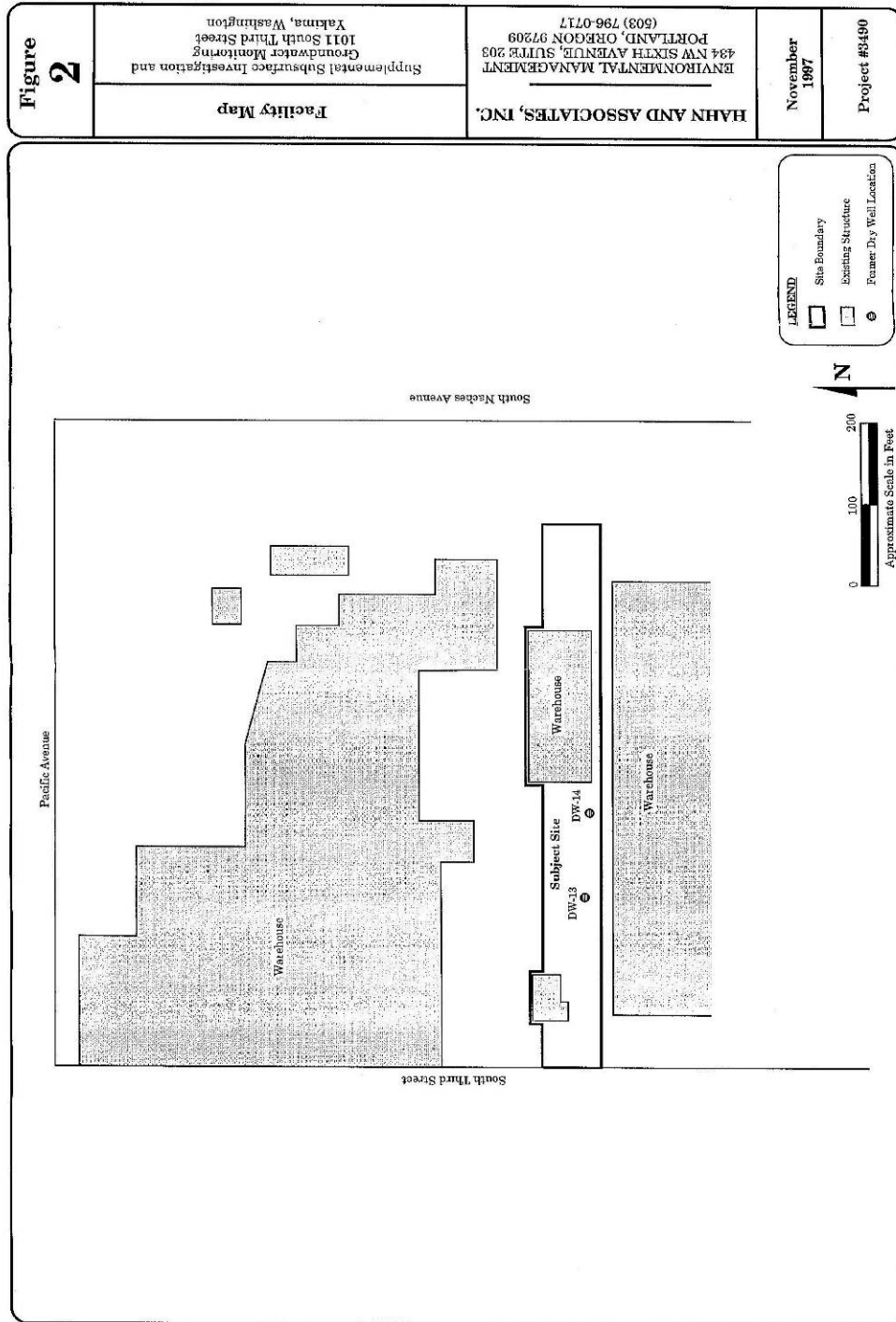
Ecology. *Site Visit*. May 13, 2013.

6.0 APPENDICIES

6.1 Vicinity Map



6.2 Site Plan



6.3 Environmental Covenant

Return Address
Attn: Richard Buono
PacTrust
15350 S.W. Sequoia Pkwy., Ste. 300
Portland OR 97224

NOT SUBJECT TO
REAL ESTATE EXCISE TAX
[Signature]
DEPUTY TREASURER

Please print neatly or type information

Document 1 Title: RESTRICTIVE COVENANT
Reference #'s: _____
Additional reference #'s page _____

Misc.

Grantors:
PACIFIC REALTY
ASSOCIATES, L.P.
Additional grantors pg _____

Grantees:
STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Additional grantees pg _____

Document 2 Title: _____
Reference #'s: _____
Additional reference #'s page _____

Grantors: _____
Additional grantors pg _____

Grantees: _____
Additional grantees pg _____

Document 3 Title: _____
Reference #'s: _____
Additional reference #'s page _____

Grantors: _____
Additional grantors pg _____

Grantees: _____
Additional grantees pg _____

Legal Description (abbreviated from: i.e. lot, blk, plat or S, T, R quarter/quarter)
Ptn. W1/2, NW1/4, NE1/4, Section 30, Township 13N, Range 19, E.W.M.
Additional legal on pg 5

Assessor's Property Tax Parcel/Account Number
191330-12004 191330-12005
Additional reference #'s pg _____

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.



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69/11/1988 11:52A
Yakima Co, WA

RESTRICTIVE COVENANT

PACIFIC REALTY ASSOCIATES, L.P.
a Delaware limited partnership

PROPERTY OWNER

1001 SOUTH THIRD STREET
Yakima, Washington

PROPERTY

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Property Owner, 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. The Remedial Action conducted at the Property is described in the following documents:

1. Dry Well Decommissioning and Soil Removal Activities prepared by Hahn and Associates, Inc. dated March 1, 1996.
2. Additional Dry Well Decommissioning and Soil Removal Activities Report prepared by Hahn and Associates, Inc. dated August 26, 1996.
3. Subsurface Investigation and Groundwater Monitoring Report prepared by Hahn and Associates, Inc. dated November 25, 1996.
4. Groundwater Monitoring Report prepared by Hahn and Associates, Inc. dated March 13, 1997.
5. Work Plan for Additional subsurface Investigation Activities prepared by Hahn and Associates, Inc. dated July 28, 1997.
6. Supplemental Subsurface Investigation and Groundwater Monitoring prepared by Hahn and Associates, Inc. dated November 13, 1997.

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

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of TPH as Diesel Oil which exceed the Model Toxics Control Act Method A Residential Cleanup level for Soil established under WAC 173-340-740. The



undersigned Property Owner, is the fee owner of the Property which is located in the County of Yakima, 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.

Property Owner 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").

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 City of Yakima's zoning regulations codified in the Uniform Amended Zoning Ordinance in effect as of the date of this Restrictive Covenant.

Any activity that may result in the release or exposure to the environment of the contaminated soil that was contained as a 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.

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 a part of the Remedial Action, or creates a new exposure pathway, is prohibited without prior written approval from Ecology.

The Owner of the Property must give thirty (30) days advance written notice to Ecology of the Owner's intent to convey the fee interest in the Property. No conveyance of title, easement, lease or other conveyance of an 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.

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.

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.




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.

The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this 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.

OWNER

PACIFIC REALTY ASSOCIATES, L.P

By: PacTrust Realty, Inc.,
General Partner

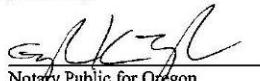
By: 
Richard P. Buono, Vice President

Date: September 8, 1998

STATE OF OREGON)
) ss.
County of Washington)

BE IT REMEMBERED that on this 8th day of September, 1998, before me, personally appeared the within named Richard P. Buono who being sworn did say that he is the Vice President of PacTrust Realty, Inc., General Partner of Pacific Realty Associates, L.P., a Delaware limited partnership, and that the execution of the foregoing instrument was done freely and voluntarily on behalf of said partnership.




Notary Public for Oregon



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Yakima Co, WA

Attachment A

LEGAL DESCRIPTION

That part of the west half of the northwest quarter of the northeast quarter of section 30, township 13 north, range 19 east, W.M., described as follows:

Commencing at the intersection of the centerline of LaSalle Street with the westerly boundary line of the plat as witnessed by a tack set in concrete lying 5 feet north 1°10' west of said intersection, and as shown on the plat of south park addition to north Yakima, now Yakima, as recorded in volume "B" of plats, page 2; thence north 1°10' west along said westerly boundary line 314.78 feet to the true point of beginning; thence north 89°34' west 642.57 feet to a point on the easterly boundary line of South Third Street south 0°45' east 607.32 feet from a brass cap imbedded in concrete which marks the intersection of the southerly boundary line of Pacific Avenue and the easterly boundary line of South Third Street; thence north 0°45' west, along said easterly boundary line of South Third Street, 80.36 feet; thence south 89°17' east 48.05 feet; thence south 43°10' east 6.18 feet; thence north 88°50' east 56.40 feet; thence south 0°54' east 15.97 feet; thence south 89°29' east 232.64 feet; thence north 0°26' east 17.70 feet; thence south 89°34' east 181.86 feet; thence north 0°26' east 2.00 feet; thence south 89°47' east 118.41 feet to a point on the west line of said subdivision north 0°10' west 81.49 feet from the true point of beginning; thence south 0°10' east 81.49 feet to the true point of beginning.

Except the east 10.4 feet thereof.

Subject to an easement for railroad spur line over, across and thru the east 15 feet thereof.



6.4 Photo log

Photo 1: South Parking Area - from the southwest



Photo 2: South Parking Area - from the west



Photo 3: Site Entrance - from the northwest



Photo 4: North Parking Lot - from west

