



PERIODIC REVIEW

**Associated Grocers
F/SID # 36633115**

**1001 South 3rd Street
Yakima, Washington 98902**

Central Region Office

TOXICS CLEANUP PROGRAM

June 23, 2008

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1.0 INTRODUCTION

This document is the Department of Ecology's review of post-cleanup site conditions and monitoring data to assure that human health and the environment are being protected at the Associated Grocers property (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA), Chapter 173-340 Washington Administrative Code (WAC).

Cleanup activities at this Site were completed under the Independent Remedial Action Program (IRAP). The cleanup actions resulted in residual concentrations of diesel and heavy oil-range petroleum hydrocarbons (TPH-Dx) exceeding MTCA Method A cleanup levels for soil established under WAC 173-340-740(2). WAC 173-340-420 (1) requires that "if the department selects or approves a cleanup action that results in hazardous substances remaining at a Site at concentrations which exceed Method A or Method B cleanup levels established under WAC 173-340-700 through 173-340-760 or if conditional points of compliance have been established, the department shall review the cleanup action no less frequently than every five years after the initiation of such cleanup action to ensure that human health and the environment are being protected."

When evaluating whether human health and the environment are being protected, the factors the department shall consider include [WAC 173-340-420(2)]:

- (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 Associated Grocers Site is located in the City of Yakima, Yakima County, Washington. A site plan is available as Appendix 6.1. Following remedial activities beginning in 1996, a restrictive covenant (Appendix 6.2) was recorded for the property and the Site received a No Further Action determination.

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-Dx 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-Dx 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-Dx concentrations of 2,500 ppm at 19 feet below ground surface (bgs). The sample collected from 23' bgs was non-detect for TPH-Dx. All other soil samples collected from these soil borings were non-detect for TPH-Dx. This 1997 sampling event confirmed that contamination was contained at the Site and did not pose a risk of migration to groundwater.

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

In September 1998, a restrictive covenant was recorded for the Site and a No Further Action letter was sent to the property owner and the site status was changed to reflect a No Further Action determination.

3.0 PERIODIC REVIEW

3.1 Effectiveness of completed cleanup actions

The asphalt cap on the Site continues to eliminate the human exposure pathways (ingestion, contact) to contaminated soils. Based upon the site visit conducted on May 19, 2008, 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.

Conclusions:

Soils with TPH-Dx 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 caps 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.
- Soils cleanup levels have not been met at the Site; however, under WAC 173-340-740(6)(d), the cleanup action is determined to comply with cleanup standards, since the long-term integrity of the containment system is ensured and the requirements for containment technologies in WAC 173-340-360(8) 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 five-year review, the Department of Ecology has determined that the requirements of the Restrictive Covenant have been satisfactorily completed. No additional 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, March 1996, Drywell Decommissioning and Soil Removal Activities

Hahn and Associates, August 1996, Additional Drywell Decommissioning and Soil Removal Activities

Hahn and Associates, November 1996, Subsurface Investigation and Groundwater Monitoring

Hahn and Associates, March 1997, Groundwater Monitoring Report

Hahn and Associates, November 1997, Supplemental Subsurface Investigation and Groundwater Monitoring

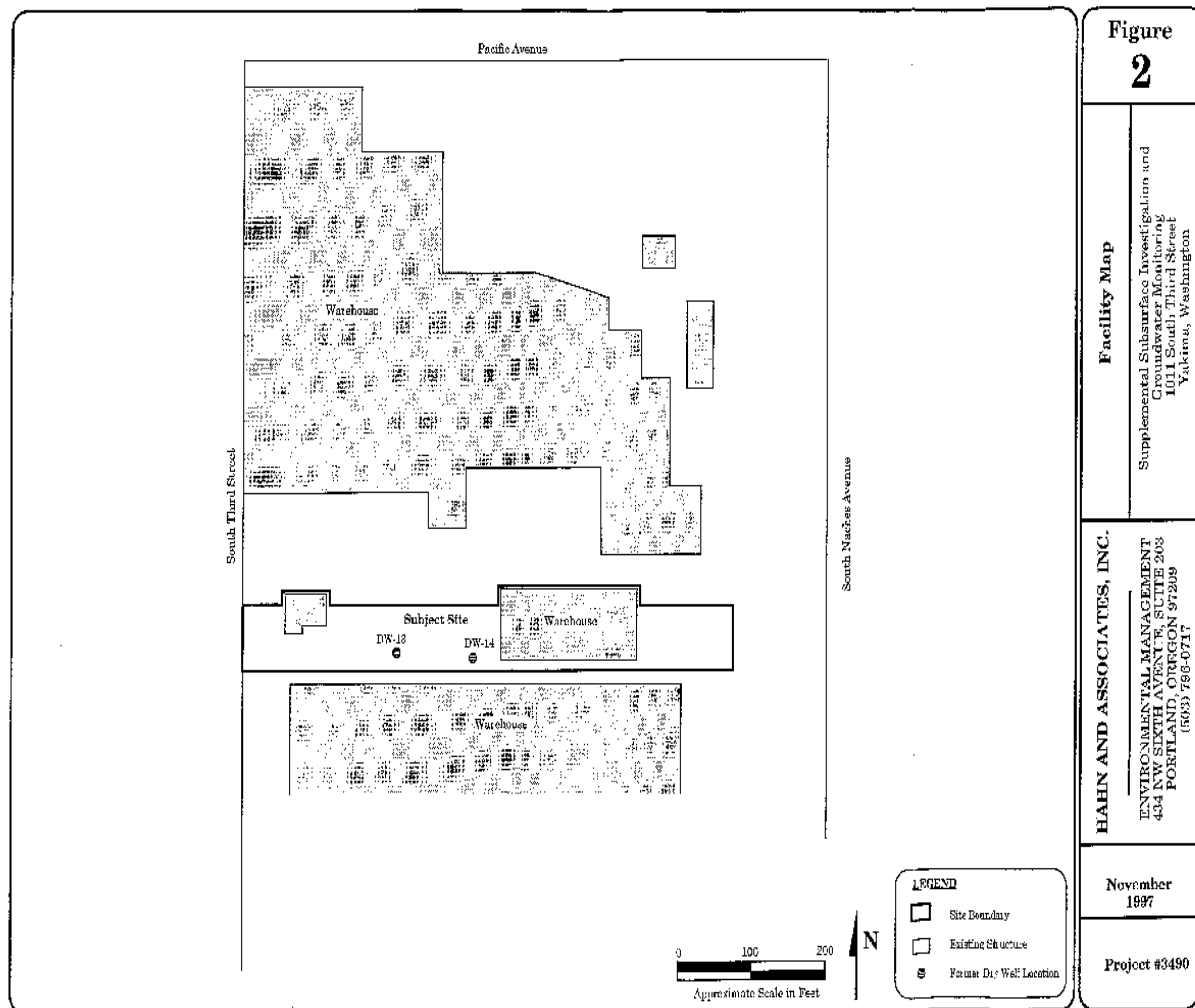
Ecology, 1998, No Further Action Letter

Ecology, 1998, Restrictive Covenant

Ecology, 2008, Site Visit

6.0 APPENDICIES

6.1 Site Plan



6.2 Environmental Covenant

Return Address
Attn: Richard Blum
PacTrust
1320 S.W. Second Place, Ste. 100
Portland, OR 97224

NOT SUBJECT TO
REAL ESTATE EXCISE TAX
DEPUTY TREASURER

Please print clearly or type information

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Document 1 Title: RESTRICTIVE COVENANT

Reference #s: _____

Additional reference #s page _____

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:

Grantees:

Additional grantors pg. _____

Additional grantees pg. _____

Document 3 Title: _____

Reference #s: _____

Additional reference #s page _____

Grantors:

Grantees:

Additional grantors pg. _____

Additional grantees pg. _____

Legal Description (abbreviated from: i.e. lot, blk, plat or S., T., R. quarter/quarter):

Plat W.L.A. NW 1/4, NE 1/4, Section 30, Township 13N, Range 19, E.W.M.

Additional legal description pg. _____

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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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 173-340-445 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 23, 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 76.1050 (20)(23) and defined in and allowed under the City of Yakima's zoning regulations codified in the Uniform Amended Zoning Ordinances 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 capacity; piercing the surface with a rod, spike or similar item; building 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 create 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.



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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 175-340.440 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. Duomo, Vice President

Date: September 8, 1998

STATE OF OREGON)
) ss
County of Washington)

NOT IT REMEMBERED that on this 8th day of September, 1998, before me, personally appeared the within named Richard P. Duomo 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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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 westerly line 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, new 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°49' east 607.32 feet from a brass cap imbedded in concrete which marks the intersection of the southeasterly boundary line of Pacific Avenue and the easterly boundary line of South Third Street; thence north 0°43' west, along said easterly boundary line of South Third Street, 80.36 feet; thence south 83°17' east 48.36 feet; thence south 45°10' east 61.15 feet; thence north 88°50' east 50.40 feet; thence south 0°54' east 15.91 feet; thence south 80°29' east 132.64 feet; thence north 0°26' east 17.79 feet; thence south 89°54' east 181.86 feet; thence north 0°26' east 2.60 feet; thence south 80°44' 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 smelter line over, across and thru the east 15 feet thereof.



6.3 Photo log

Photo 1: South Parking Area - from the southwest



Photo 2: South Parking Area - from the southeast



Photo 3: North Parking Lot - from the west



Photo 4: North Parking Lot - from northeast

