

Record Date: 4/8/2022 10:03 AM

King County, WA



**20220408000497**

COVENANT Rec: \$219.50  
4/8/2022 10:03 AM  
KING COUNTY, WA

After Recording Return  
Original Signed Covenant to:  
Michael R. Warfel, Manager  
Toxics Cleanup Program  
Department of Ecology  
PO Box 330316  
Shoreline, WA 98133-9716

### **Environmental Covenant**

**Grantor:** LIT Lind Distribution Center, LLC, a Washington limited liability company

**Grantee:** State of Washington, Department of Ecology (hereafter "Ecology")

**Brief Legal Description:** Lot 6, Block 1, Burlington Northern Orillia Industrial Park of Renton Div. 1, Vol. 108, P. 12-13, Mod. By City of Renton, LLA Rec. 7910300956

**Tax Parcel No.:** 125380-0060

### **RECITALS**

- a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70.105D RCW, and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW.
- b. The Property that is the subject of this Covenant is part or all of a site commonly known as Service Paper Co (AKA LIT Lind Distribution Center LLC), 3324 Lind Ave SW, Renton, Washington, Facility Site ID 6253233, Cleanup Site ID 5402, Voluntary Cleanup Program Project NW3269. The Property is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter "Property"). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.
- c. The Property is the subject of remedial action conducted under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	Total Petroleum Hydrocarbons as Gasoline (TPH-G), Benzene, Toluene, Ethylbenzene and Xylenes
Groundwater	TPH-G, Benzene

The areas of the Property where residual contamination remains and where restrictions on certain activities and uses of the Property will apply is illustrated in Exhibit C.

d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and remedial actions conducted are available through Ecology. This Covenant includes the following Exhibits:

Exhibit A - Legal Description

Exhibit B - Property Map

Exhibit C - Maps Illustrating Locations of Restrictions

Exhibit D - Confirmation Groundwater Monitoring Plan

Exhibit E - Remediation Operation, Maintenance, and Contingency Plan

Records describing the extent of residual contamination, remedial actions conducted, and details of post-remediation activities required by this Covenant are available through Ecology. This includes the following documents:

Whitman Environmental Sciences (WES). Summary of Site Investigations and Cleanup, VCP No. NW3269, CSID 5402, LIT Lind Distribution Center, 3324 Lind Avenue S.W., Renton Washington 98057. January 12, 2021.

WES. Additional Groundwater Monitoring, Renton Distribution Center, 3324 Lind Avenue S.W., Renton Washington. February 13, 2018.

Department of Ecology (Ecology). Opinion on Proposed Remedial Action, Service Paper Company, 3324 Lind Ave. SW, Renton, WA. December 19, 2013.

Ecology. Opinion on Proposed Cleanup, Service Paper Company, 3324 Lind Ave. SW, Renton, WA. October 17, 2011.

WES. Additional Cleanup, Sampling and Site Observations, Service Paper Company Site, 3324 Lind Avenue SW, Renton, Washington. September 9, 2011.

WES. Feasibility of Additional Cleanup and Disproportionate Cost Analysis, Service Paper Site, 3324 Lind Avenue SW, Renton, Washington. June 3, 2011.

e. This Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a Holder of this Covenant under UECA, Ecology has an interest in real property, however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et*

*seq.* The rights of Ecology as an “agency” under UECA, other than its’ right as a holder, are not an interest in real property.

## COVENANT

LIT Lind Distribution Center, LLC, a Washington limited liability company, as Grantor and fee simple owner of the Property hereby grants to the Washington State Department of Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the Grantor has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

### Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

- a. **Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection or monitoring of that remedial action without prior written approval from Ecology.
- b. **Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. **Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with this Covenant.
- d. **Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.
- e. **Preservation of Reference Monuments.** Grantor shall make a good faith effort to preserve any reference monuments and boundary markers used to define the areal extent of coverage of this Covenant. Should a monument or marker be damaged or destroyed, Grantor shall have it replaced by a licensed professional surveyor within 30 days of discovery of the damage or destruction.

### Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

- a. **Containment of Soil.** The remedial action for the Property is based on containing residual contaminated soil under a cap consisting of pavement and a building, located as illustrated in Exhibit C. The Grantor shall not alter or remove the pavement or existing structures illustrated in Exhibit C in any manner that would expose contaminated soil, result in a release to the environment of contaminants, or create a new exposure pathway, without prior written approval of Ecology.

Should the Grantor propose to remove all or a portion of the pavement or existing structures illustrated in Exhibit C so that access to the underlying contamination is feasible, Ecology may require treatment or removal of the underlying contaminated soil. If Grantor is only repairing all or a portion of the asphalt pavement to maintain the cap over the underlying contaminated soil, Ecology will not require treatment or removal of the underlying contaminated soil.

Any activity on the Property in the areas illustrated in Exhibit C that will compromise the integrity of the contamination containment systems (including drilling, excavating, piercing with a sampling device, post, stake or similar device, grading, trenching, installation of underground utilities, removal of system components, or permanent application of loads in excess of the load bearing capacity) is prohibited without prior written approval by Ecology.

The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to the containment systems that affects the integrity of the remedial action in the areas illustrated in Exhibit C. Unless an alternative plan has been approved by Ecology in writing, the Grantor shall promptly repair the damage and submit a report documenting the repair work to Ecology within thirty (30) days of completing the repairs.

The Grantor covenants and agrees that it shall annually inspect the contamination containment systems, and shall report any changes to the systems that would impair the performance or integrity of the containment systems within thirty (30) days of the inspection.

**b. Groundwater Use.** The groundwater beneath and within the area of the Property illustrated in Exhibit C remains contaminated and shall not be extracted for any purpose other than temporary construction dewatering or for remedial activities, including sampling, monitoring or additional remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted within the area illustrated in Exhibit C for any purpose shall be considered potentially contaminated, such that discharge of this water shall be done in accordance with state and federal law.

**c. Stormwater Facilities.** To minimize the potential for mobilization of contaminants remaining in the soil and groundwater on and beneath the area of the Property illustrated in Exhibit C, no new stormwater infiltration facilities or ponds shall be constructed within the areas of the Property illustrated in Exhibit C. All new stormwater catch basins, conveyance systems, and other appurtenances located within this area shall be of water-tight construction.

**d. Confirmational Groundwater Monitoring.** Sampling and monitoring of groundwater for the Property shall be performed in accordance with the Confirmational Groundwater Monitoring Plan that is provided in Exhibit E to this Covenant. Four groundwater monitoring wells (MW-3R, MW-4, MW-8, and RW-1) are located on the Property to monitor the performance of the remedial action (see Exhibit C-1). The Grantor shall maintain clear access to these wells and shall take commercially reasonable steps to protect them from damage. The Grantor shall report to Ecology the discovery of any damage to any monitoring well within forty-eight (48) hours of the discovery. Unless Ecology approves of an alternative plan in writing, the Grantor shall promptly repair the damage and submit a report documenting the repair work to Ecology within thirty (30) days of completing the repairs.

e. **Remediation Operation, Maintenance, and Contingency.** If data collected in accordance with the Confirmational Monitoring Plan (Exhibit D) indicates that the contaminant plume is not stable or shrinking and that concentrations remain above Method A cleanup levels, additional cleanup measures shall be analyzed and may be implemented in accordance with the Remediation Operation, Maintenance, and Contingency Plan that is provided in Exhibit F to this Covenant.

**Section 3. Access.**

- a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor and maintain the remedial action.
- b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon at least two (2) business days' advance written notice, the right to enter the Property at reasonable times in order to evaluate the effectiveness of this Covenant and associated remedial actions, to enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and/or to inspect related records. Ecology and its authorized representatives shall take all reasonable steps to avoid interference with tenant activities and operations on the Property, and shall comply with any and all security and health & safety requirements maintained by the Grantor and/or the tenants for the Property. Ecology shall provide notice of its intent to enter the Property as provided in Section 4(d) of this Covenant.
- c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

**Section 4. Notice Requirements.**

a. **Conveyance of Any Interest.** The Grantor, when conveying any interest within the area of the Property described and illustrated in Exhibit C, including but not limited to title, easement, and security or other interests, must:

- i. Provide written notice to Ecology of the intended conveyance of title or ownership at least thirty (30) days in advance of the conveyance.
- ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

**NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON [INSERT DATE OF COVENANT] AND RECORDED WITH THE KING COUNTY AUDITOR UNDER RECORDING NUMBER [INSERT RECORDING NUMBER]. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.**

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.



**b. Reporting Violations.** Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.

**c. Emergencies.** For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.

**d. Notification procedure.** Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first class mail, such as e-mail or other electronic means, may be used for these communications.

David Witham LIT Lind Distribution Center, LLC c/o Clarion Partners 601 S. Figueroa St., Suite 3600 Los Angeles, CA 90017 213-236-3462 <a href="mailto:david.witham@clarionpartners.com">david.witham@clarionpartners.com</a>	Environmental Covenants Coordinator Washington State Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000 <a href="mailto:ToxicsCleanupProgramHQ@ecy.wa.gov">ToxicsCleanupProgramHQ@ecy.wa.gov</a>
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#### **Section 5. Modification or Termination.**

**a.** Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the Property:

i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and

ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.

**b.** If the conditions at the Property requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.

**c.** By signing this agreement, per RCW 64.70.100, the original signatories to this agreement, other than Ecology, who no longer have a real property interest in the Property, agree to waive all rights to sign amendments to and termination of this Covenant.

**Section 6. Enforcement and Construction.**

- a. This Covenant is being freely and voluntarily granted by the Grantor.
- b. Within ten (10) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.
- c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.
- d. The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.
- e. This Covenant shall be liberally construed to meet the intent of MTCA and UECA.
- f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.
- g. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

The undersigned Grantor warrants he/she holds the title to the Property and has authority to execute this Covenant.

EXECUTED this 2nd day of February, 2022.

**LIT Lind Distribution Center, LLC,**  
a Delaware limited liability company

By: Nicole Welch

Name: Nicole Welch

Title: Senior Vice-President

**CORPORATE ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2022, I certify that \_\_\_\_\_  
personally appeared before me, acknowledged that he/she is the \_\_\_\_\_  
of the corporation that executed the within and foregoing instrument, and signed said instrument  
by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned,  
and on oath stated that he/she was authorized to execute said instrument for said corporation.

Notary Public in and for the State of \_\_\_\_\_  
Residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_

*See Attached*



**CALIFORNIA ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

On February 2, 2022  
Date

before me,

Gabriela King

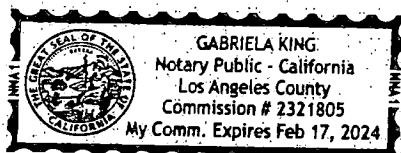
Here Insert Name and Title of the Officer

personally appeared

Nicole Welch

Name(s) of Signer(s)

who 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/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Gabriela King

Signature of Notary Public

Place Notary Seal and/or Stamp Above

**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

☐ Corporate Officer – Title(s): \_\_\_\_\_

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer – Title(s): \_\_\_\_\_

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

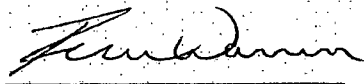
☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

The Department of Ecology, hereby accepts the status as GRANTEE and HOLDER of the above Environmental Covenant pertaining to the Service Paper Co (AKA LIT Lind Distribution Center LLC), Ecology Facility Site ID 6253233, Cleanup Site ID 5402, Voluntary Cleanup Program Project NW3269.

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**



by: Robert W. Warren

Title: Toxics Cleanup Program Section Manager

Dated: March 25, 2022

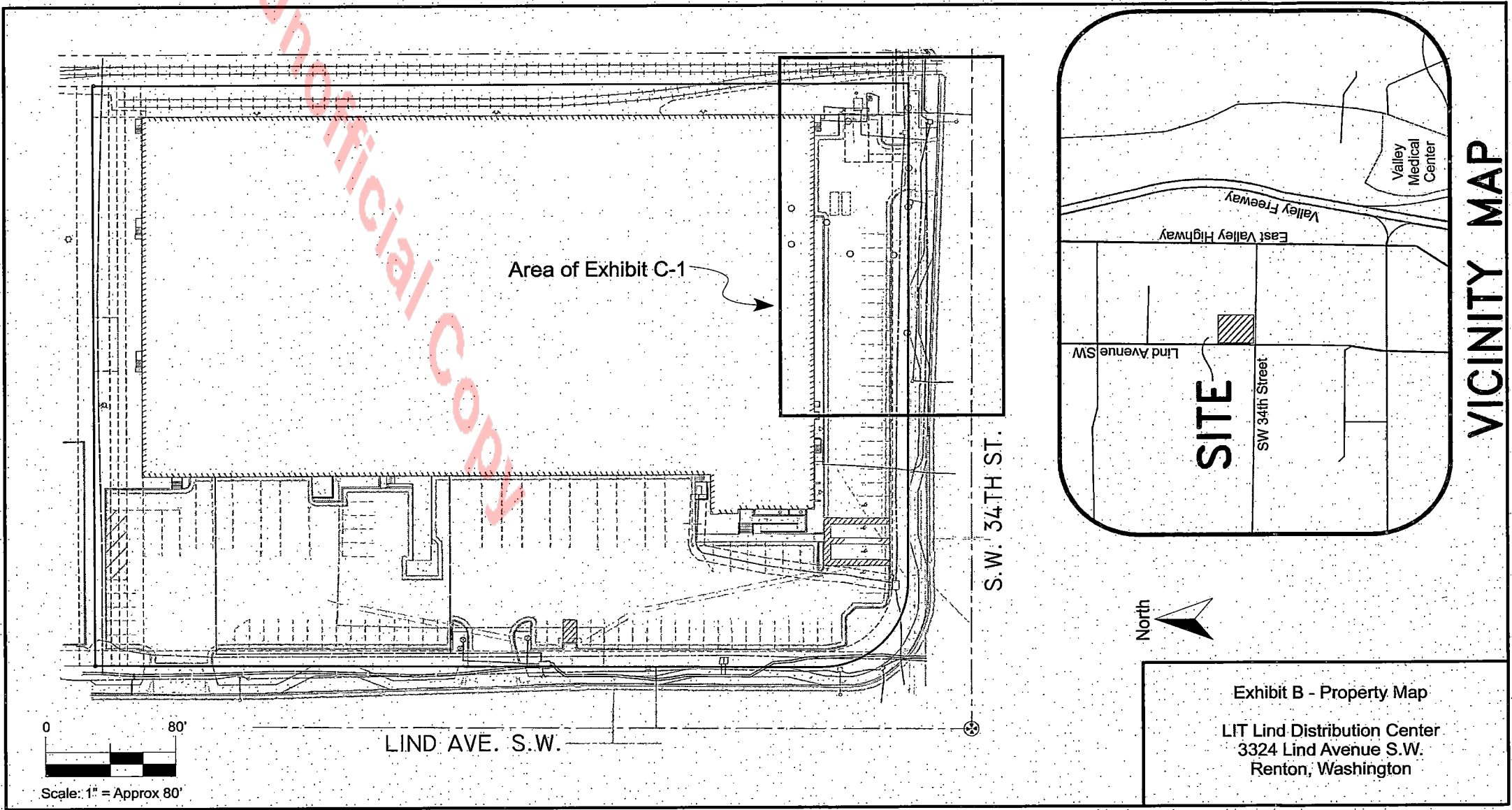
**Exhibit A**

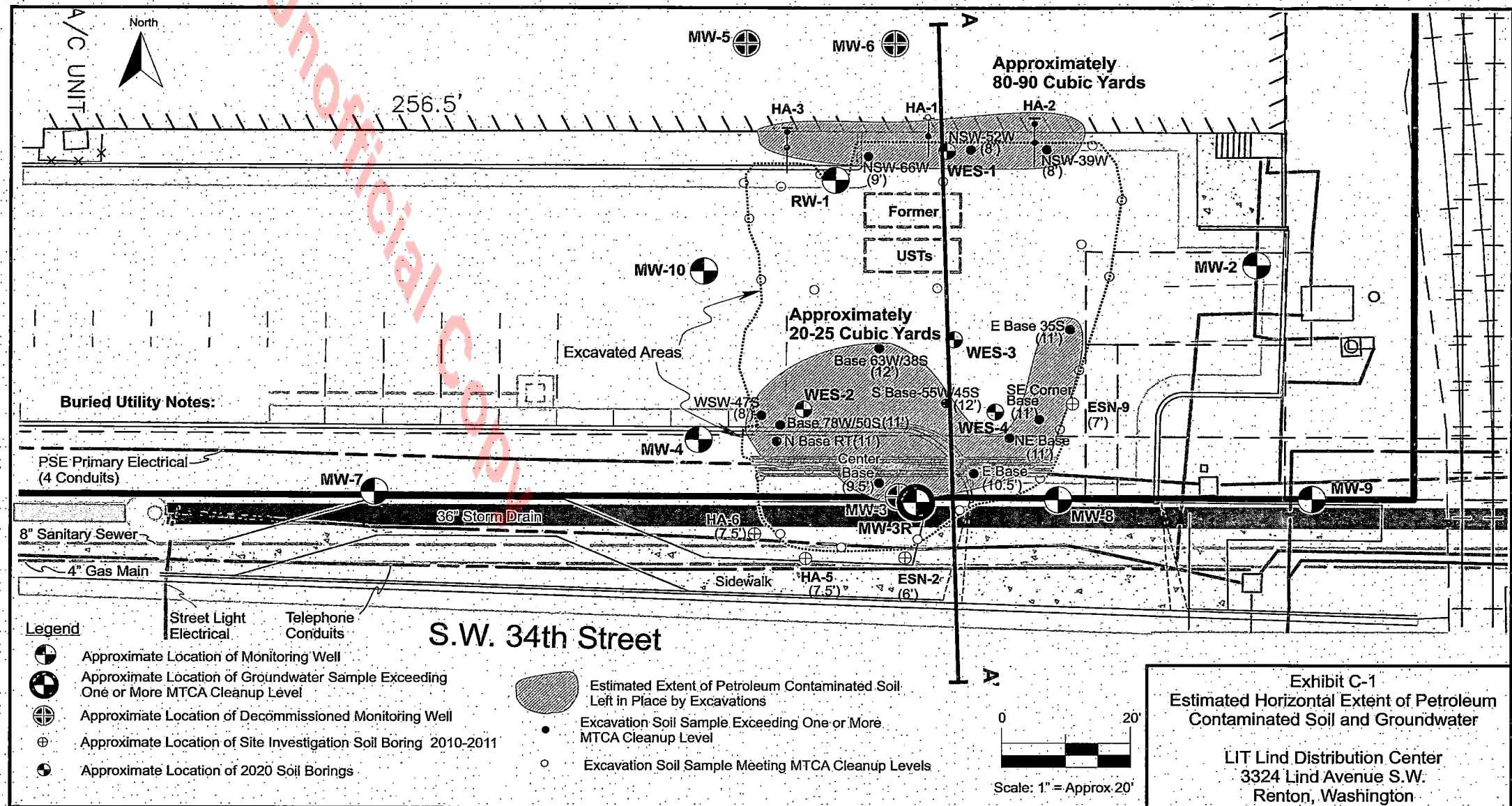
**LEGAL DESCRIPTION**

LOT 6, BLOCK 1, BURLINGTON NORTHERN ORILLIA INDUSTRIAL PARK OF RENTON, DIVISION 1, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 108 OF PLATS, PAGES 12 AND 13, IN KING COUNTY, WASHINGTON, AS MODIFIED BY CITY OF RENTON LOT LINE ADJUSTMENT RECORDED OCTOBER 30, 1979 UNDER RECORDING NO. 7910300956.

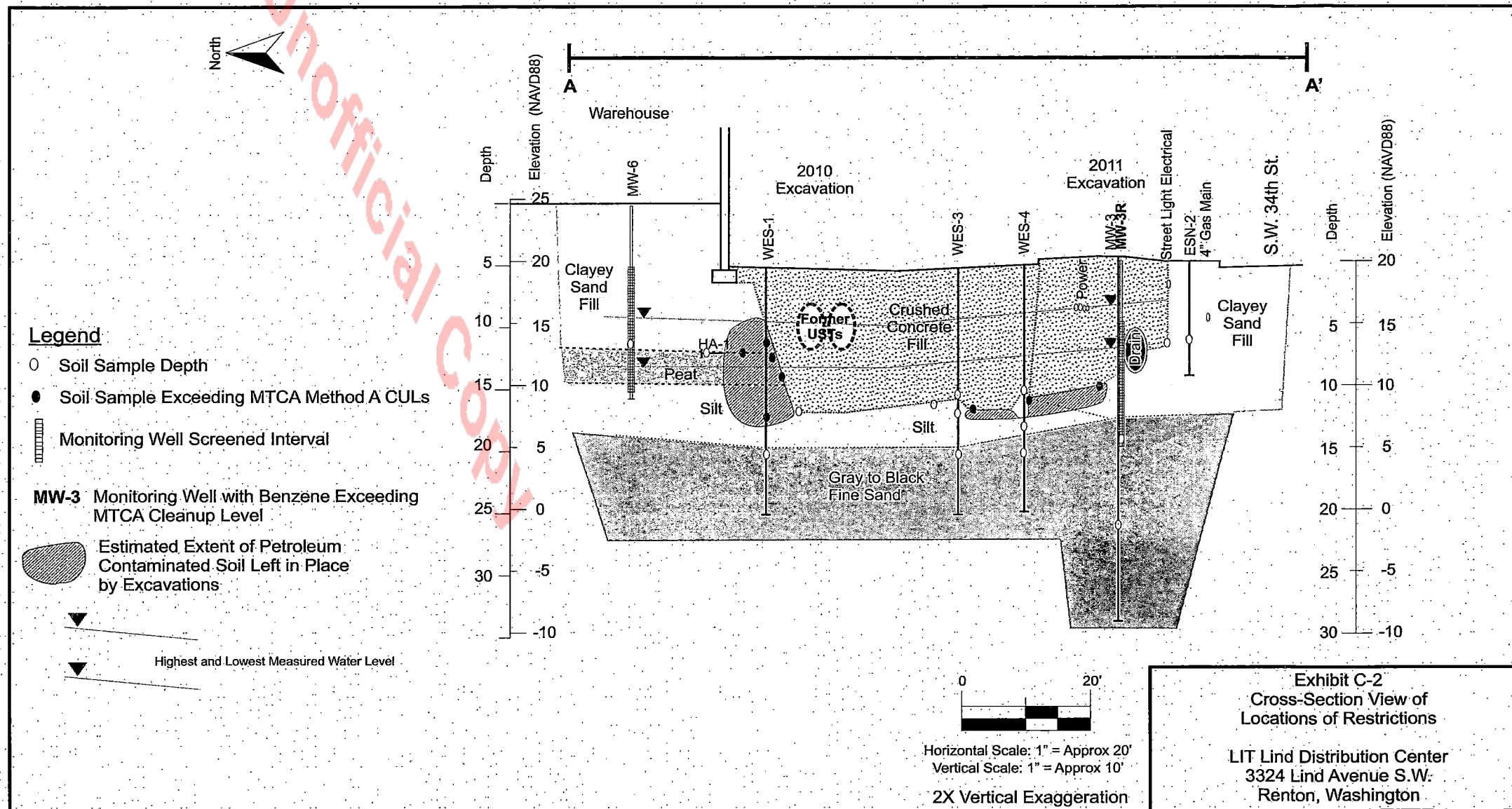
SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

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## Exhibit D

### CONFIRMATIONAL GROUNDWATER MONITORING PLAN

Compliance groundwater monitoring will be conducted as part of the selected remedial action. The results of the groundwater monitoring events will be used to assess groundwater flow and gradient, and groundwater quality at the Site to ensure that the MTCA Method A cleanup levels for the chemicals of concern are attained at the conditional points of compliance.

The Confirmation Groundwater Monitoring Plan (CGMP) includes the following elements:

- Monitoring Locations
  - MW-3R, MW-4, MW-8, and RW-1; see Figure C-1 in Exhibit C of this Covenant.
- Monitoring Data to be Collected:
  - Water levels: all monitoring wells at times of sample collection (MW-3R, MW-4, MW-8, and RW-1)
  - Water samples: see Monitoring Frequency
- Monitoring Frequency
  - MW-3R: Quarterly, beginning in April 2022, until data confirm that contamination impacts are stable or decreasing and are below Method A cleanup levels.
  - MW-3R, MW-4, MW-8, and RW-1: Every 15 months (to assess seasonal trends), beginning in April 2022, for at least 5 years until the time of the first periodic review by Ecology in 2027, as follows:
    - April 2022
    - July 2023
    - October 2024
    - January 2025
    - April 2026
    - July 2027
  - Subsequent monitoring will depend upon the results of the first periodic review in 2027.
- Chemical Analytical Parameters
  - TPH-G and BTEX (benzene, toluene, ethylbenzene, and xylenes)
- Sampling Procedures
  - Groundwater samples will be collected in accordance with the *Low Stress (Low Flow) Purging and Sampling Procedure for the Collection of Groundwater Samples from Monitoring Wells* dated January 19, 2010, prepared by EPA (2010). Groundwater

samples will be collected directly from the pump outlet following stabilization of the geochemical parameters in accordance with the EPA (2010) guidance for low-flow purging and sampling. Laboratory analytical results will be uploaded to Ecology's Environmental Information Management database.

- Reporting
  - Submit memo providing water level measurements, sample analysis results, and a map showing groundwater elevation contours and concentrations of chemical analytical parameters.

Unofficial Copy

## **Exhibit E**

### **REMEDIATION OPERATION, MAINTENANCE, AND CONTINGENCY PLAN**

If data collected in accordance with the Confirmational Monitoring Plan indicates that the contaminant plume is not stable or shrinking and concentrations remain above Method A cleanup levels, the following additional cleanup measures shall be evaluated and may be implemented in consultation with Ecology:

- Develop a plan for introducing oxygenating compounds into impacted groundwater, to facilitate breakdown of residual petroleum compounds.
- Submit the plan to Ecology for review.
- If necessary, complete an Underground Injection Control (UIC) Well Registration Form for registration with the UIC Coordinator in the Ecology Water Quality Program.
- Implement the treatment plan and confirmational groundwater monitoring, to evaluate the effectiveness of the treatment.
- Resume quarterly groundwater monitoring to assess if the contaminant plume is stable or shrinking, and if concentrations remain above Method A cleanup levels.
- Repeat this contingency process, if necessary.