



## **PERIODIC REVIEW**

**Nasty Jack's Antiques  
Facility/Site ID #: 2668**

**103 Morris Street  
La Conner, Washington**

**Northwest Region Office**

**Toxics Cleanup Program**

**February 2019**

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## 1.0 INTRODUCTION

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

Cleanup activities at this Site were completed under the Voluntary Cleanup Program (VCP). VCP identification numbers for the Site were NW 1587 and NW 1704. Following cleanup actions, lead remains in soil at the Site at concentrations exceeding MTCA Method A cleanup levels. The MTCA Method A cleanup level for soil is established under WAC 173-340-740(2).

WAC 173-340-420 (2) requires that Ecology (also referred to as "the department") 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. Where an institutional control and/or financial assurance is required as part of the cleanup action;
  - 2. Where the cleanup level is based on a practical quantitation limit; or
  - 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, including the effectiveness of engineered controls and institutional controls in limiting exposure to hazardous substances remaining at the Site;
- (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 and resource uses;
- (e) The availability and practicability of more permanent remedies; 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 Description and History**

The Nasty Jack's Antiques Site is located at 103 Morris Street in La Conner, Skagit County, Washington (Vicinity Map - Appendix 6.1). Soil was contaminated with lead-based paint residuals in the former outdoor wipe and wash-down area used for furniture stripping. Following remedial activities, the Site received a No Further Action determination in 2006.

The Property includes three parcels (Skagit County Property ID: P74117, P74119 and P74120), which total approximately 0.28 acre. The Property consists of a retail antique store, a furniture refinishing shed, a chemical storage area, and a parking lot. The antique shop occupies a national historical building constructed in 1890. The Site was asphalt paved in 2006.

Furniture refinishing operations are conducted in a small building east of the retail shop and include stripping, wiping and washing down furniture. In the past, stripped furniture was taken outdoors onto the unpaved parking area, washed and wiped down. Methylene chloride was used for stripping at the Site until 2002.

After 2002, a non-methylene chloride stripper was used for a time, and furniture pieces were wiped down with rags after stripping. As of 2018, methylene chloride is being used again, but the waste is placed in a drum for proper disposal. The furniture gets wiped with rags inside a stripping tank to prevent drips. No rinsing occurs. The owner is the only person that performs furniture stripping at the Site.

### **2.2 Site Investigations**

Several complaints regarding disposal and alleged discharge of methylene chloride at the Site were filed between 1987 and 1993. Site investigations were conducted by Ecology in response to those complaints. Lead and volatile organic compounds (VOCs), including methylene chloride and toluene were detected above MTCA Method A cleanup levels in near surface soils and surface water (rain puddles) collected in the vicinity of the former wash and wipe-down area located in the parking lot during an investigation conducted by Ecology in 1991. The Site was subsequently listed on Ecology's Confirmed and Suspected Contaminated Site list (CSCSL).

In 1995, a Site Hazard Assessment (SHA) was conducted by Science Applications International Corporation (SAIC) on behalf of Ecology. Based on the results of the SHA and previous sampling data collected in 1991, the Site got a score of 2 by Washington Ranking Method (WARM). A rank of "1" represents the highest relative level of concern, and "5" the lowest. The Site was then listed on Ecology's Hazardous Sites List (HSL).

In 2003, the US EPA contracted Western Solutions, Inc. to conduct a Preliminary Assessment for the Site. EPA concluded that no further action was required at the Site under the Comprehensive, Environmental Response, Compensation, and Liability Act.

In 2006, Western conducted extensive subsurface soil sampling at the Site in the vicinity of the former outdoor wipe and wash-down area. Analytical sampling results indicated that VOCs were either non-detected or detected below their cleanup levels in all the soil samples. However, lead was detected above the MTCA Method A cleanup level in the parking lot to a depth of approximately two feet. The greatest concentration of lead in soil was 7,040 milligrams per kilogram (mg/kg). Lead concentrations were significantly lower than the cleanup level below two feet. Other metals including arsenic, cadmium and chromium were either non-detected or detected below their cleanup levels. Sampling locations are shown in Appendix 6.2, and sampling results are summarized in Appendix 6.3.

## **2.3 Remedial Activities**

On-site containment was selected to address lead contamination in the near surface soil. The parking lot was paved with asphalt. A restrictive covenant was placed on the Property to ensure containment remedy performance. It should be noted that the previous practice of washing off the paint residue onto the parking lot was discontinued in 2002.

## **2.4 Cleanup Standards**

Cleanup standards consist of cleanup levels and points of compliance, which must be established for each site. Cleanup levels determine at what level a particular hazardous substance does not threaten human health or the environment. Points of compliance designate the location on the site where the cleanup levels must be met.

### **(a) Cleanup Levels**

Because the cleanup at this Site was relatively straight forward and involved few hazardous substances, the MTCA Method A cleanup levels for unrestricted land uses were deemed applicable and appropriate. The MTCA Method A soil cleanup level for unrestricted land uses for lead is 250 mg/kg.

### **(b) Points of Compliance**

As described in Section 2.2, the contaminant of concern at the Site is lead in near surface soil. Therefore, the point of compliance was established in the soils throughout the Site from the ground surface to fifteen feet below the ground surface based on human exposure via direct contact or other exposure pathways where contact with the soil is required to complete the pathway.

## **2.5 Restrictive Covenant**

Based on the Site use, surface cover and cleanup levels, it was determined that the Site was eligible for a 'No Further Action' determination if a Restrictive Covenant was recorded for the Property. A Restrictive Covenant was recorded for the Property in October 2006. Ecology delisted the site from both the CSCSL and HSL and issued a NFA determination letter in November 2006.

The Restrictive Covenant imposed limitations and restrictions to the Property. Since a portion of the Property contains lead contaminated soil under an asphalt capped parking lot east of the store building, the owner shall not alter, modify, or remove the asphalt cap 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. A copy of the Restrictive Covenant is enclosed in Appendix 6.4. It lists all the limitations and restrictions for the Property.

## **3.0 PERIODIC REVIEW**

### **3.1 Effectiveness of Completed Cleanup Actions**

Based upon the site visit conducted on December 6, 2018, the building and asphalt cover at the Site continue to eliminate exposure pathways (ingestion, contact) to potentially contaminated soils. The asphalt appears in satisfactory condition and no repair is needed at this time. The Site is still operating as an antique shop. A photo log is included as Appendix 6.5.

The Restrictive Covenant for the Site was recorded in 2006 and remains active. It has not been amended, nor have any other documents been recorded which would render the Covenant invalid. This Restrictive Covenant requires Ecology's approval prior to conducting any activities that will result in the release of contaminants at the Site. It also prohibits any use of the Property that is inconsistent with the Covenant. This Restrictive Covenant serves to ensure the long term integrity of the remedy.

### **3.2 New Scientific Information for Individual Hazardous Substances or Mixtures Present at the Site**

Cleanup levels at the Site were based on regulatory standards rather than calculated risk for chemicals and/or media. These standards were sufficient to be protective of Site-specific conditions. There is no new relevant scientific information for the contaminants related to the Site.

### **3.3 New Applicable State and Federal Laws for Hazardous Substances Present at the Site**

There is no new relevant state or federal standard applicable to the contaminants of concern at the Site.

The cleanup at the site was governed by 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.”

### **3.4 Current and Projected Site and Resource Use**

The Site is currently used for commercial purposes. There have been no changes in current or projected future site or resource uses.

### **3.5 Availability and Practicability of More Permanent Remedies**

The physical remedy implemented included containment of hazardous substances, and it continues to eliminate direct human contact with contaminated soils. While more permanent remedies 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 actions were capable of detection below cleanup levels for contaminants of concern at the Site. The presence of improved analytical techniques would not affect decisions or recommendations made for the Site.

## **4.0 CONCLUSIONS**

The following conclusions have been made as a result of this periodic review:

- The remedial actions completed at the Site appear to be protective of human health and the environment.
- Soil cleanup levels have not been met at the Site; however, the cleanup action for the property 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 continues to 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 continue to be met. No additional cleanup actions are required by the property owner at this time. It is the property owner's responsibility to continue to inspect the Site to assure that the integrity of the remedy 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

Ecology. December 6, 2018. Site Visit.

Ecology. 2006. No Further Action Opinion Letter.

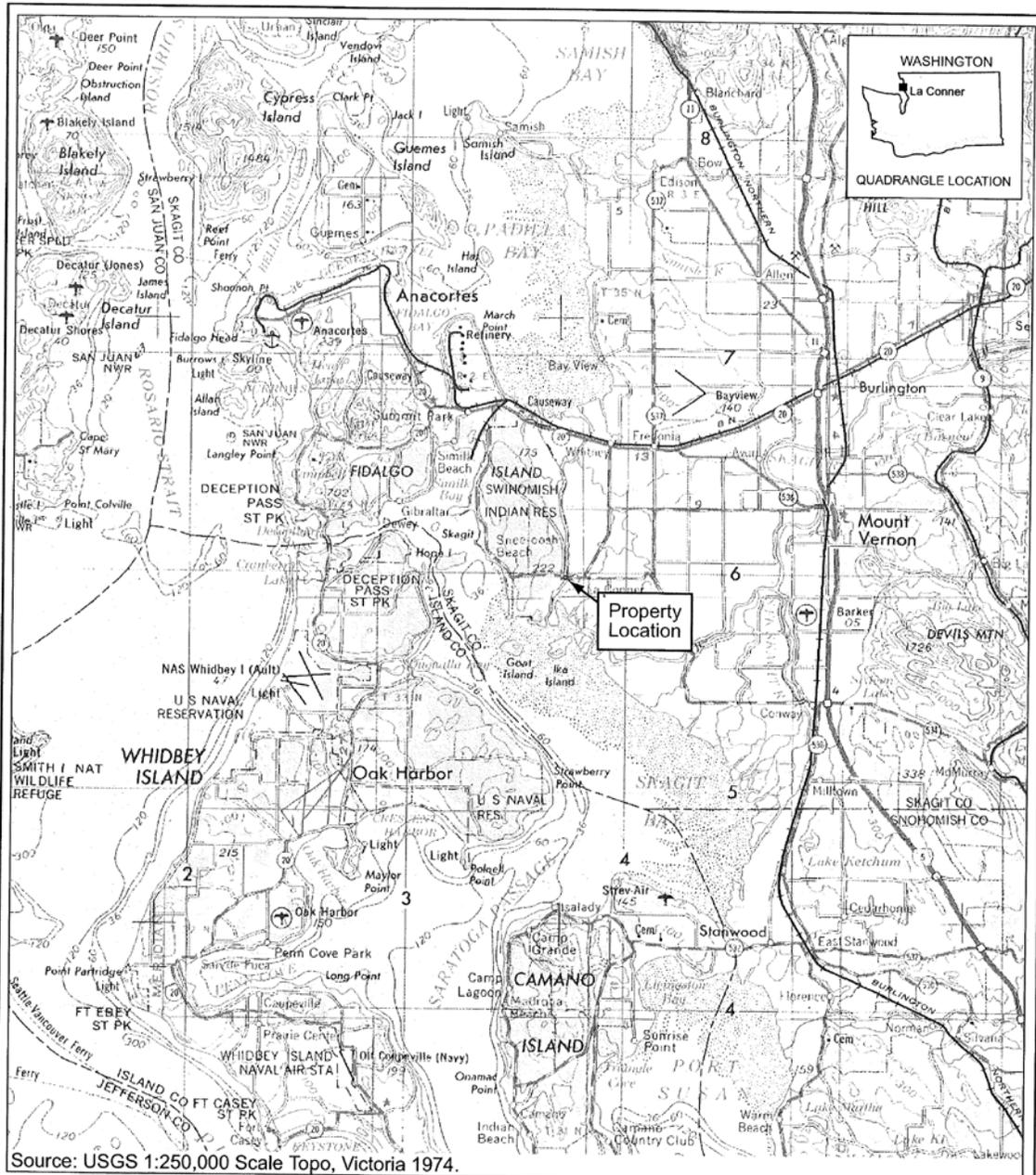
Parametrix. 2006 a. Voluntary Cleanup Program. Cleanup Action Report, Former Outdoor Wipe and Wash-Down Area, Nasty Jack's Antiques.

Parametrix. 2006 b. Voluntary Cleanup Program. Remedial Investigation/Feasibility Study, Report and Draft Cleanup Action Plan, Former Outdoor Wipe and Wash-Down Area, Nasty Jack's Antiques.

Western Solutions, Inc. 2003. Preliminary Assessment Report, Nasty Jack's Antiques, La Conner, Washington.

## **6.0 APPENDICES**

### 6.1 Vicinity Map



Source: USGS 1:250,000 Scale Topo, Victoria 1974.

0 2 4  
Scale in Miles

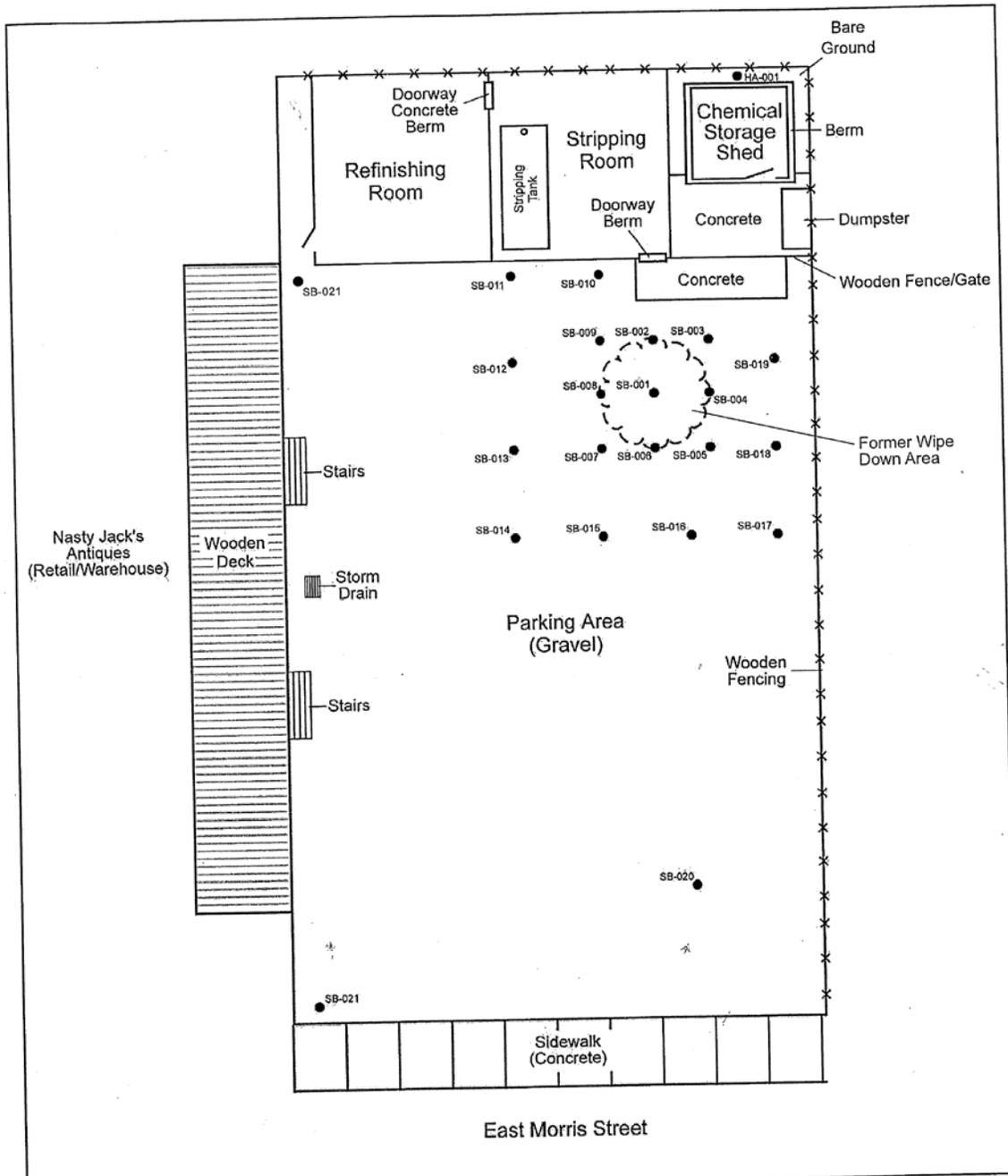
**WESTON SOLUTIONS**

**Property Location Map**  
**Subsurface Soil Investigation**  
**Nasty Jack's Antiques**  
**La Conner, Washington**

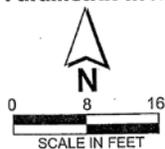
Figure  
**1-1**

06-0007 Fig1-1.ai

## 6.2 2006 Subsurface Soil Sampling Location Map



Parametrix 558-5486-001/01(01) 6/06 (B)



- HA-001 ● Proposed Hand Auger Location
- SB-001 ● Proposed Push-Probe Location
- Approximate Location of the Former Outdoor Wipe and Washdown Area

**Figure 2**  
 Sample Locations  
 Subsurface Soil Investigation  
 Nasty Jack's Antiques  
 La Conner, Washington

### 6.3 2006 Subsurface Soil Sampling Results

**Table 1. Analytical Results: Inorganic Soil Sample Data Former Outdoor Wipe and Wash-Down Area NJA – La Conner, WA**

Sample ID*	Date	Constituent (mg/kg)				
		Arsenic	Cadmium	Chromium	Lead	Mercury
NJA-SS-SB001-0000	28 March 2006	5.4	1.8	40.0 JK	17.9 JK	0.143
NJA-SS-SB001-0010	30 March 2006	NA	NA	NA	2.9	NA
NJA-SS-SB001-0020	30 March 2006	7.91	1.3	48 JK	341 JK	NA
NJA-SS-SB001-0040	30 March 2006	NA	NA	NA	82.7	NA
NJA-SS-SB001-0060	30 March 2006	NA	NA	NA	4.4	NA
NJA-SS-SB001-0080	30 March 2006	NA	NA	NA	30.5	NA
NJA-SS-SB001-0100	30 March 2006	NA	NA	NA	2.9	NA
NJA-SS-SB002-0000	28 March 2006	4.96	0.85	49.9 JK	38.6 J	NA
NJA-SS-SB002-0020	30 March 2006	5.7	1.2	44.7 JK	12.8 JK	NA
NJA-SS-SB002-0040	30 March 2006	NA	NA	NA	10.3	NA
NJA-SS-SB003-0000	28 March 2006	3.4	1U	25.2 JK	60.5 JK	NA
NJA-SS-SB003-0020	30 March 2006	11.5	1.8	46.5 JK	478 JK	NA
NJA-SS-SB003-0040	30 March 2006	NA	NA	NA	46.7	NA

**Table 1. Analytical Results: Inorganic Soil Sample Data Former Outdoor Wipe and Wash-Down Area NJA – La Conner, WA (continued)**

Sample ID*	Date	Constituent (mg/kg)				
		Arsenic	Cadmium	Chromium	Lead	Mercury
NJA-SS-SB004-0000	28 March 2006	2.4	0.55	22.1 JK	19.8 JK	NA
NJA-SS-SB004-0020	30 March 2006	19.3	2.7	90.3 JK	<b>7040JK</b>	NA
NJA-SS-SB004-0040	30 March 2006	NA	NA	NA	18.5	NA
NJA-SS-SB005-0000	28 March 2006	10.3	1.1	52.2 JK	<b>323 JK</b>	NA
NJA-SS-SB005-0020	30 March 2006	13.6	1.8	81 JK	<b>2700 JK</b>	NA
NJA-SS-SB005-0040	30 March 2006	NA	NA	NA	9.3	NA
NJA-SS-SB006-0000*	28 March 2006	5.4	1.6	40.1 JK	28 JK	NA
NJA-SS-SB006-0020	30 March 2006	5.9	1.4	47.9 JK	16.1 JK	NA
NJA-SS-SB006-0040	30 March 2006	NA	NA	NA	11.4	NA
NJA-SS-SB007-0000	28 March 2006	5.7	1.2	37.2 JK	11.3 JK	NA
NJA-SS-SB007-0020	30 March 2006	5.5	0.8	35.1 JK	11.3 JK	NA
NJA-SS-SB007-0040	30 March 2006	NA	NA	NA	25.2	NA
NJA-SS-SB008-0000	28 March 2006	6.9	3.6	30.2 JK	36.6 JK	NA
NJA-SS-SB008-0020	30 March 2006	7.3	0.71	42.6 JK	21.3 JK	NA
NJA-SS-SB008-0040	30 March 2006	NA	NA	NA	59.7	NA
NJA-SS-SB009-0000	28 March 2006	7.6	1.8	65.9 JK	<b>329 JK</b>	NA
NJA-SS-SB009-0020	30 March 2006	4.5	0.81	35.3 JK	16.7 JK	NA
NJA-SS-SB009-0040	30 March 2006	NA	NA	NA	115	NA
NJA-SS-SB010-0000	28 March 2006	NA	NA	NA	191	NA
NJA-SS-SB010-0020	30 March 2006	NA	NA	NA	168	NA
NJA-SS-SB010-0040	30 March 2006	NA	NA	NA	12.6	NA
NJA-SS-SB011-0000	28 March 2006	NA	NA	NA	<b>5120</b>	NA
NJA-SS-SB011-0020	30 March 2006	NA	NA	NA	220	NA
NJA-SS-SB011-0040	30 March 2006	NA	NA	NA	10.3	NA
NJA-SS-SB012-0000	28 March 2006	NA	NA	NA	29.9	NA
NJA-SS-SB012-0020	30 March 2006	NA	NA	NA	<b>360</b>	NA
NJA-SS-SB012-0040	30 March 2006	NA	NA	NA	25.5	NA
NJA-SS-SB013-0000	28 March 2006	NA	NA	NA	32.5	NA
NJA-SS-SB013-0020	30 March 2006	NA	NA	NA	113	NA
NJA-SS-SB013-0040	30 March 2006	NA	NA	NA	17.2	NA
NJA-SS-SB014-0000	28 March 2006	NA	NA	NA	12.0	NA
NJA-SS-SB014-0020	30 March 2006	NA	NA	NA	8.3	NA
NJA-SS-SB014-0040	30 March 2006	NA	NA	NA	41.9	NA
NJA-SS-SB015-0000	28 March 2006	NA	NA	NA	28.6	NA
NJA-SS-SB015-0020	30 March 2006	NA	NA	NA	7.3	NA
NJA-SS-SB015-0040	30 March 2006	NA	NA	NA	25.2	NA
NJA-SS-SB016-0000	28 March 2006	NA	NA	NA	42.8	NA
NJA-SS-SB016-0020	30 March 2006	NA	NA	NA	<b>290</b>	NA
NJA-SS-SB016-0040	30 March 2006	NA	NA	NA	32.1	NA

**Table 1. Analytical Results: Inorganic Soil Sample Data Former Outdoor Wipe and Wash-Down Area NJA – La Conner, WA (continued)**

Sample ID*	Date	Constituent (mg/kg)				
		Arsenic	Cadmium	Chromium	Lead	Mercury
NJA-SS-SB017-0000	28 March 2006	NA	NA	NA	35.9	NA
NJA-SS-SB017-0020	30 March 2006	NA	NA	NA	<b>720</b>	NA
NJA-SS-SB017-0040	30 March 2006	NA	NA	NA	13.2	NA
NJA-SS-SB018-0000	30 March 2006	NA	NA	NA	<b>608</b>	NA
NJA-SS-SB018-0020	30 March 2006	NA	NA	NA	<b>999</b>	NA
NJA-SS-SB018-0040	30 March 2006	NA	NA	NA	30.6	NA
NJA-SS-SB019-0000	28 March 2006	NA	NA	NA	90.2	NA
NJA-SS-SB019-0020	30 March 2006	NA	NA	NA	<b>881</b>	NA
NJA-SS-SB019-0040	30 March 2006	NA	NA	NA	12.3	NA
NJA-SS-SB020-0000	28 March 2006	NA	NA	NA	38.3	NA
NJA-SS-SB020-0020	30 March 2006	NA	NA	NA	59.8	NA
NJA-SS-SB020-0040	30 March 2006	NA	NA	NA	<b>400</b>	NA
NJA-SS-SB020-0060	30 March 2006	NA	NA	NA	7	NA
NJA-SS-SB020-0100	30 March 2006	NA	NA	NA	11.6	NA
NJA-SS-SB021-0020	30 March 2006	NA	NA	NA	<b>440</b>	NA
NJA-SS-SB021-0040	30 March 2006	NA	NA	NA	13.4	NA
NJA-SS-HA001-0020	28 March 2006	NA	NA	NA	40.3	NA
NJA-SS-HA001-0040	28 March 2006	NA	NA	NA	7.7	NA
MTCA Method A Soil Cleanup Levels for Unrestricted Land Uses <sup>1</sup>		20	2	2000	250	2

Notes:

<sup>1</sup> Washington Administrative Code (WAC) 173-340-900 Table 740-1, Chromium VI level is 19 mg/kg, Chromium III level is 2000 mg/kg.

**Bold** indicates detection above MTCA Method A Soil Cleanup Levels for Unrestricted Land Uses.

mg/kg milligram per kilogram, dry-weight basis.

NA Not analyzed. See Appendix D for description of data qualifiers.

\* The last four digits of the sample number is depth in feet (i.e., 0020 is 2-foot depth).

**Table 2. Analytical Results: Organic Soil Sample Data Former Outdoor Wipe and Wash-Down Area NJA – La Conner, WA**

Sample ID	Date	Constituent (µg/kg)			
		Ethylbenzene	Methylene Chloride	Toluene	Xylene (total)
NJA-SS-SB001-0000	28 March 2006	3 U	3 U	3 U	3 U
NJA-SS-SB001-0100	28 March 2006	4R	10 JL	4R	4R
NJA-SS-SB001-0020	30 March 2006	4 U	4 U	4 U	4 U
NJA-SS-SB002-0000	28 March 2006	4 J	2 J	47	50
NJA-SS-SB002-0020	30 March 2006	3 U	3 U	3 U	3 U
NJA-SS-SB003-0000	28 March 2006	3 U	3 U	6	4
NJA-SS-SB003-0020	30 March 2006	3 J	4.2 U	3 J	16 U
NJA-SS-SB004-0000	28 March 2006	3 U	3 U	2 J	3 U
NJA-SS-SB004-0020	30 March 2006	5 U	4 U	29	5 U

**Table 2. Analytical Results: Organic Soil Sample Data Former Outdoor Wipe and Wash-Down Area NJA – La Conner, WA (continued)**

Sample ID	Date	Constituent (µg/kg)			
		Ethylbenzene	Methylene Chloride	Toluene	Xylene (total)
NJA-SS-SB005-0000	28 March 2006	5 U	5 U	4 J	6
NJA-SS-SB005-0020	30 March 2006	3 JH	5 U	28 JH	14 JH
NJA-SS-SB006-0000	28 March 2006	3 U	3 U	3 U	3 U
NJA-SS-SB006-0020	30 March 2006	4 U	4 U	4 U	4 U
NJA-SS-SB007-0000	28 March 2006	3 U	3 U	3 U	3 U
NJA-SS-SB007-0020	30 March 2006	3 U	3 U	3 U	3 U
NJA-SS-SB008-0000	28 March 2006	3 U	3 U	3 U	3 U
NJA-SS-SB008-0020	30 March 2006	3 U	3 U	1 JK	3 U
NJA-SS-SB009-0000	28 March 2006	3 U	3 U	2 J	3 U
NJA-SS-SB009-0020	30 March 2006	3 U	3 U	3 U	1 J
NJA-SS-SB021-0000	29 March 2006	3 U	3 U	4	3 U
NJA-SS-HA001-0000	29 March 2006	3 U	3 U	3 U	3 U
MTCA Method A Soil Cleanup Levels for Unrestricted Land Uses <sup>1</sup>		600	20	700	900

Notes:

<sup>1</sup> WAC 173-340-900 Table 740-1, Chromium VI level is 19 mg/kg, Chromium III level is 2000 mg/kg.

**Bold** indicates detection above MTCA Method A Soil Cleanup Levels for Unrestricted Land Uses.

mg/kg milligram per kilogram, dry-weight basis.

NA Not analyzed. See Appendix D for description of data qualifiers.

\* The last four digits of the sample number is depth in feet (i.e., 0020 is 2-foot depth).

## 6.4 Restrictive Covenant

REC'D OCT 6 2006



200610050041  
Skagit County Auditor

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Document Title: Restrictive Covenant

Reference Number:

Grantor(s):

additional grantor names on page \_\_\_

1. Frank, Gary
2. Frank, marlo

Nasty Jacks  
Antiques

Grantee(s):

additional grantee names on page \_\_\_

1. public

2.

Abbreviated legal description:

full legal on page(s) \_\_\_

Lot 4 BL 3 Calhoun to LaComber

Assessor Parcel / Tax ID Number:

additional tax parcel number(s) on page \_\_\_

P 74120

Gary and Marlo Frank  
P.O. Box 251  
103 East Morris  
La Connor, Washington 98257

RESTRICTIVE COVENANT

This declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f and g), and WAC 173-340-440 Name of Property Owner, its successors and assigns, and the Washington State Department of Ecology, its successors and assigns.

Legal Description: *Lot 4, Block 3, Excluding North 20' of lot.*

Tax Parcel I.D. #: *074120*

RESTRICTIVE COVENANT GARY AND MARLO FRANK, AND  
NASTY JACKS ANTIQUES

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Gary and Marlo Frank, 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 on file at Ecology's Northwest Regional Office:

1. Parametrix 2006, *Voluntary Cleanup Program; Remedial Investigation/Feasibility Study Report and Draft Cleanup Action Plan Former Outdoor Wipe and Wash - Down Area*. Prepared for Nasty Jacks Antiques, La Conner, Washington., July 2006.



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2. Parametrix.2006, *Voluntary Cleanup Program; Cleanup Action Completion Report Former Outdoor Wipe and Wash-Down Area*. Prepared for Nasty Jacks Antiques, La Conner, Washington., September 2006.

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of lead which exceed the Model Toxics Control Act Method A Residential Cleanup Level for soil established under WAC 173-340.

The undersigned, Gary and Marlo Frank, are the fee simple owner of real property (hereafter "Property") in the County of Skagit, State of Washington, which is subject to this Restrictive Covenant. The Property is legally described in attachment A of this restrictive covenant and made a part thereof by reference.

Gary and Marlo Frank 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 lead contaminated soil located under an asphalt capped parking lot east of the store building. The Owner shall not alter, modify, or remove the asphalt cap 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 (see Section 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 1 is specifically applicable to



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maintaining the integrity of the cap, it should not be interpreted as precluding a future use (e.g. redevelopment or new construction) as long as future use activity complies with Section 6.

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 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.

Gary Frank

Gary Frank

Marlo Frank

Marlo Frank

Date: 10/5/06

STATE OF WASHINGTON  
COUNTY OF Skagit

I certify that I know or have satisfactory evidence that Gary Frank & Marlo Frank is the person who appeared before me, and said person acknowledged that that signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

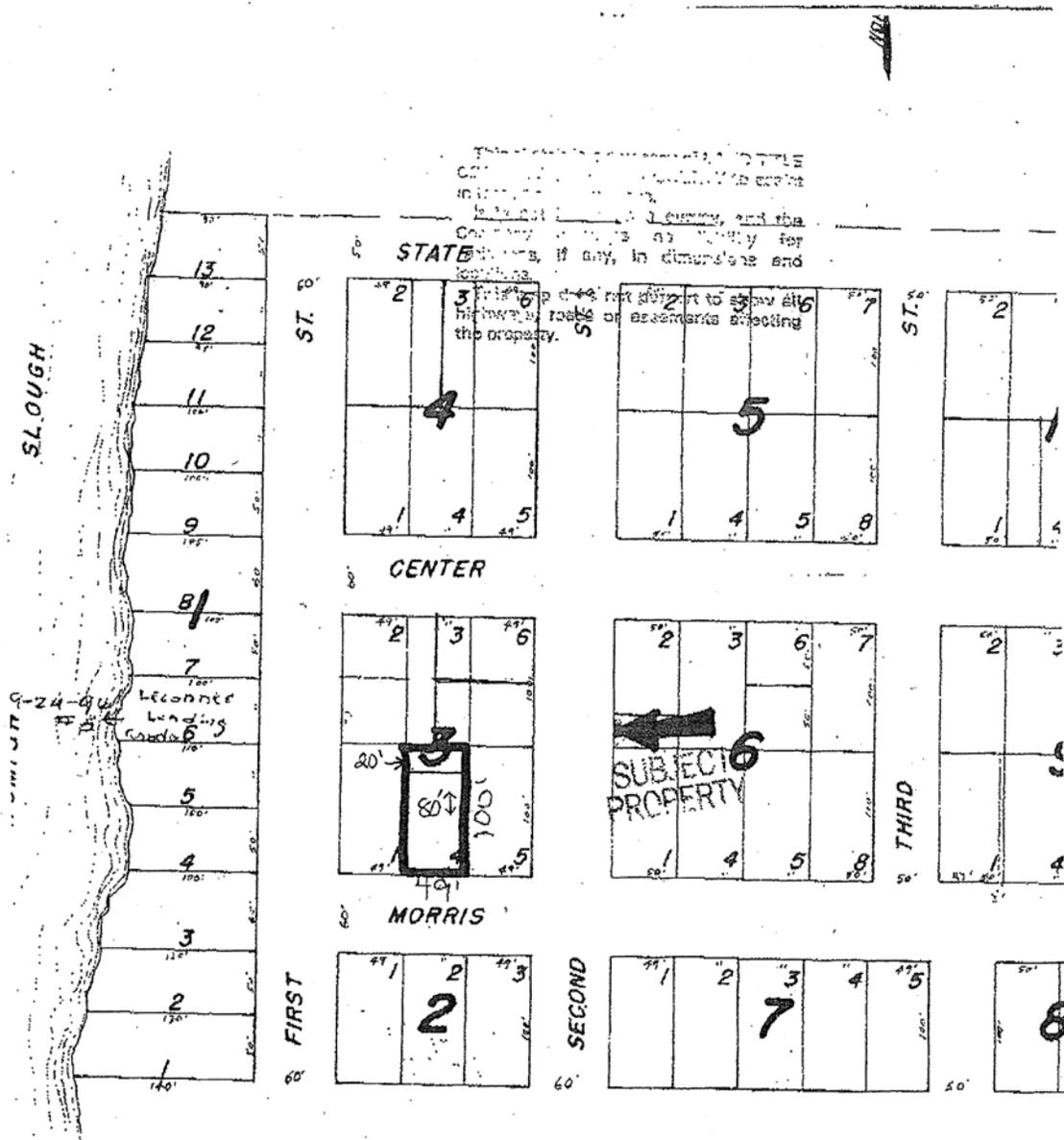
DATED: 10-5-06

[Signature]  
Notary Public  
My appointment expires 10-1-09



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Skagit County Auditor  
Recording Department  
File Number: 200610050041  
Filed By: FRANK GARY

Fee Type	Amount
Affordable Housing Fee	\$10.00
Auditor's O & M Fee	\$2.00
Auditor's Recording Fee	\$5.00
Centennial Fee	\$2.00
Commissioners O & M	\$1.00
Ending Homelessness	\$10.00
Standard Pages Fee	\$5.00
State Archive Fee	\$2.00
Total	\$37.00

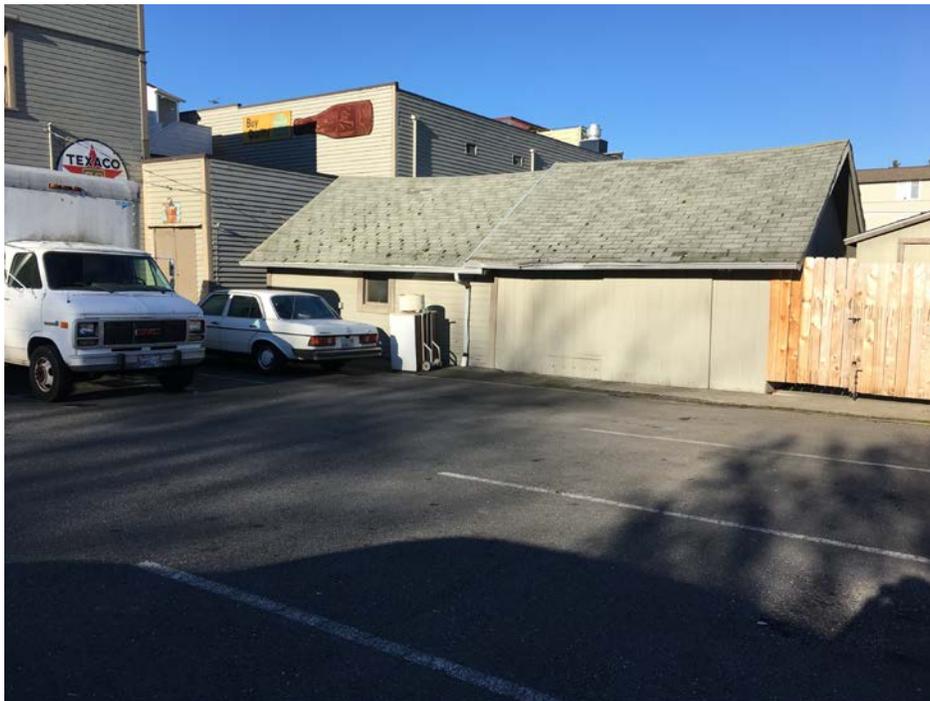
Payment Method: Check  
October 5, 2006  
10:10:51AM  
Have a Super Terrific Day!

## 6.5 Photo log

**Photo 1: View of the store, refinishing shed, and parking lot, facing northwest.**



**Photo 2: View of the former furniture stripping area in the parking lot, facing northwest.**



**Photo 3: View of 55-gallon waste drum and spill kit inside the refinishing shed.**



**Photo 4: View of the stripping tank inside the refinishing shed.**

