



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

November 20, 2007

Spokane Public
Facilities District

Mr. Matt Walker
Spokane Public Facilities District
720 W. Mallon
Spokane, WA 99202

NOV 26 2007

Received

Dear Mr. Walker:

Re: No Further Action Determination under WAC 173-340-515(5) for the following Hazardous Waste Site:

- Name: **Spokane Convention Center Expansion**
- Address: **200 W. Spokane Falls Boulevard, Spokane, WA**
- Facility/Site No.: **4862681**
- VCP No.: **EA0114**

Thank you for submitting your independent remedial action report for the Spokane Convention Center Expansion facility (Site) for review by the State of Washington Department of Ecology (Ecology) under the Voluntary Cleanup Program (VCP). Ecology appreciates your initiative in pursuing this administrative option for cleaning up hazardous waste sites under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

This letter constitutes an advisory opinion regarding whether further remedial action is necessary at the Site to meet the substantive requirements of MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC. Ecology is providing this advisory opinion under the specific authority of RCW 70.105D.030(1)(i) and WAC 173-340-515(5).

This opinion does not resolve a person's liability to the state under MTCA or protect a person from contribution claims by third parties for matters addressed by the opinion. The state does not have the authority to settle with any person potentially liable under MTCA except in accordance with RCW 70.105D.040(4). The opinion is advisory only and not binding on Ecology.



Ecology's Toxics Cleanup Program has reviewed the following information regarding the Site:

- Phase I and Limited Phase II Environmental Site Assessment, Proposed Convention Center Expansion Option 2 Site, Spokane, Washington: GeoEngineers, Inc., September 26, 2002.
- Corrective Action Plan, Proposed Spokane Convention Center Expansion Project, Spokane, Washington: GeoEngineers, Inc., April 19, 2004.
- Groundwater Monitoring Report, Spokane Convention Center Expansion, Spokane, Washington: GeoEngineers, Inc., August 26, 2005.
- Cleanup Action Report, Spokane Convention Center Expansion, Spokane, Washington: GeoEngineers, Inc., August 11, 2006.

The documents listed above will be kept in the Central Files of the Eastern Regional Office of Ecology (ERO) for review by appointment only. Appointments can be made by calling Ms. Johnnie Landis at 509/329-3415.

The Site is defined by the extent of contamination caused by the following releases:

- Polycyclic aromatic hydrocarbons (PAHs) and lead in Soil.

The Site is more particularly described in Enclosure A to this letter, which includes a detailed Site diagram. The description of the Site is based solely on the information contained in the documents listed above.

Based on a review of the independent remedial action report and supporting documentation listed above, **Ecology has determined that the independent remedial actions conducted at the Site are sufficient to meet the substantive requirements contained in MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC, for characterizing and addressing the contamination at the Site.** Therefore, pursuant to WAC 173-340-515(5), Ecology is issuing this opinion that **no further remedial action is necessary** at the Site under MTCA.

This opinion is based on the continued effectiveness of the institutional controls required as part of the cleanup action for the Site under WAC 173-340-440. A copy of the Restrictive Covenant filed as part of the cleanup action for the Site is enclosed with this letter as Enclosure B. If any portion of the Restrictive Covenant is violated, then this opinion will automatically be rendered null and void and further remedial action may be required at the Site.

Based on this no further action determination, Ecology will update the status of the Site on its site database and initiate the process for removing the Sheraton Spokane Hotel Property (Sheraton) site (incorporated into the Spokane Convention Center Expansion Site) from the Hazardous Sites List (HSL). Before deciding to remove the Sheraton site from the HSL,

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Ecology must first provide the public with notice and an opportunity to comment. If the Sheraton site is removed from the HSL, the Sheraton site and Spokane Convention Center Expansion Site will be removed from the Confirmed and Suspected Contaminated Sites List.

This no further action determination does not apply to any other release(s) or potential release(s) of contaminant(s) that may impact any other portion of any property impacted by this Site, or any other property owned or operated by Spokane Public Facilities District.

Please note that this opinion is based solely on the information contained in the documents listed above. Therefore, if any of the information contained in those documents is materially false or misleading, then this opinion will automatically be rendered null and void and further remedial action may be required at the Site.

The state, Ecology, and its officers and employees make no guarantees or assurances by providing this opinion, and no cause of action against the state, Ecology, its officers or employees may arise from any act or omission in providing this opinion.

Again, Ecology appreciates your initiative in successfully completing cleanup under the Voluntary Cleanup Program (VCP). Please contact me at 509/329-3522 if you have any questions regarding this opinion.

Sincerely,

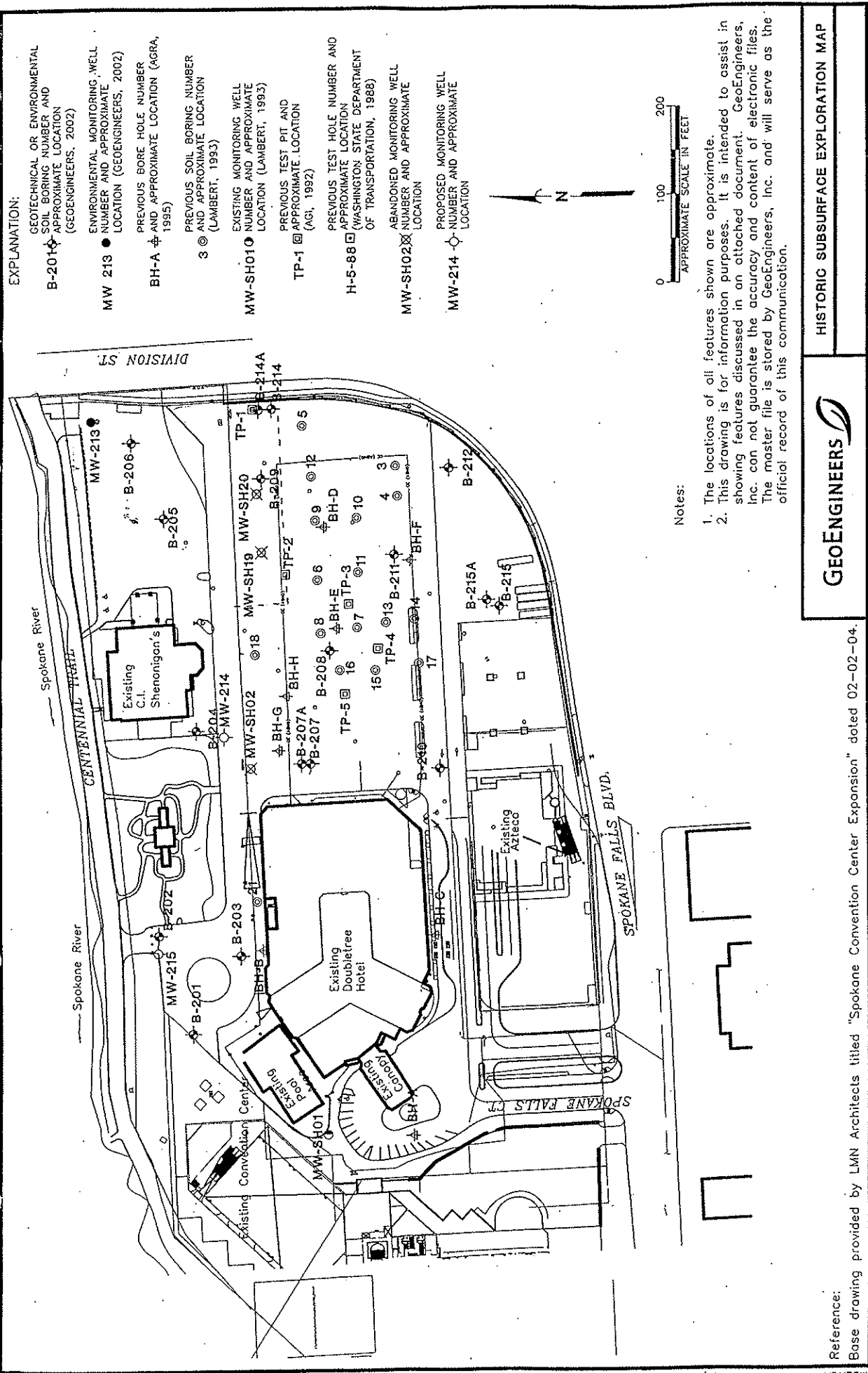


Patti Carter
ERO Toxics Cleanup Program

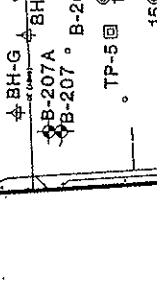
Enclosures

cc: Matt Blankenship, GeoEngineers
Kevin Twohig, Spokane Public Facilities District

ENCLOSURE A



EXPLANATION:
 GEOTECHNICAL OR ENVIRONMENTAL SOIL BORING NUMBER AND APPROXIMATE LOCATION (GEOENGINEERS, 2002)
 B-201-215
 ENVIRONMENTAL MONITORING WELL NUMBER AND APPROXIMATE LOCATION (GEOENGINEERS, 2002)
 MW 213
 PREVIOUS BORE HOLE NUMBER AND APPROXIMATE LOCATION (AGRA, 1995)
 BH-A-F
 PREVIOUS SOIL BORING NUMBER AND APPROXIMATE LOCATION (LAMBERT, 1993)
 3
 EXISTING MONITORING WELL NUMBER AND APPROXIMATE LOCATION (LAMBERT, 1993)
 MW-SH01-20
 PREVIOUS TEST PIT AND APPROXIMATE LOCATION (AGI, 1992)
 TP-1-11
 PREVIOUS TEST HOLE NUMBER AND APPROXIMATE LOCATION (WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, 1988)
 HI-5-88
 ABANDONED MONITORING WELL NUMBER AND APPROXIMATE LOCATION
 MW-SH02
 PROPOSED MONITORING WELL NUMBER AND APPROXIMATE LOCATION
 MW-214



Notes:
 1. The locations of all features shown are approximate.
 2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. can not guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.

Reference:
 Base drawing provided by LMN Architects titled "Spokane Convention Center Expansion" dated 02-02-04.

GEOENGINEERS

HISTORIC SUBSURFACE EXPLORATION MAP

ENCLOSURE B

After Recording Return to:
Patti Carter
Department of Ecology
Eastern Regional Office
4601 n Monroe
Spokane, WA 99205



RECEIVED
NOV 21 2007

DEPARTMENT OF ECOLOGY
EASTERN REGIONAL OFFICE

RESTRICTIVE ENVIRONMENTAL COVENANT

Grantor: Spokane Public Facilities District
Grantee: State of Washington, Department of Ecology
Legal: Unit 1, Spokane Convention Center Condominium, together with an undivided interest in the Common Elements pertaining to said Unit, recorded under Auditor's File No. 5516552, Vol 9 of Condominiums, pages 19-22, and according to Condominium Declaration recorded under No. 5516553 in the City of Spokane, Spokane County, State of Washington
Tax Parcel Nos.: 35184.0094; 35184.0040; 35184.0403; 35184.0406

Grantor, Spokane Public Facilities District, hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant ("Covenant") made this 18 day of October, 2007, in favor of the State of Washington Department of Ecology and its successors and assigns ("Ecology"). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

Environmental Covenant

Spokane Public Facilities District
Spokane Convention Center Expansion
200 West Spokane Falls Boulevard, Spokane, Washington

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030 (1) (f) and (g) and WAC 173-340-440 by Spokane Public Facilities District (hereafter "SPFD).

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 document: "Cleanup Action Report, Spokane Convention Center Expansion, Spokane, Washington" (hereafter "CAR") by GeoEngineers, dated August 11, 2006, which included a summary of chemical analytical results for soil. This document¹ is on file at Ecology's Eastern Regional Office. The CAR includes a Soil Management Plan (in Appendix A), which describes the handling and disposal procedures to be used if contaminated soil is encountered during routine or emergency operational activities. At the time of the recording of this Covenant, this Soil Management Plan has not been approved by Ecology for use as the Plan described in Section 9 of this Covenant but may become that Plan upon approval from Ecology as described in Section 9.

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of total lead and carcinogenic polycyclic aromatic hydrocarbons (cPAH) in soil, which exceed the Model Toxics Control Act Method A Residential Cleanup Level (s) for soil established under WAC 173-340-740. Soil containing lead and cPAH's above cleanup levels are capped with buildings and asphalt concrete pavement.

The undersigned, SPFD is the fee owner of real property (hereafter "Property") in the County of Spokane, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described above. The site is bounded by the Centennial Trail and Spokane River to the north, Spokane Falls Boulevard to the south, Spokane Falls Court to the east, and the Spokane Convention Center/Ag Trade Center to the west.

Spokane Public Facilities District 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

¹ The term 'document' means reports prepared regarding the remedial action as well as Ecology's NFA letter.

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. The Owner shall not alter, modify, or remove existing structure[s] 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, except as provided in Section 9. Any activity on the Property that may result in the release of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited, except as provided in Section 9. 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 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, except as provided in Section 9.

Section 3. 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 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, excluding persons or entities that are using the Property with no right to excavate or disturb the contaminated soil.

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.

Section 9. The Owner or its successors in interests or assigns may prepare, and submit to Ecology for approval, a plan to manage health and safety issues that may arise during the course of emergency or routine maintenance and repairs (the "Plan") that are likely to disturb the contaminated soil identified in the CAR. If the Plan meets applicable regulatory requirements, is updated periodically as necessary, and is approved by Ecology for use at the Site, then such routine or emergency maintenance and repairs may be performed at the Site to the extent covered by, and in accordance with, the Plan. The Owner must notify Ecology immediately if any routine or emergency maintenance or repairs result in a release or exposure to the environment of a hazardous substance that remains on the Site as part of the Remedial Action, and shall comply with any orders or written directives from Ecology for the remediation of such releases. In the event there is a conflict between the Plan and this Covenant, this Covenant shall govern.

SPOKANE PUBLIC FACILITIES DISTRICT

By: 

Kevin J. Twohig, CFE
Executive Director

Attest:

By: Sherry Leatha
Sherry Leatha
Clerk of the Board
STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Flora Goldstein
Flora Goldstein
Section Manager
Toxics Cleanup Program
Eastern Regional Office

Dated: 10.26.07

STATE OF WASHINGTON)
)
COUNTY OF SPOKANE)

On this 18 day of October, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared KEVIN J. TWOHIG, to me known to be the Executive Director of the Spokane Public Facilities District and acknowledge the foregoing instrument to be the free and voluntary act and deed of said entity for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Sherry Leatha
Print Name: Sherry Leatha
NOTARY PUBLIC in and for the State of WA
Residing at: Spokane
My commission expires: 11-28-09

