

**CONFORMED COPY:** This document has not been compared with the original.  
**SANTA CLARA COUNTY RECORDER**

11052737

FILED IN RECORDS  
AT REQUEST OF

SEP 11 10 42 AM '91

REC FEE	27
RMF	25
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LIEN	
STAMP	
2 POST	

Recording Requested By:

Intel Corporation  
3065 Bowers Avenue  
Santa Clara, CA 95052-2508

**CALIFORNIA REGIONAL WATER**

MAY 15 1991

**QUALITY CONTROL BOARD**

When Recorded, Mail To:

California Regional Water Quality Control Board  
San Francisco Bay Region  
2101 Webster St, Suite 500  
Oakland, CA 94612

**COVENANT AND AGREEMENT**

**TO RESTRICT USE OF PROPERTY**

This Covenant and Agreement ("Covenant") is made as of the 1st day of April, 1991 by, Intel Corporation ("Covenantor"), which is the owner of record of certain property situated in the city of Santa Clara, County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference ("the Property") for the benefit of the Property

and the California Regional Water Quality Control Board, San Francisco Bay Region (the "Regional Board"), with reference to the following facts:

- A. The Property is located at: 2880 Northwestern Parkway, Santa Clara, CA 95052-8122, and is commonly referred as SC3.
  
- B. The site is on the National Priorities List (NPL) and is regulated by Regional Board Orders, as indicated herein:
  - a. October 15, 1984 Site proposed for the NPL.
  - b. March 19, 1986 Regional Board adopted NPDES Permit No. CA0028941, for the discharge of treated groundwater.
  - c. June, 1986 Site added to the final NPL.
  - d. April 19, 1989 Regional Board adopted Order No. 89-064 issuing Site Cleanup Requirements and approving the Remedial Investigation/Feasibility Study (RI/FS) workplan.
  - e. July 18, 1990 Regional Board adopted Order No. 90-105 issuing final Site

Cleanup Requirements and  
approving the Remedial Action  
Plan.

C. Pursuant to the South Bay Multi-Site Cooperative Agreement and the South Bay Ground Water Contamination Enforcement Agreement, entered into on May 2, 1985 (as subsequently amended) by the Regional Board, the U.S. Environmental Protection Agency and the California Department of Health Services, the Regional Board has been acting as the lead regulatory agency. The Regional Board will continue to regulate the discharger's remediation and administer enforcement actions under the federal Comprehensive Environmental Response, Compensation and Liability Act as amended, the California Water Code, Health and Safety Code, and regulations adopted there under.

D. Covenantor installed monitoring wells to define the vertical and horizontal extent of the plume. As of November 1989, the oval shaped plume covers an area approximately 400 feet by 300 feet and the vertical extent of groundwater pollution in the A zone extends to a depth of approximately 27.5 feet from ground surface. Only trace levels of groundwater pollution have been found below this depth. As of November, 1989, Trichloroethylene (TCE), at a

maximum of 140 ppb, is the only pollutant found in the groundwater exceeding drinking water standards.

E. No source of the groundwater pollution has ever been positively identified at the site. While positive identification of a pollution source has not been possible at SC3, by performing evaluations of potential sources, it has been possible to determine that there is no source continuing to contribute pollutants to SC3's existing groundwater pollution.

F. Regional Board Order 90-105 requires Covenantor to implement a deed restriction prohibiting the use of A zone groundwater as a source of drinking water (90-105, Section C.2.b.)

G. Covenantor desires and intends that use of the Property shall be subject to observance of the requirements stated herein.

Now, therefore, Covenantor and the Regional Board declare and agree as follows:

## ARTICLE I

### DEFINITIONS

1.01 Areas of Investigation. "Areas of Investigation" shall mean those areas on the Property investigated for the presence of chemicals and which will be remediated to the satisfaction of the Regional Board. These are depicted on the map attached as Exhibit B.

1.02 Regional Board. "Regional Board" shall mean the California Regional Water Quality Control Board, San Francisco Bay Region and shall include its successor agencies, if any.

1.03 Ground Water. "Ground Water" shall mean, pursuant to Title 22, California code of Regulations, Section 66079, Water below the land surface in a zone of saturation.

1.04 Production Well. "Production Well(s)" shall mean any well, boring or excavation that allows extraction of ground water from the "A" water bearing zone which zone exists above a depth of approximately 50 feet (approximately 10 feet below mean sea level) below 1989 ground surface.

1.05 Improvements. "Improvements" shall mean all buildings, roads, driveways, and paved parking areas, constructed or placed upon the Property.

1.06 Occupants. "Occupants" shall mean those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to occupy any portion of the property.

1.07 Owner. "Owner" shall mean the Covenantor or its successors in interest, including heirs and assigns, who hold fee simple title to all or any portion of the Property.

1.08 Property. The "Property" consists of the land described in Exhibit A.

## ARTICLE II

### ESTABLISHMENT OF RESTRICTIONS

2.01 Provisions to Run with the Land. This covenant sets forth and establishes a common scheme and plan for the use, enjoyment, conveyance, development, repair, maintenance and improvement of the Property, and establishes certain

protective provisions, covenants, restrictions, and conditions (collectively referred to as "Restrictions"), upon and subject to which the Property and every portion thereof shall be improved, held, used, occupied, ground leased, sold, hypothecated, encumbered, and conveyed. Each and all of the Restrictions are declared to be in furtherance of a plan established for the purpose of enhancing and protecting the value, desirability and enjoyment of the Property. Each and all of the Restrictions shall run with the land, including any interest in the Property conveyed or reserved, and be for the benefit of and be binding on any interest conveyed or reserved, and all parties having or acquiring any right, title, interest or estate in the Property and any successors in interest thereto. Each and all of the Restrictions are imposed as equitable servitude upon the Property and on any portion thereof, for the benefit of the Property and the Regional Board and shall be enforceable solely by the Regional Board and any successor agency thereto.

2.02 Concurrence of Owners Presumed. All purchasers and ground lessees of the Property or any portion thereof shall be deemed by their purchase, leasing, or possession of all or any portion of the Property, to be in accord with the Restrictions and to agree for and among themselves, their heirs, successors, and assigns, and the agents, employees,

and ground lessees of such owners, heirs, successors, and assigns that the Restrictions shall be adhered to for the benefit of the Regional Board and the future owners and occupants of the Property and that their interest in the Property shall be subject to the Restrictions contained herein.

2.03 Incorporation Into Deeds and Leases. Covenantor covenants that the Restrictions shall be contained in each and all deeds and leases of any portion of the Property in accordance with Sections 1468, 1469, and 1470 of the California Civil Code, provided, however, that the right to enforce the Restrictions shall exist only in the Regional Board. In addition to any express provision required to comply with California Civil Code Section 1468, 1469 and 1470, the following statement shall appear:

This grant of interest in real property is expressly made subject to the certain Covenant and Agreement dated \_\_\_\_\_, and recorded on \_\_\_\_\_, in the Official Records of the county of Santa Clara, State of California, as document No. \_\_\_\_\_, which Covenant and Agreement imposes certain covenants, conditions, and restriction on usage of groundwater underlying the real property described



herein. The provisions of the Covenant and Agreement are incorporated herein and made a part hereof as if set forth in full. The only persons who have the right to enforce the Covenant and Agreement are the California Regional Water Quality Control Board, San Francisco Bay Region.

2.04 Statement Regarding Hazard. Nothing in this Covenant shall be construed as a statement, admission or declaration that any existing or potential health, environmental, or other hazard exists or will exist on the Property or on any portion of it.

### ARTICLE III

#### DEVELOPMENT, USE, AND CCNVEYANCE OF THE PROPERTY

3.01 Restrictions on Use. Covenantor promises to restrict the use of the Property as follows:

- (1) No production wells may be drilled on the Property without the express prior written approval of the Regional Board and any other agency with jurisdiction. Monitoring or other test wells are not subject to this provision, including: borings

for the purpose of testing soils; excavation for foundations, utilities or similar purposes; wells for monitoring the quality of groundwater; or, borings to define geology.

3.02 Conveyance of Property. Any person acquiring ownership of the Property, or any portion thereof, or entering into a ground lease as lessee of the Property, or any portion thereof, shall provide, within 30 days of any such purchase or ground lease, written notice of the purchase or ground lease to the Regional Board and to Covenantor at the addresses specified in paragraph 5.02. The Regional Board shall not by reason of the Covenant have authority to approve, disapprove, or otherwise affect any sale, lease, or other conveyance of the Property or of any portion of the Property. Notice is required hereunder only for the purpose of maintaining a current record of the Owners and ground lessees of the Property.

3.03 Enforcement. Failure of the Owner or Occupants to comply with any of the requirements, as set forth in paragraph 3.01 shall be grounds for the Regional Board, by reason of the Covenant, to require that the Owner or Occupant modify or remove any Improvements constructed in violation of that paragraph. Violation of the Covenant shall be grounds for the Regional Board to file civil and

criminal actions against the Owner as provided by law. This Covenant shall not create any private right of action against Covenantor or any Owner or Occupant of the Property or any portion thereof.

3.04 Extent of Covenantor's Obligations. Upon conveyance of all or any portion of the Property by deed, ground lease or other appropriate instrument, which conveyance instrument contains the provisions set forth in Paragraph 2.03, Covenantor shall be released from any and all obligations under this Covenant as to that portion of the Property which has been conveyed. At no time shall Covenantor have an obligation of any kind whatsoever to police or to enforce the observance of the covenants and restrictions contained herein by other Owners or Occupants of the Property or any portion thereof.

#### ARTICLE IV

##### VARIANCE AND TERMINATION

4.01 Variance. Any Owner or Occupant of the Property or any portion thereof, may apply to the Regional Board for a written variance from the provisions of this Covenant.

4.02 Termination. The Restrictions shall remain in full force and effect until groundwater cleanup standards have been achieved and pollutant levels have been stabilized in onsite aquifers in accordance with Regional Board Order 90-105, and/or subsequent orders. Any Owner or Occupant of the Property or a portion thereof, may apply to the Regional Board for an amendment or termination of the Restrictions as applied to that portion of the Property which is owned or ground leased by the Owner or Occupant. The Restrictions shall remain in full force and effect with respect to the Property and shall run with the land until such time as the Owner of the Property, or any portion thereof, records a release of the Property or a portion thereof from the provisions of the Restrictions. Any such release shall contain a sworn statement that the Owner of the Property to be released has demonstrated, to the written satisfaction of the Regional Board, that the Restrictions are no longer reasonably necessary to protect the public health or safety from any chemicals which may be located on the Property or that portion of the Property to be released from the Restrictions. In addition, any such release shall have attached an acknowledgement by the Regional Board that the statements contained in the release are correct. Any such release shall be effective without the concurrence of any other Owner of any portion of the Property, or any adjacent property.

4.03 Term. Unless terminated in accordance with paragraph 4.02 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

## ARTICLE V

### MISCELLANEOUS

5.01 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property or any portion thereof to the general public or for any purposes whatsoever.

5.02 Notices. Whenever any person shall desire to give or serve any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (i) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served or official of a government agency being served, or (ii) five (5) days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested, to Covenantor and the Regional Board at the following addresses or at such other addresses as

Covenantor or the Regional Board may designate in a written notice which shall be addressed and delivered personally or by certified mail to each of the then Owners and Occupants of the Property.

To: Intel Corporation  
3065 Bowers Avenue  
Santa Clara, CA 95052-2508

COPY To: California Regional Water Quality  
Control Board  
San Francisco Bay Region  
2101 Webster St, Suite 500  
Oakland, CA 94612

5.03 Partial Invalidity. If any portion of this Covenant is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion has not been included herein.

5.04 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not intended to aid in the meaning or interpretation of any part of the Covenant.

5.05 Recordation. This instrument shall be executed by Covenantor and by the Executive Officer, Regional Water Quality Control Board, San Francisco Bay Region. This instrument shall be recorded by Covenantor in the County of Santa Clara within ten (10) days of the date of full execution.

5.06 Statement of Compliance. Within twenty (20) days of receipt of a written request from any Owner or Occupant of a Property or any portion thereof, the Regional Board shall provide to such Owner or Occupant a written statement, substantially in the form attached hereto as Exhibit C, indicating whether to the Regional Board's knowledge such Owner or Occupant is operating in compliance with the provisions of this Covenant, and such confirmation shall be conclusive as of the date prepared.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

CALIFORNIA REGIONAL WATER  
QUALITY CONTROL BOARD,  
SAN FRANCISCO BAY REGION

INTEL CORPORATION

By: [Signature]

By: [Signature]

Title: Executive Director

Title: Vice President

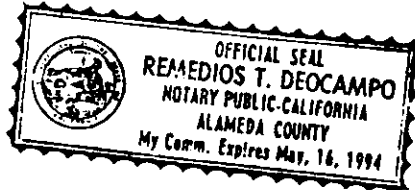
STATE OF California  
COUNTY OF Alameda  
On this 30th day of July, 1991, before me, the undersigned, a Notary Public in and for said County, personally appeared Stevan Richard Ritchie } ss.

(INDIVIDUAL)

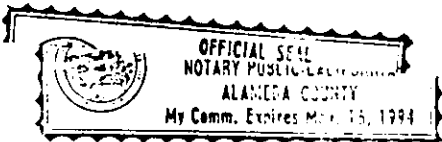
~~PERSONS~~ or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same. Witness my hand and official seal.

STAPLE HERE

Remedios T. Deocampo  
Notary Public in and for said County and State  
Remedios T. Deocampo  
Name (Typed or Printed)



(This area for official notarial seal)



3403 (R9 87)2



STATE OF ARIZONA )  
 )  
COUNTY OF Maricopa )

on Aug 13, \_\_\_\_\_, 1991, before me,  
the undersigned, a Notary Public in and for said state,  
personally appeared THOMAS Hogue, personally  
known to me or proved to me on the basis of satisfactory  
evidence to be the person who executed the within instrument  
as \_\_\_\_\_ a Vice President  
of \_\_\_\_\_ Intel Corporation \_\_\_\_\_, a  
\_\_\_\_\_ Delaware \_\_\_\_\_ corporation, on behalf of the  
corporation, the corporation that executed the within  
instrument, and acknowledged to me that such corporation  
executed the same.

WITNESS my hand and official seal.

Senelle Pasternak

Notary Public in and for said County and State

My Commission Expires June 2, 1992

EXHIBIT A

SC 3 PROPERTY DESCRIPTION

VALLEY TITLE COMPANY

Survey # PR-1492-B  
C. M. # 216-28-65  
Code Area 07-059  
WHEN RECORDED MAIL TO  
Intel Corporation  
3065 Bowers Avenue  
Santa Clara, Calif. 95051

B 997 5276736  
PAGE 232

Recorded at the request of  
Valley Title Company

APR 29 1976 1:41AM

GEORGE A. MANN  
REGISTRAR - RECORDER  
Santa Clara County, Official Bonds

B 997 PAGE 232

MAIL TAX STATEMENT TO

Corporation Grant Deed  
INDIVIDUAL

**FILED REQUESTS  
DO NOT RECORD STAMP VALUE**

Name Same as above.  
Address  
City & State

The undersigned Grantor declares  
the tax to be  
County Transfer Tax \$ \_\_\_\_\_  
Equity Full Value  
City Conveyance Tax \$ N/A

WEST BAY INDUSTRIAL CORPORATION, a California corporation

XXXXXXX does hereby GRANT TO

INTEL CORPORATION, a California corporation,

the real property situate in the city of Santa Clara,  
County of Santa Clara, State of California, described as follows:

PARCEL I

EXHIBIT "A"

Parcel "A" as shown upon "Parcel Map being a Resubdivision of Parcel B of that certain 'Parcel Map' recorded in Book 353 of Maps at page 12", which Map was filed for record in the office of the Recorder of Santa Clara County, on November 21, 1975 in Book 364 of Maps, at page 38.

EXCEPTING THEREFROM that portion of said land dedicated on the Parcel Map herein above referred to and known as Condensa Street.

Reserving therefrom a non-exclusive easement for ingress and egress over the westerly 13 feet of Parcel A above described.

Also reserving therefrom an easement for ingress and egress over that portion of Parcel "A" described as follows: Beginning at a point on the westerly line of that certain Cul de Sac known as Condensa Street which point bears South 89° 43' 57" East from the Northwest corner of said Parcel A 44.01 feet thence North 89° 43' 57" West 44.01 feet to said Northwest corner thence South 0° 54' 05" West along the westerly line of said Parcel "A" 50.00 feet thence South 89° 43' 57" East to a point on the Southerly line of the Cul de Sac known as Condensa Street, thence along the Southerly and westerly line of Condensa Street in a westerly and northerly direction to the point of beginning.

PARCEL II

Together with a non-exclusive easement for ingress and egress 13 feet in width lying Easterly of and contiguous to the westerly line of Parcel A described in Parcel I above.

STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

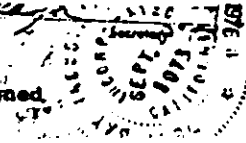
On this 27th day of April

1976

before me the undersigned

Richard T. Peery

Notary Public in and for said County and State personally appeared



5276736

APR 25 1976

FOR LEGAL DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

B 997 MAR 23 1976

5276736

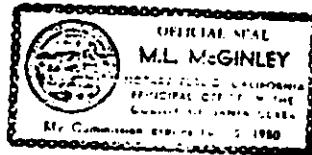
IN WITNESS WHEREOF said corporation has caused its corporate name and seal to be affixed hereon and this instrument to be executed by its duly authorized officers this 15th day of January 1976

WEST BAY THROSTICK CORPORATION

By: *[Signature]*  
By: *[Signature]*  
Secretary of the Corporation

STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

On the 27th day of April 1976 before me the undersigned  
Richard T. Peery  
John Arrillaga  
President and Secretary of the corporation that executed the within and foregoing instrument, and also known to me to be the persons who executed the within instrument on behalf of the corporation therein named and acknowledged to me that such corporation executed the same.



MAIL TAX STATEMENTS AS DIRECTED ABOVE  
VIC - 1031

APR 29 1976



27

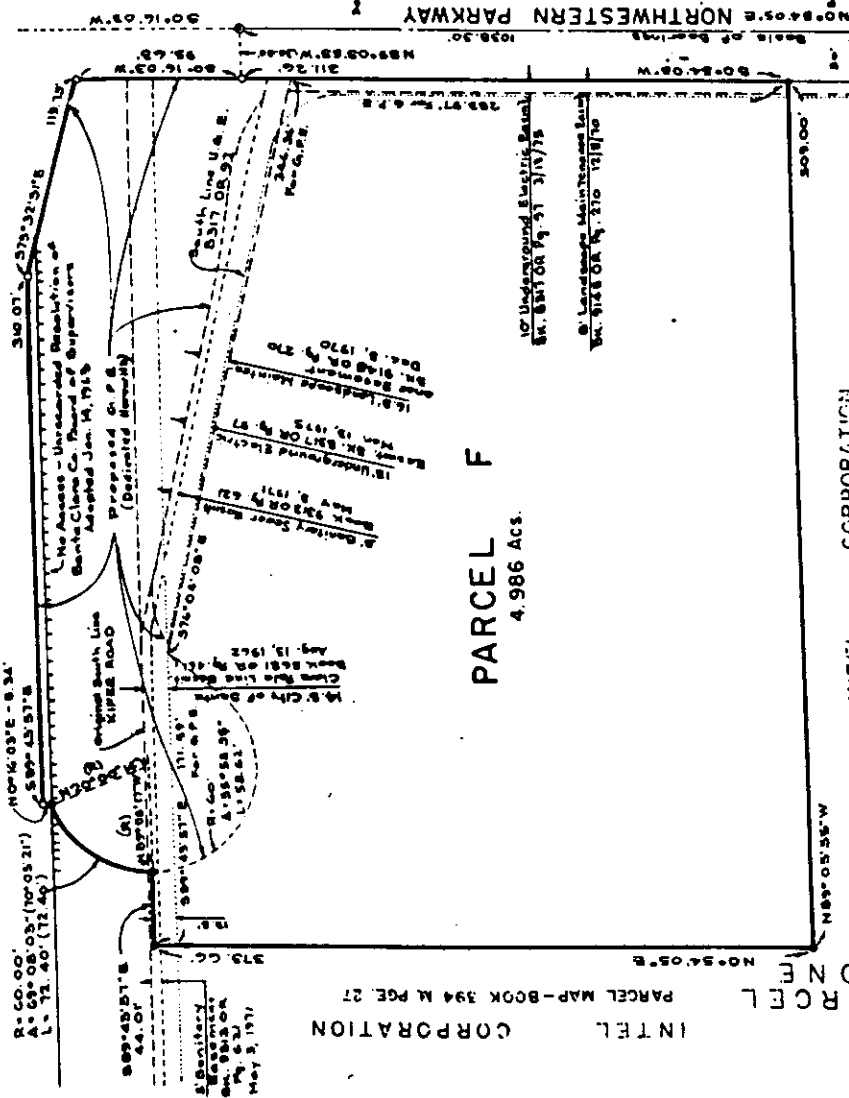
### OWNERS CERTIFICATE

We hereby certify that we are all of the parties having record title interests in the real property being subdivided by this map and that all the necessary requirements are required by the Public Use Act of 1960, the Subdivision Map Act and the rules and regulations thereunder, and that we hereby consent to the preparation and recording of this map and subdivision indicated herein within the DISTINCTIVE border lines.

We hereby dedicate to Public Use assessments for public utilities, under, on or over those certain strips of land designated as "P.U." (General Public Use) as shown within the map within said subdivision. Such strips to be kept open and free of buildings and structures of any kind except public utility structures and appurtenances therefor, irrigation systems, private water lines and appurtenances and lawful fences.

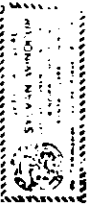
EXPRESSWAY

CENTRAL



OWNER: INTEL CORPORATION, A CALIFORNIA CORPORATION  
 BY: *[Signature]*

STATE OF CALIFORNIA [S] COUNTY OF SANTA CLARA  
 ON MARCH 5, 1988, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE PERSONALLY APPEARED **Donald E. Humes** known to me to be the **Authorized Executive Officer** of the CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF THE CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION EXECUTED THE SAME IN INTEREST WHEREOF I HAVE HERETO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND DATE IN THIS CERTIFICATE PRINTED ABOVE AND AT THE CITY OF SANTA CLARA, CALIFORNIA.



### NOTES AND LEGEND

- All distances and dimensions are shown in feet and decimals thereof.
- The DISTINCTIVE border indicates the area included within this map. The Area within the DISTINCTIVE border is 4.986 Acres.
- ⊙ Indicates City Monument found
  - Indicates 3/4" Iron Pipe set
  - Indicates 3/4" Iron Pipe set by Parcel Map BK 394 Maps 1-4c 3a
  - U.S.E. Indicates Underground Electric Easmt.
  - L.M.E. Indicates Landscape Maintenance Easmt.
  - G.P.U. General Purpose Easement
  - ( ) Indicates Record Date
  - TTTTT Indicates No Access

### CITY ENGINEERS CERTIFICATE

This map conforms with the requirements of the Subdivision Map Act and local ordinance. Date: *2/27/88* 1988

*[Signature]*  
 S.M. BELICK  
 CIVIL ENGINEER  
 2285 MARTIN AVE. SUITE A-1  
 SANTA CLARA, CALIF. 95050

### CERTIFICATE OF CITY CLERK

I hereby certify that on the 27th day of February, 1988, the City Council of the City of Santa Clara, California, did approve the Tentative of this map and did accept on behalf of the Public all of the conditions required by the terms of the map and in conformity with the terms of the offer of dedication made herein.

*[Signature]*  
 A.S. BELICK  
 City Clerk and Executive Clerk of the City Council of the City of Santa Clara, Calif.

### RECORDER'S CERTIFICATE

FILED THIS 27th DAY OF FEBRUARY 1988 IN BOOK 394 OF MAPS AT PAGE 27 AT THE REQUEST OF DONALD E. HUMES CIVIL ENGINEER JOB NO. W-7239 SCALE 1"=50'

*[Signature]*  
 GEORGE A. MANN  
 COUNTY RECORDER  
 No. 528 BY DEPUTY *[Signature]*

### ENGINEER'S CERTIFICATE

The map was prepared by me or under my direction and is based upon a field survey in accordance with the requirements of the Subdivision Map Act and local ordinance. I have reviewed the map and find that it substantially conforms to the approved and officially approved Tentative Map, if any.

*[Signature]*  
 DONALD E. HUMES  
 REG. CIVIL ENGINEER NO. 2091

# PARCEL MAP

CONSISTING OF ONE SHEET  
 LANDS OF INTEL CORPORATION  
 BEING ALL OF PARCEL X SHOWN ON PARCEL MAP RECORDED IN BOOK 394 OF MAPS, PAGES 1-3 AND A PORTION OF CONDENSA STREET (FORMERLY KIPER ROAD) SHOWN ON RECORD OF SURVEY RECORDED IN BOOK 273 OF MAPS, PAGE 18  
 SANTA CLARA COUNTY RECORDS  
 CITY OF SANTA CLARA, CALIFORNIA

## MISSION ENGINEERS, INC.

2285 MARTIN AVE. SUITE A-1  
 SANTA CLARA, CALIF. 95050  
 DONALD E. HUMES CIVIL ENGINEER  
 JOB NO. W-7239  
 SCALE 1"=50'  
 SEPTEMBER 1980

SHEET 1 OF 1 SHEET

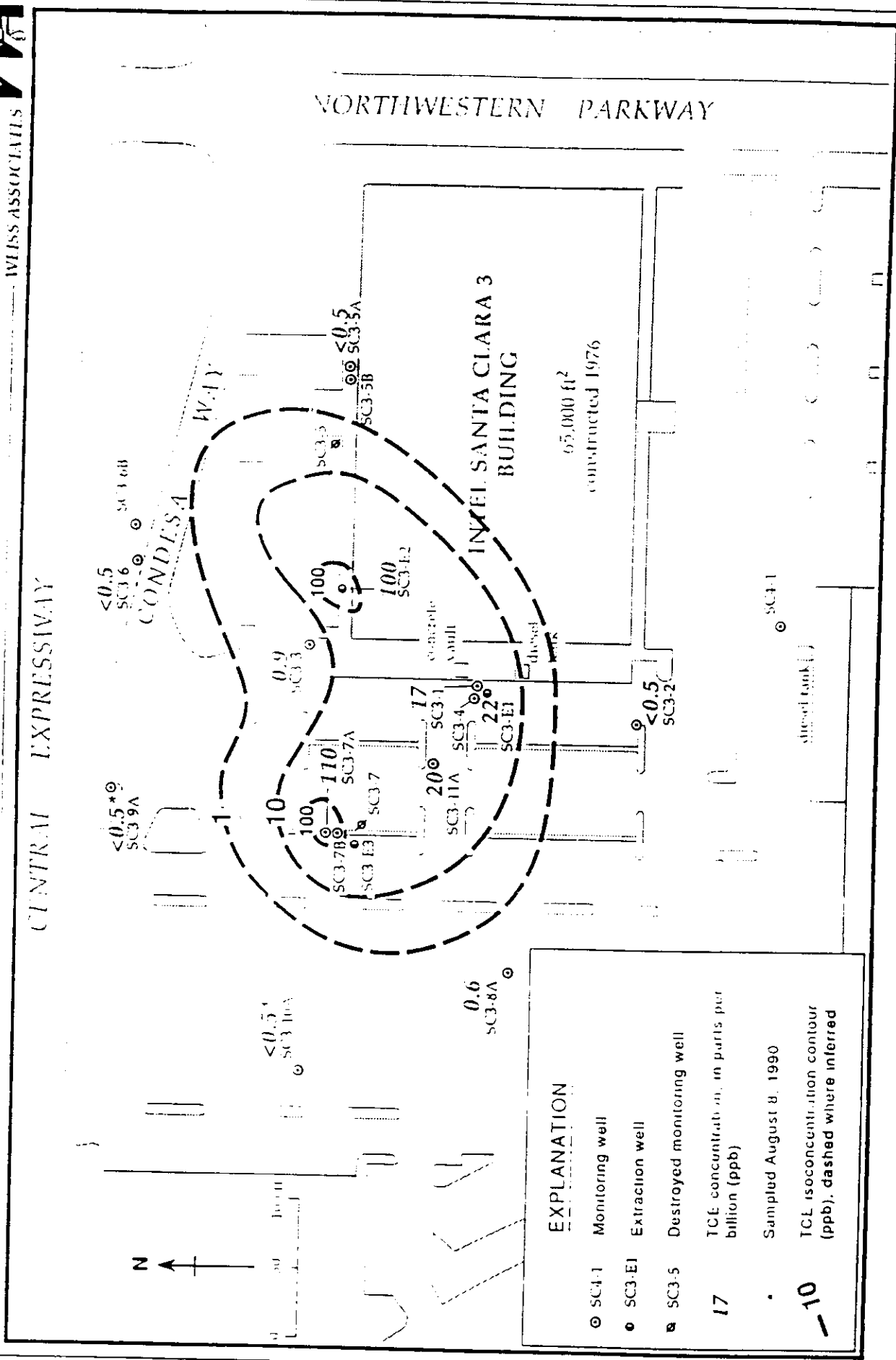
177

EXHIBIT B

SC 3 DISTRIBUTION, 8/17/90



WEISS ASSOCIATES



EXPLANATION	
○ SC3-1	Monitoring well
● SC3-EI	Extraction well
⊗ SC3-5	Destroyed monitoring well
17	TCE concentration, in parts per billion (ppb)
•	Sampled August 8, 1990
-10	TCE isoconcentration contour (ppb), dashed where inferred

Figure 4. Distribution of TCE in the A Water-Bearing Zone - August 17, 1990 - Intel Santa Clara 3, Santa Clara, California



EXHIBIT C

Date \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

This is to notify [Owner] in response to a request dated \_\_\_\_\_ made pursuant to that certain Covenant and Agreement to Restrict Use of Property dated \_\_\_\_\_ (the "Covenant") and recorded in the official Records of Santa Clara County at Page \_\_\_\_\_ of Book \_\_\_\_\_ that the California Regional Water Quality Control Board, San Francisco Bay Region (the "Regional Board") has no knowledge of any failure of [Owner] to comply with the provisions of the Covenant. [or Regional Board has knowledge of the following facts: \_\_\_\_\_.] In providing this statement, the Regional Board has relied upon review of its official records and has made no other inquiries and has made no inspection of the Property owned by [Owner].

CALIFORNIA REGIONAL WATER QUALITY CONTROL  
BOARD, SAN FRANCISCO BAY REGION

By: \_\_\_\_\_