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**STATE OF WASHINGTON  
WHATCOM COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,  
  
Plaintiff,  
  
v.  
  
MHNW 22 MILLWORKS FAMILY  
LLLP,  
  
Defendant.

NO. **22 2 01342 37**  
  
PROSPECTIVE PURCHASER  
CONSENT DECREE

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## I. INTRODUCTION

1. The mutual objective of the State of Washington, Department of Ecology (Ecology) and MHNW 22 Millworks Family LLLP (MHNW 22) under this Decree is to (1) resolve the potential liability of MHNW 22 for contamination at the Georgia-Pacific West Site (Site) arising from a release or threatened release of hazardous substances, in advance of MHNW 22 executing the right under an existing option agreement with the Port of Bellingham (Port) to purchase property within the Lignin Operable Unit, located within the Site's Chlor-Alkali Remedial Action Unit (RAU), and (2) facilitate redevelopment and reuse of the purchased property, following cleanup by the Port, by MHNW 22 for affordable housing. This redevelopment and reuse by MHNW 22 allows the use of affordable housing cleanup grant dollars by the Port for cleanup of the Lignin Operable Unit. This redevelopment and reuse by MHNW 22 results in the Port implementing a more permanent cleanup action for the Lignin Operable Unit under a separate consent decree with Ecology.

2. Ecology has determined that these actions are necessary to protect human health and the environment.

3. The Complaint in this action is being filed simultaneously with this Decree. An Answer has not been filed, and there has not been a trial on any issue of fact or law in this case. However, the Parties wish to resolve the issues raised by Ecology's Complaint. In addition, the Parties agree that settlement of these matters without litigation is reasonable and in the public interest, and that entry of this Decree is the most appropriate means of resolving these matters.

4. By signing this Decree, the Parties agree to its entry and agree to be bound by its terms.

5. By entering into this Decree, the Parties do not intend to discharge non-settling parties from any liability they may have with respect to matters alleged in the Complaint. The Parties retain the right to seek reimbursement, in whole or in part, from any liable persons for sums expended under this Decree.

1           6. This Decree shall not be construed as proof of liability or responsibility for any  
2 releases of hazardous substances or cost for remedial action nor an admission of any facts;  
3 provided, however, that MHNW 22 shall not challenge the authority of the Attorney General  
4 and Ecology to enforce this Decree.

5           7. The Court is fully advised of the reasons for entry of this Decree, and good cause  
6 having been shown:

7           Now, therefore, it is HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

## 8   II. JURISDICTION

9           1. This Court has jurisdiction over the subject matter and over the Parties pursuant  
10 to the Model Toxics Control Act (MTCA), RCW 70A.305.

11           2. Authority is conferred upon the Washington State Attorney General by  
12 RCW 70A.305.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if,  
13 after public notice and any required public meeting, Ecology finds the proposed settlement  
14 would lead to a more expeditious cleanup of hazardous substances. In addition, under RCW  
15 70A.305.040(5), the Attorney General may agree to a settlement with a person not currently  
16 liable for remedial action at a facility who proposes to purchase, redevelop, or reuse the facility,  
17 provided: the settlement will yield substantial new resources to facilitate a cleanup; the  
18 settlement will expedite remedial action consistent with the rules adopted under MTCA; and  
19 Ecology determines, based upon available information, that the redevelopment or reuse of the  
20 facility is not likely to contribute to the existing release or threatened release, interfere with  
21 remedial actions that may be needed at the Site, or increase health risks to persons at or in the  
22 vicinity of the Site. RCW 70A.305.040(4)(b) requires that such a settlement be entered as a  
23 consent decree issued by a court of competent jurisdiction.

24           3. Ecology has determined that a release or threatened release of hazardous  
25 substances has occurred at the Site that is the subject of this Decree.

1 4. MHNW 22 has not been named a PLP for the Site, and it certifies under  
2 Section X, (Certification of Defendant) that it is not currently liable for the Site under MTCA.  
3 However, MHNW 22 has entered into an option agreement with the Port to purchase property  
4 (the "Mercy Parcel") located within the Lignin Operable Unit, within the Site's Chlor-Alkali  
5 RAU. MHNW 22 will incur potential liability under RCW 70A.305.040(1)(a) at the time it  
6 acquires an interest in the Site. This Decree settles MHNW 22's liability as described herein for  
7 this Site upon purchase of the Mercy Parcel within the Lignin Operable Unit. MHNW 22's  
8 redevelopment of the Mercy Parcel for affordable housing authorized Ecology to provide \$2.6  
9 million in affordable housing grant funding to the Port from appropriations made in the 2021-23  
10 biennial capital budget and via Grant Agreement No. OTGP-2022-BellPo-00090.

11 5. The actions to be taken pursuant to this Decree are necessary to protect public  
12 health and the environment.

13 6. This Decree has been subject to public notice and comment and a public meeting  
14 that was held on June 29, 2022.

15 7. Ecology finds that this Decree will yield substantial new resources to facilitate  
16 cleanup of the Site and lead to a more expeditious cleanup of hazardous substances at the Site in  
17 compliance with the cleanup standards established under RCW 70A.305.030(2)(e) and  
18 WAC 173-340.

19 8. MHNW 22 has agreed to undertake the actions specified in this Decree and  
20 consents to the entry of this Decree under MTCA.

### 21 **III. PARTIES BOUND**

22 1. This Decree shall apply to and be binding upon the Parties to this Decree, their  
23 successors and assigns. The undersigned representative of each party hereby certifies that they  
24 are fully authorized to enter into this Decree and to execute and legally bind such party to comply  
25 with this Decree. MHNW 22 agrees to undertake all actions required by the terms and conditions  
26 of this Decree. No change in ownership or corporate status shall alter MHNW 22's responsibility

1 under this Decree. MHNW 22 shall provide a copy of this Decree to all agents, contractors, and  
2 subcontractors retained to perform work required by this Decree, and shall ensure that all work  
3 undertaken by such agents, contractors, and subcontractors complies with this Decree.

#### 4 IV. DEFINITIONS

5 1. Unless otherwise specified herein, all definitions in RCW 70A.305.020 and  
6 WAC 173-340 shall control the meanings of the terms in this Decree.

7 A. Site: The Site is referred to as Georgia-Pacific West Bellingham Site  
8 (FSID #14). The Site constitutes a facility under RCW 70A.305.020(8). The Site is  
9 defined by where a hazardous substance, other than a consumer product in consumer use,  
10 has been deposited, stored, disposed of, or placed, or otherwise come to be located and  
11 is more particularly described in Exhibit A.

12 B. Consent Decree or Decree: Refers to this Consent Decree and each of the  
13 exhibits to this Decree. All exhibits are integral and enforceable parts of this Consent  
14 Decree.

15 C. Defendant: Refers to MHNW 22.

16 D. Parties: Refers to the State of Washington, Department of Ecology and  
17 MHNW 22.

18 E. Chlor-Alkali Remedial Action Unit (RAU): Refers to the portion of the  
19 Georgia-Pacific West Site that is comprised of 36-acres of land primarily owned by the  
20 Port, as further defined in the Second Amendment to Ecology Agreed Order No. 6834  
21 (2013).

22 F. Lignin Operable Unit: Refers to the Lignin Operable Unit of the Chlor-  
23 Alkali RAU at the Georgia Pacific West Bellingham Site. This Operable Unit is generally  
24 located on the property that is bounded on the southwest by W. Laurel Street, on the  
25 southeast by Cornwall Avenue, on the northeast by a business park at the corner of  
26

1 Cornwall Avenue and W. Chestnut Street, and on the northwest by the Pulp/Tissue Mill  
2 RAU. The Lignin Operable Unit is more particularly described in Exhibit B.

3 G. Mercy Parcel: Refers to that portion of the Lignin Operable Unit that,  
4 pursuant to its option agreement with the Port, MHNW 22 will purchase and redevelop  
5 into affordable housing units. The Mercy Parcel is more particularly described in Exhibit  
6 C.

7 H. Port Consent Decree: Refers to the First Amendment to Consent Decree,  
8 Whatcom County Superior Court No. 14-2-02700-8 between Ecology and the Port,  
9 which requires the Port to implement the Lignin Operable Unit Cleanup Action Plan.

#### 10 V. FINDINGS OF FACT

11 1. Ecology makes the following findings of fact without any express or implied  
12 admissions of such facts by MHNW 22.

13 A. The Site is located in Bellingham, Washington. The Site is bounded by  
14 the Whatcom Waterway and Cornwall Avenue with Roeder Avenue and West Chestnut  
15 Street to the northeast and the Bellingham Shipping Terminal to the southwest, as shown  
16 in the Site Location Diagram attached as Exhibit A.

17 B. The majority of the Site was operated as a pulp and paper making facility  
18 from its original development in 1925 through 2007.

19 C. Between approximately 1926 and 1963, the Pulp/Tissue Mill RAU was  
20 used by the Puget Sound Pulp and Timber Company, which then merged with Georgia-  
21 Pacific West, Inc., Georgia Pacific Corporation, and Georgia Pacific, L.L.C. (collectively  
22 G-P), and continued operating the facility.

23 D. In 1965, G-P installed a chlor-alkali plant at the Site to produce chlorine  
24 and sodium hydroxide (caustic) using a mercury-cell process for use in bleaching and  
25 pulping operations. The location of the former chlor-alkali plant is depicted in the Site  
26 Diagram, Exhibit A. During 1976, G-P implemented the treatment and on-site

1 containment of sediments from an on-site settling pond. The sediments were treated by  
2 chemical stabilization and remain contained on-site subject to the requirements of  
3 Ecology Order DE-77-336. G-P operated the chlor-alkali plant at the Site from 1965  
4 through 1999 when G-P ceased operating the chlor-alkali plant.

5 E. Early environmental investigations in and around the Chlor-Alkali RAU  
6 found mercury in groundwater, soils, and process materials in concentrations exceeding  
7 applicable MTCA cleanup standards. G-P completed an independent remedial  
8 investigation/feasibility study (RI/FS) of the chlor-alkali facility in 1994. Following the  
9 1994 RI/FS, G-P performed various remedial actions and associated performance  
10 monitoring within the chlor-alkali plant area.

11 F. Contamination at the Pulp/Tissue Mill RAU is related to the operations of  
12 the former Pulp and Tissue Mill. The facility contained six individual plants producing  
13 primary sulfite pulp, Permachem pulp, sulfuric acid, chlorine, sodium hydroxide,  
14 alcohol, and lignosulfonate products. Steam heat was supplied to the Mill by burning fuel  
15 oil (Bunker C oil) in the Steam Plant. The fuel oil was stored in a 375,000 gallon tank  
16 located east of the Steam Plant and, later, in one of the Million Gallon Tanks (Tank 2)  
17 located immediately north of the BNSF main line and west of the Pulp/Tissue Mill RAU.

18 G. On July 6, 1999, G-P entered into AO No. DE 02-TC99 1035, which  
19 required G-P to undertake a number of decommissioning/demolition activities at the  
20 chlor-alkali plant following its closure by G-P, as well as to prepare a RI/FS work plan  
21 for the chlor-alkali plant area. In 2005, Ecology issued a letter to G-P indicating that the  
22 provisions of AO No. DE TC 99 1035 had been satisfied.

23 H. In 2001, G-P closed the pulp mill.

24 I. On October 1, 2002, G-P and Ecology entered into AO No. DE 02-TCPIS-  
25 4722 wherein G-P was required to complete a supplemental RI/FS for the chlor-alkali  
26 plant for purposes of updating the RI/FS prepared in 1994. As part of this work, Anchor



1 Environmental, L.L.C. prepared a *Draft Soil Assessment-Data Report, Remedial*  
2 *Investigation/Feasibility Study Addendum, Georgia Pacific West, Inc.-Former Chlor-*  
3 *Alkali Facility, Bellingham, Washington*, dated October 2003.

4 J. In 2004, G-P contracted with Aspect Consulting to perform a Phase II  
5 Environmental Site Assessment of its Bellingham operations, including the former pulp  
6 mill area and the then-operating tissue plant at the Pulp/Tissue Mill RAU. The results of  
7 that assessment showed soil contamination at the pulp and tissue mill areas in  
8 concentrations exceeding MTCA unrestricted soil cleanup levels for petroleum  
9 hydrocarbons, metals, semi volatile organic compounds (SVOCs), dioxins, furans, and  
10 PAHs. The assessment also indicated groundwater contamination in concentrations  
11 exceeding applicable MTCA cleanup levels for petroleum hydrocarbons, metals, certain  
12 VOCs and PAHs.

13 K. In January of 2005, the Port purchased the majority of G-P's property,  
14 including property within the Site. After the Port's purchase of the property, G-P  
15 continued to operate its tissue plant until December 2007 when it ceased the last of its  
16 operations at the Site and initiated demolition of the tissue plant and associated structures.

17 L. In August 2009, Ecology and the Port entered Agreed Order No. 6834,  
18 superseding Agreed Order No. DE 02-TCPIS-4722 and requiring the Port to perform an  
19 RI/FS at the Site.

20 M. In September 2009, Ecology terminated Agreed Order No. DE 02-TCPIS-  
21 4722 between it and G-P due to the Port taking over lead responsibility for cleaning up  
22 the Site under Agreed Order No. 6834.

23 N. In 2011, Ecology and the Port amended Agreed Order No. 6834 to allow  
24 an interim action to be performed to excavate and remove petroleum-contaminated soils  
25 from the former Bunker C Tank Area.  
26

1 O. The Port contracted with Aspect Consulting to perform an Interim Action  
2 Pre-Design Investigation Report in 2011. The results of that document showed petroleum  
3 hydrocarbon (Bunker C) saturated soils and free product present in the vicinity of the  
4 former Bunker C Tank. PAHs also exist above MTCA unrestricted soil cleanup levels.  
5 The Interim Action Pre-Design Investigation Report was used to inform the soil removal  
6 interim action performed at the Bunker C Tank area in 2011. This work successfully  
7 removed 4,333 tons of petroleum-contaminated soils from the Pulp/Tissue Mill RAU.

8 P. On August 2, 2013, Ecology and the Port entered into a Second  
9 Amendment to Agreed Order No. 6834, which separated the Site into two remedial action  
10 units, the Pulp/Tissue Mill RAU and Chlor-Alkali RAU, for the purpose of expediting  
11 remedial action and facilitating redevelopment of the Site.

12 Q. In August 2013, Aspect Consulting completed a Remedial Investigation  
13 for the Site. The results of that investigation showed: mercury above MTCA cleanup  
14 levels in soil and soil gas and mercury and pH in groundwater in the Caustic Plume  
15 subarea; mercury and petroleum hydrocarbons in soil and mercury in groundwater above  
16 MTCA cleanup levels in at the Confined Nearshore Fill/Chemfix Subarea; mercury in  
17 soil above MTCA cleanup levels in the Stormwater Swale Subarea; mercury in soil above  
18 MTCA cleanup levels in the Laurel Street Pipe Rack Subarea; TPH and cPAH in soil and  
19 cPAH and naphthalene in groundwater above MTCA cleanup levels in the Million  
20 Gallon Tanks Subarea; petroleum hydrocarbons, PAHs, and dioxin/furans exceed MTCA  
21 cleanup levels in soil in the Bunker C Tank area; metals (including arsenic, cadmium,  
22 copper, mercury and lead) and acidic pH in soil and groundwater in the Acid Plant  
23 Subarea exceed MTCA cleanup levels; and chlorinated VOCs (PCE, TCE and vinyl  
24 choride (VC)) in groundwater in the Lignin Plant Subarea exceed MTCA cleanup levels.  
25 Miscellaneous metals in groundwater above MTCA cleanup levels are present in the area  
26 around the Alcohol Plant, Lignin Plant and Lignin Warehouse B exceed MTCA cleanup

1 levels, and Pulp/Tissue Mill RAU wide soils miscellaneous metals, PAH, and  
2 dioxin/furan exceed MTCA cleanup levels associated with the historic industrial use of  
3 the facility. Additional information regarding CoCs at the Site are described in the 2013  
4 RI.

5 R. In April 2014, the Pulp/Tissue Mill RAU and Chlor-Alkali RAU  
6 boundaries were redrawn such that the entire BNSF Railway Company property and  
7 easements were removed from the Pulp/Tissue Mill RAU and contained within the  
8 Chlor-Alkali RAU. Ecology determined this change to Agreed Order No. 6834 (Order),  
9 which did not alter the elements of the work to be performed, to be a minor modification  
10 pursuant to Section VIII.L of the Order.

11 S. On December 22, 2014, the Whatcom County Superior Court entered a  
12 Consent Decree with Ecology and the Port that required it to conduct a cleanup of the  
13 Pulp/Tissue Mill RAU by implementing the Pulp/Tissue Mill RAU CAP.

14 T. In March 2017, Ecology approved the Aspect Consulting's As-Built  
15 Report for Bunker C Soil Removal and As-Built Report for RAU-Wide Capping for the  
16 Pulp/Tissue Mill RAU. These reports described the completion of the oil removal action  
17 conducted within the Bunker C subarea of the Pulp and Tissue Mill RAU and  
18 environmental capping of the entire Pulp and Tissue Mill RAU.

19 U. In February 2019, Ecology and the Port entered into a third amendment  
20 to Agreed Order No. 6834. This amendment required the Port to: (1) develop a public-  
21 review draft CAP for the Chlor-Alkali RAU per WAC 173-340-380; and (2) after that  
22 draft CAP had been finalized, prepare and submit for Ecology review and approval all  
23 documents necessary to complete the design and permitting of the cleanup action per  
24 WAC 173-340-400 described in a final CAP.

1 V. In 2021, MHNW 22 entered into negotiations with the Port for an option  
2 agreement to purchase the Mercy Parcel located within the Lignin Operable Unit, within  
3 the Site's Chlor-Alkali RAU.

4 W. MHNW 22 is planning to redevelop the Mercy Parcel into 83 affordable  
5 housing units with a ground floor Early Learning Center.

6 X. The Port, under a separate Port Consent Decree, will expedite cleanup of  
7 the Lignin Operable Unit to facilitate redevelopment of the Mercy Parcel by MHNW 22.

## 8 VI. COOPERATION AND PROPERTY ACCESS

9 1. MHNW 22 agrees to cooperate fully with Ecology and further agrees not to  
10 interfere with remedial actions performed at the Site by Ecology or the Port or other Potentially  
11 Liable Persons operating under an Order or Decree with Ecology for performance of remedial  
12 action at the Site. This includes, but is not limited to, MHNW 22 placing an environmental  
13 (restrictive) covenant on property within the Site that MHNW 22 owns if required by Ecology.  
14 Ecology agrees, consistent with its responsibilities under applicable law, to use reasonable  
15 efforts to minimize interference with MHNW 22's operations by such entry and remedial  
16 actions.

17 2. MHNW 22 shall, with respect to all property at the Site that MHNW 22 either  
18 owns, controls, or has access rights to provide Ecology, the Port and their representatives,  
19 contractors, and subcontractors with access at all reasonable times and subject to reasonable  
20 conditions to its property to conduct any activity relating to response actions at the Site. Ecology,  
21 or any Ecology authorized representative, or the Port shall give reasonable notice before entering  
22 any Site property owned or controlled by MHNW 22 unless an emergency prevents such notice.

23 Ecology, or any Ecology authorized representative, or the Port who access the Site pursuant to  
24 this section shall comply with any applicable health and safety plan(s). Ecology employees and  
25 their representatives shall not be required to sign any liability release or waiver as a condition of  
26 Site property access.

1           3.       MHNW 22 shall, with respect to all property at the Site that MHNW 22 either  
2 owns, controls, or has access rights to, refrain from using its property in any manner that Ecology  
3 determines will (i) pose an unacceptable risk to human health or the environment due to exposure  
4 to hazardous substances or (ii) interfere with or adversely affect the implementation, integrity,  
5 or protectiveness of remedial actions at the Site.

6           4.       In the event that MHNW 22 becomes aware of any action or occurrence that  
7 causes or threatens a release of hazardous substances, pollutants, or contaminants at or from the  
8 Site that constitutes an emergency situation or may present an immediate threat to public health  
9 or welfare or the environment, MHNW 22 shall immediately take all appropriate action. This  
10 immediate and appropriate action shall be to prevent, abate, or minimize such release or threat  
11 of release, and shall, in addition to complying with any applicable notification requirements  
12 under the MTCA, or any other law, immediately notify Ecology of such release or threatened  
13 release.

#### 14                               **VII. LAND USE RESTRICTIONS**

15           As detailed in the Lignin Operable Unit CAP (Exhibit D), institutional controls are  
16 required for the Lignin Operable Unit. Environmental (Restrictive) Covenants will be used to  
17 implement the institutional controls.

18           A.       In consultation with MHNW 22, Ecology will prepare the Environmental  
19 (Restrictive) Covenant consistent with WAC 173-340-440 and RCW 64.70, and any  
20 policies or procedures specified by Ecology. The Environmental (Restrictive) Covenants  
21 shall restrict future activities and uses of the Mercy Parcel within the Lignin Operable  
22 Unit as agreed to by Ecology and MHNW 22.

23           B.       After approval by Ecology, MHNW 22 shall record the Environmental  
24 (Restrictive) Covenant for affected properties it owns with the office of the Whatcom  
25 County Auditor as detailed in the Schedule (Exhibit E). MHNW 22 shall provide Ecology  
26

1 with the original recorded Environmental (Restrictive) Covenants within thirty (30) days  
2 of the recording date.

### 3 VIII. DESIGNATED PROJECT COORDINATORS

- 4 1. The project coordinator for Ecology is:

5 John Rapp  
6 Bellingham Field Office  
7 913 Squalicum Way, #101  
8 Bellingham, WA 98225  
9 360-206-594-0131  
10 Email: [john.rapp@ecy.wa.gov](mailto:john.rapp@ecy.wa.gov)

- 11 2. The project coordinator for MHNW 22 is:

12 Ellen Lohe  
13 Senior Developer  
14 Mercy Housing Northwest  
15 6930 Martin Luther King Jr Way S  
16 Seattle, WA 98118  
17 206-508-1655  
18 Email: [Ellen.lohe@mercyhousing.org](mailto:Ellen.lohe@mercyhousing.org)

19 3. Each project coordinator shall be responsible for overseeing the implementation  
20 of this Decree. Ecology's project coordinator will be Ecology's designated representative for the  
21 Site. To the maximum extent possible, communications between Ecology and MHNW 22 and  
22 all documents, including reports, approvals, and other correspondence concerning the activities  
23 performed pursuant to the terms and conditions of this Decree shall be directed through the  
24 project coordinators. The project coordinators may designate, in writing, working level staff  
25 contacts for all or portions of the implementation of the work to be performed required by this  
26 Decree.

4. Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

### IX. RETENTION OF RECORDS

1. During the pendency of this Decree, and for ten (10) years from the date this Decree is no longer in effect as provided in Section XXV (Duration of Decree), MHNW 22 shall

1 preserve all records, reports, documents, and underlying data in its possession relevant to the  
2 implementation of this Decree and shall insert a similar record retention requirement into all  
3 contracts with project contractors and subcontractors. Upon request of Ecology, MHNW 22 shall  
4 make all records available to Ecology and allow access for review within a reasonable time.

5 2. Nothing in this Decree is intended to waive any right MHNW 22 may have under  
6 applicable law to limit disclosure of Records protected by the attorney work-product privilege  
7 and/or the attorney-client privilege. If MHNW 22 withholds any requested Records based on an  
8 assertion of privilege, MHNW 22 shall provide Ecology with a privilege log specifying the  
9 Records withheld and the applicable privilege. No Site-related data collected pursuant to this  
10 Decree and in the possession of MHNW 22 shall be considered privileged.

#### 11 X. CERTIFICATION OF DEFENDANT

12 1. MHNW 22 represents and certifies that, to the best of its knowledge and belief,  
13 it has fully and accurately disclosed to Ecology the information currently in its possession or  
14 control that relates to the environmental conditions at and in the vicinity of the Lignin Operable  
15 Unit located within the Chlor-Alkali RAU and the Site.

16 2. MHNW 22 represents and certifies that it did not cause or contribute to a release  
17 or threatened release of hazardous substances at the Lignin Operable Unit located within the  
18 Chlor-Alkali RAU and the Site and are not otherwise currently potentially liable for the Site  
19 under RCW 70A.305.040(1).

#### 20 XI. TRANSFER OF INTEREST IN PROPERTY

21 1. No voluntary conveyance or relinquishment of title, easement, leasehold, or other  
22 interest in any portion of the Mercy Parcel shall be consummated by MHNW 22 without  
23 provision for continued operation and maintenance of any containment system, treatment  
24 system, and/or monitoring system installed or implemented pursuant to this Decree to the extent  
25 that such systems are present on the Mercy Parcel.

1 2. Prior to MHNW 22's transfer of any interest in all or any portion of the Site, and  
2 during the effective period of this Decree, MHNW 22 shall provide a copy of this Decree and  
3 the Port Consent Decree to any prospective purchaser, transferee, assignee, or other successor in  
4 said interest that may engage in any subsurface construction; and, at least thirty (30) days prior  
5 to any transfer, MHNW 22 shall notify Ecology of said transfer. Upon its transfer of any interest,  
6 MHNW 22s shall notify all transferees of the restrictions on the activities and uses of the property  
7 under this Decree and incorporate any such use restrictions into the transfer documents.

## 8 XII. RESOLUTION OF DISPUTES

9 1. In the event that MHNW 22 elects to invoke dispute resolution, MHNW 22 must  
10 utilize the procedure set forth below.

11 A. Upon the triggering event (receipt of Ecology's project coordinator's  
12 written decision or an itemized billing statement), MHNW 22 has fourteen (14) calendar  
13 days within which to notify Ecology's project coordinator in writing of its dispute  
14 (Informal Dispute Notice).

15 B. The Parties' project coordinators shall then confer in an effort to resolve  
16 the dispute informally. The parties shall informally confer for up to fourteen (14)  
17 calendar days from receipt of the Informal Dispute Notice. If the project coordinators  
18 cannot resolve the dispute within those 14 calendar days, then within seven (7) calendar  
19 days Ecology's project coordinator shall issue a written decision (Informal Dispute  
20 Decision) stating: the nature of the dispute; MHNW 22's position with regards to the  
21 dispute; Ecology's position with regards to the dispute; and the extent of resolution  
22 reached by informal discussion.

23 C. MHNW 22 may then request regional management review of the dispute.  
24 MHNW 22 must submit this request (Formal Dispute Notice) in writing to the Northwest  
25 Region Toxics Cleanup Section Manager within seven (7) calendar days of receipt of  
26 Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written



1 statement of dispute setting forth: the nature of the dispute; the disputing Party's position  
2 with respect to the dispute; and the information relied upon to support its position.

3 D. The Section Manager shall conduct a review of the dispute and shall issue  
4 a written decision regarding the dispute (Decision on Dispute) within thirty (30) calendar  
5 days of receipt of the Formal Dispute Notice.

6 E. If MHNW 22 finds Ecology's Regional Section Manager's decision  
7 unacceptable, MHNW 22 may then request final management review of the decision.  
8 This request (Final Review Request) shall be submitted in writing to the Toxics Cleanup  
9 Program Manager within seven (7) calendar days of MHNW 22's receipt of the Decision  
10 on Dispute. The Final Review Request shall include a written statement of dispute setting  
11 forth: the nature of the dispute; the disputing MHNW 22's position with respect to the  
12 dispute; and the information relied upon to support its position.

13 F. Ecology's Toxics Cleanup Program Manager shall conduct a review of  
14 the dispute and shall issue a written decision regarding the dispute (Final Decision on  
15 Dispute) within thirty (30) calendar days of receipt of the Final Review Request. The  
16 Toxics Cleanup Program Manager's decision shall be Ecology's final decision on the  
17 disputed matter.

18 2. If Ecology's Final Decision on Dispute is unacceptable to MHNW 22, it has the  
19 right to submit the dispute to the Court for resolution. The Parties agree that one judge should  
20 retain jurisdiction over this case and shall, as necessary, resolve any dispute arising under this  
21 Decree. Under RCW 70A.305.070, Ecology's investigative and remedial decisions shall be  
22 upheld unless they are arbitrary and capricious.

23 3. The Parties agree to only utilize the dispute resolution process in good faith and  
24 agree to expedite, to the extent possible, the dispute resolution process whenever it is used.  
25 Where either party utilizes the dispute resolution process in bad faith or for purposes of delay,  
26 the other party may seek sanctions.

1 4. Implementation of these dispute resolution procedures shall not provide a basis  
2 for delay of any activities required in this Decree, unless Ecology agrees in writing to a schedule  
3 extension or the Court so orders.

4 5. In case of a dispute, failure to either proceed with the work required by this  
5 Decree or timely invoke dispute resolution may result in Ecology's determination that  
6 insufficient progress is being made in preparation of a deliverable, and may result in Ecology  
7 undertaking the work under Section XXII (Implementation of Remedial Action).

### 8 **XIII. AMENDMENT OF DECREE**

9 1. The Parties may agree to minor changes to this Decree without the Decree being  
10 formally amended. Minor changes will be documented in writing by Ecology.

11 2. Substantial changes to the work to be performed shall require formal amendment  
12 of this Decree. This Decree may only be formally amended by a written stipulation among the  
13 Parties that is entered by the Court, or by order of the Court. Ecology will provide its written  
14 consent to a formal amendment only after public notice and opportunity to comment on the  
15 formal amendment. Such amendment shall become effective upon entry by the Court.  
16 Agreement to amend the Decree shall not be unreasonably withheld by any party.

17 3. When requesting a change to the Decree, MHNW 22 shall submit a written  
18 request to Ecology for approval. Ecology shall indicate its approval or disapproval in writing  
19 and in a timely manner after the written request is received. If Ecology determines that the  
20 change is substantial, then the Decree must be formally amended. Reasons for the disapproval  
21 of a proposed change to this Decree shall be stated in writing. If Ecology does not agree to the  
22 requested change, the disagreement may be addressed through the dispute resolution procedures  
23 described in Section XIII (Resolution of Disputes).

### 24 **XIV. ENDANGERMENT**

25 1. In the event Ecology determines that any activity being performed at the Lignin  
26 Operable Unit under this Decree is creating or has the potential to create a danger to human

1 health or the environment, Ecology may direct MHNW 22 to cease such activities for such period  
2 of time as it deems necessary to abate the danger. MHNW 22 shall immediately comply with  
3 such direction.

4 In the event MHNW 22 determines that any activity being performed at the Lignin  
5 Operable Unit under this Decree is creating or has the potential to create a danger to human  
6 health or the environment, MHNW 22 may cease such activities. MHNW 22 shall notify  
7 Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after  
8 making such determination or ceasing such activities. Upon Ecology's direction, MHNW 22  
9 shall provide Ecology with documentation of the basis for the determination or cessation of such  
10 activities. If Ecology disagrees with MHNW 22's cessation of activities, it may direct MHNW  
11 22 to resume such activities.

12 3. If Ecology concurs with or orders a work stoppage pursuant to this section,  
13 MHNW 22's obligations with respect to the ceased activities shall be suspended until Ecology  
14 determines the danger is abated, and the time for performance of such activities, as well as the  
15 time for any other work dependent upon such activities, shall be extended, in accordance with  
16 Section XV (Extension of Schedule), for such period of time as Ecology determines is reasonable  
17 under the circumstances.

18 4. Nothing in this Decree shall limit the authority of Ecology, its employees, agents,  
19 or contractors to take or require appropriate action in the event of an emergency.

## 20 **XV. COVENANT NOT TO SUE**

21 1. Covenant Not to Sue: In consideration of MHNW 22's compliance with the terms  
22 and conditions of this Decree, Ecology covenants not to institute legal or administrative actions  
23 against MHNW 22 regarding the release or threatened release of hazardous substances at the  
24 Site as described in Section V (Findings of Fact) and as depicted in Exhibit A (Site Location  
25 Diagram). This Covenant Not to Sue does not cover any other hazardous substance(s) or area.  
26

1 Ecology retains all of its authority relative to any hazardous substance(s) or area not covered by  
2 this Decree.

3 This Covenant Not to Sue shall have no applicability whatsoever to:

- 4 A. Criminal liability.
- 5 B. Liability for damages to natural resources.
- 6 C. Any Ecology action, including cost recovery, against PLPs not a party to  
7 this Decree.

8 2. Pursuant to RCW 70A.305.040(4)(c), the Court shall amend this Covenant Not  
9 to Sue if factors not known at the time of entry of this Decree are discovered and present a  
10 previously unknown threat to human health or the environment.

11 3. Reopeners: Ecology specifically reserves the right to institute legal or  
12 administrative action against MHNW 22 to require remedial actions at the Mercy Parcel owned  
13 by MHNW 22 and to pursue appropriate cost recovery, pursuant to RCW 70A.305.050, under  
14 any of the following circumstances:

- 15 A. Upon MHNW 22's failure to meet the requirements of this Decree.
- 16 B. Failure of the remedial action to meet the cleanup standards identified in  
17 the Lignin Operable Unit CAP (Exhibit D).
- 18 C. Upon Ecology's determination that additional remedial actions are  
19 necessary to abate an imminent and substantial endangerment to human health or the  
20 environment.
- 21 D. Upon the availability of new information regarding factors previously  
22 unknown to Ecology, including the nature, quantity, migration, pathway, or mobility of  
23 hazardous substances, and Ecology's determination, in light of this information, that  
24 further remedial action is necessary at the Mercy Parcel to protect human health or the  
25 environment.

1 E. Upon Ecology's determination that additional remedial actions are  
2 necessary at the Mercy Parcel to achieve cleanup standards within the reasonable  
3 restoration time frame set forth in the Lignin Operable Unit CAP (Exhibit D).

4 Before requiring MHNW 22 to perform additional remedial actions, or pursuing appropriate cost  
5 recovery from MHNW 22, under any of the above circumstances listed in B – E, Ecology will  
6 require the Port to perform the additional remedial actions, and pursue appropriate cost recovery  
7 from the Port, in accordance with section XVII (Covenant Not to Sue) of the Port Consent  
8 Decree.

9 4. Except in the case of an emergency, prior to instituting legal or administrative  
10 action against MHNW 22 pursuant to this section, Ecology shall provide MHNW 22 with fifteen  
11 (15) calendar days' notice of such action.

#### 12 **XVI. CONTRIBUTION PROTECTION**

13 1. With regard to claims for contribution against MHNW 22, the Parties agree that  
14 MHNW 22 is entitled to protection against claims for contribution for matters addressed in this  
15 Decree as provided by RCW 70A.305.040(4)(d).

#### 16 **XVII. INDEMNIFICATION**

17 1. MHNW 22 agrees to indemnify and save and hold the State of Washington, its  
18 employees, and agents harmless from any and all claims or causes of action (1) for death or  
19 injuries to persons, or (2) for loss or damage to property to the extent arising from or on account  
20 of acts or omissions of MHNW 22, its officers, employees, agents, or contractors in entering into  
21 and implementing this Decree. However, MHNW 22 shall not indemnify the State of  
22 Washington nor save nor hold its employees and agents harmless from any claims or causes of  
23 action to the extent arising out of the negligent acts or omissions of the State of Washington, or  
24 the employees or agents of the State, in entering into or implementing this Decree.

1 **XVIII. COMPLIANCE WITH APPLICABLE LAWS**

2 1. *Applicable Law.* All actions carried out by MHNW 22 pursuant to this Decree  
3 shall be done in accordance with all applicable federal, state, and local requirements, including  
4 requirements to obtain necessary permits, except as provided in RCW 70A.305.090. The permits  
5 or specific federal, state, or local requirements that the agency has determined are applicable and  
6 that are known at the time of the execution of this Decree have been identified in the Lignin  
7 Operable Unit CAP (Exhibit D). MHNW 22 has a continuing obligation to identify additional  
8 applicable federal, state, and local requirements which apply to actions carried out pursuant to  
9 this Decree, and to comply with those requirements. As additional federal, state, and local  
10 requirements are identified by Ecology or MHNW 22, Ecology will document in writing if they  
11 are applicable to actions carried out pursuant to this Decree, and MHNW 22 will coordinate with  
12 the Port to implement those requirements.

13 2. *Relevant and Appropriate Requirements.* All actions carried out by MHNW 22  
14 pursuant to this Decree shall be done in accordance with relevant and appropriate requirements  
15 identified by Ecology. The relevant and appropriate requirements that Ecology has determined  
16 apply have been identified in the Lignin Operable Unit CAP Exhibit D. If additional relevant  
17 and appropriate requirements are identified by Ecology or MHNW 22, Ecology will document  
18 in writing if they are applicable to actions carried out pursuant to this Decree and MHNW 22  
19 will coordinate with the Port to implement those requirements.

20 3. MHNW 22 has a continuing obligation to consult with and support the Port in  
21 determining whether additional permits or approvals addressed in RCW 70A.305.090(1) would  
22 otherwise be required for the remedial action under this Decree. In the event either Ecology, the  
23 Port, or MHNW 22 determines that additional permits or approvals addressed in  
24 RCW 70A.305.090(1) would otherwise be required for the remedial action under this Decree, it  
25 shall promptly notify the other party of its determination. Ecology shall determine whether  
26 Ecology, the Port, or MHNW 22 shall be responsible to contact the appropriate state and/or local

1 agencies. If Ecology so requires, the Port or MHNW 22 shall promptly consult with the  
2 appropriate state and/or local agencies and provide Ecology with written documentation from  
3 those agencies of the substantive requirements those agencies believe are applicable to the  
4 remedial action. Ecology shall make the final determination on the additional substantive  
5 requirements that must be met by the Port or MHNW 22 and on how the Port or MHNW 22 must  
6 meet those requirements. Ecology shall inform the Port or MHNW 22 in writing of these  
7 requirements. Once established by Ecology, the additional requirements shall be enforceable  
8 requirements of this Decree. The Port or MHNW 22 shall not begin or continue the remedial  
9 action potentially subject to the additional requirements until Ecology makes its final  
10 determination.

11 4. Pursuant to RCW 70A.305.090(2), in the event Ecology determines that the  
12 exemption from complying with the procedural requirements of the laws referenced in  
13 RCW 70A.305.090(1) would result in the loss of approval from a federal agency that is necessary  
14 for the state to administer any federal law, the exemption shall not apply and MHNW 22 shall  
15 comply with both the procedural and substantive requirements of the laws referenced in  
16 RCW 70A.305.090(1), including any requirements to obtain permits or approvals.

#### 17 **XIX. REMEDIAL ACTION COSTS**

18 1. MHNW 22 shall pay to Ecology costs incurred by Ecology pursuant to this  
19 Decree and consistent with WAC 173-340-550(2). These costs shall include work performed by  
20 Ecology or its contractors for, or on, the Lignin Operable Unit under RCW 70A.305, including  
21 remedial actions and Decree preparation, negotiation, oversight, and administration. These costs  
22 shall include work performed both prior to and subsequent to the entry of this Decree. Ecology's  
23 costs shall include costs of direct activities and support costs of direct activities as defined in  
24 WAC 173-340-550(2). For all costs incurred, MHNW 22 shall pay the required amount within  
25 thirty (30) days of receiving from Ecology an itemized statement of costs that includes a  
26 summary of costs incurred, an identification of involved staff, and the amount of time spent by

1 involved staff members on the project. A general statement of work performed will be provided  
2 upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-  
3 550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement  
4 of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded  
5 monthly.

6         2.         In addition to other available relief, pursuant to RCW 19.16.500, Ecology may  
7 utilize a collection agency and/or, pursuant to RCW 70A.305.060, file a lien against real property  
8 subject to the remedial actions to recover unreimbursed remedial action costs.

9                   **XX.   IMPLEMENTATION OF REMEDIAL ACTION**

10         1.         Except where necessary to abate an emergency or where required by law, MHNW  
11 22 shall not perform any remedial actions at the Lignin Operable Unit unless Ecology concurs,  
12 in writing, with such additional remedial actions pursuant to Section XIV (Amendment of  
13 Decree). In the event of an emergency, or where actions are taken as required by law, MHNW  
14 22 must notify Ecology in writing of the event and remedial action(s) planned or taken as soon  
15 as practical but no later than within twenty-four (24) hours of the discovery of the event.

16                   **XXI. PERIODIC REVIEW**

17         1.         So long as remedial action continues at the Site, the Parties agree to review the  
18 progress of remedial action at the Site, and to review the data accumulated as a result of  
19 monitoring the Site as often as is necessary and appropriate under the circumstances. Unless  
20 otherwise agreed to by Ecology, at least every five (5) years after the initiation of cleanup action  
21 at the Site the Parties shall confer regarding the status of the Site and the need, if any, for further  
22 remedial action at the Site. Under Section XVII (Covenant Not to Sue), Ecology reserves the  
23 right to require further remedial action at the Site under appropriate circumstances. This  
24 provision shall remain in effect for the duration of this Decree.



1 **XXII. PUBLIC PARTICIPATION**

2 1. Ecology shall maintain the responsibility for public participation at the Site.  
3 However, as to the Lignin Operable Unit, MHNW 22 shall cooperate with Ecology, and shall:

4 A. If agreed to by Ecology and in coordination with the Port, develop  
5 appropriate mailing lists, prepare drafts of public notices and fact sheets. As appropriate,  
6 Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute  
7 public notices of Ecology's presentations and meetings.

8 B. Notify Ecology's project coordinator prior to the preparation of all press  
9 releases and fact sheets, and before meetings related to remedial action work to be  
10 performed at the Lignin Operable Unit with the interested public and/or local  
11 governments. Likewise, Ecology shall notify MHNW 22 prior to the issuance of all press  
12 releases and fact sheets related to remedial action work to be performed at the Lignin  
13 Operable Unit, and before meetings related to remedial action work to be performed at  
14 the Lignin Operable Unit with the interested public and/or local governments. For all  
15 press releases, fact sheets, meetings, and other outreach efforts by MHNW 22 that do not  
16 receive prior Ecology approval, MHNW 22 shall clearly indicate to its audience that the  
17 press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed  
18 by Ecology.

19 C. When requested by Ecology, participate in public presentations on the  
20 progress of the remedial action at the Lignin Operable Unit. Participation may be through  
21 attendance at public meetings to assist in answering questions, or as a presenter.

22 D. When requested by Ecology, arrange and/or continue information  
23 repositories at the following locations:

- 24 i. Bellingham Public Library  
25 210 Central Avenue  
26 Bellingham, Washington 98225

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- ii. Ecology's Northwest Regional Office  
15700 Dayton Ave N  
Shoreline, WA 98133
- iii. Ecology's Bellingham Field Office  
913 Squalicum Way #101  
Bellingham, Washington 98225

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this Site shall be maintained in the repository at Ecology's Northwest Regional Office in Shoreline, Washington.

**XXIII. DURATION OF DECREE**

1. The actions required pursuant to this Decree shall be maintained and continued until MHNW 22 has received written notification from Ecology that the requirements of this Decree have been satisfactorily completed. This Decree shall remain in effect until dismissed by the Court. When dismissed, Section XI (Retention of Records), Section XVII (Covenant Not to Sue), Section XVIII (Contribution Protection), Section XIX (Indemnification), and Section XXVI (Claims Against the State) shall survive.

**XXIV. CLAIMS AGAINST THE STATE**

1. MHNW 22 hereby agrees that it will not seek to recover any costs accrued in implementing the actions required by this Decree from the State of Washington or any of its agencies; and further, that MHNW 22 will make no claim against any MTCA account for any costs incurred in implementing this Decree. Except as provided above, however, MHNW 22 expressly reserves its right to seek to recover any costs incurred in implementing this Decree from any other PLP. This section does not limit or address funding that may be provided under WAC 173-322A.

**XXV. EFFECTIVE DATE**

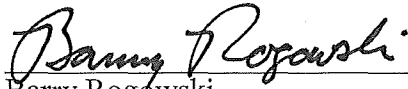
1. This Decree is effective upon the date it is entered by the Court.

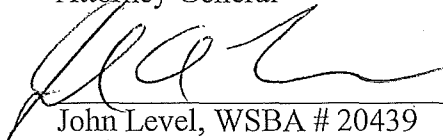
1 **XXVI. WITHDRAWAL OF CONSENT**

2 1. If the Court withholds or withdraws its consent to this Decree, it shall be null and  
3 void at the option of any party and the accompanying Complaint shall be dismissed without costs  
4 and without prejudice. In such an event, no party shall be bound by the requirements of this  
5 Decree.

6 STATE OF WASHINGTON  
7 DEPARTMENT OF ECOLOGY

ROBERT W. FERGUSON  
Attorney General

8 



9 Barry Rogowski  
10 Program Manager  
11 Toxics Cleanup Program  
12 (360) 407-7226

John Level, WSBA # 20439  
Assistant Attorney General  
360-586-6753

11 Date: 9/22/22

Date: 9/22/2022

14 MHNW 22 Millworks Family LLLP, a Washington limited liability limited partnership

15 By: MHNW 22 Millworks Family GP LLC,  
16 a Washington limited liability company  
17 Its: General Partner

17 By: Mercy Housing Northwest,  
18 a Washington nonprofit corporation  
19 Its: Manager

19 By: \_\_\_\_\_  
20 Name: Joe Thompson  
21 Its: President

21 Date: \_\_\_\_\_

22 //

23 //

24 //

25 //

26 //

1 **XXVI. WITHDRAWAL OF CONSENT**

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6 STATE OF WASHINGTON  
7 DEPARTMENT OF ECOLOGY

ROBERT W. FERGUSON  
Attorney General

8  
9 \_\_\_\_\_  
Barry Rogowski  
10 Program Manager  
Toxics Cleanup Program  
(360) 407-7226

John Level, WSBA # 20439  
Assistant Attorney General  
360-586-6753

11 Date: \_\_\_\_\_

Date: \_\_\_\_\_

12  
13  
14 MHNW 22 Millworks Family LLLP, a Washington limited liability limited partnership

15 By: MHNW 22 Millworks Family GP LLC,  
a Washington limited liability company  
16 Its: General Partner

17 By: Mercy Housing Northwest,  
a Washington nonprofit corporation  
18 Its: Manager

19 By: \_\_\_\_\_  
20 Name: Joe Thompson  
Its: President

21 Date: 8/11/2022

22 //

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1 ENTERED this 20 day of October 2022.

2  
3 LEON F. HENLEY, JR.

4 JUDGE Commissioner  
5 Whatcom County Superior Court  
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# EXHIBIT A



WHATCOM WATERWAY

**GP WEST  
SITE BOUNDARY**



GIS Point Coordinates/Choropleth/2103683/Unlabeled/PR/CD/ Exhibit A GP West Site Map.mxd | Coordinate System: NAD 1983 StatePlane Washington North FIPS 4601 Feet | Date Saved: 5/28/2022 | User: aedible | Print Date: 5/28/2022



**GP West Site**

Basemap Layer: OpenStreetMap contributors | Esri, HERE, Garmin, (c) OpenStreetMap contributors  
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeBCo, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Beijing) Co., Swatch, (c) OpenStreetMap contributors, and the

# EXHIBIT B





WHATCOM WATERWAY

**PULP/TISSUE MILL  
REMEDIAL ACTION UNIT**

**CHLOR-ALKALI  
REMEDIAL  
ACTION UNIT**

**GP WEST SITE BOUNDARY**

**LIGNIN  
OPERABLE  
UNIT**

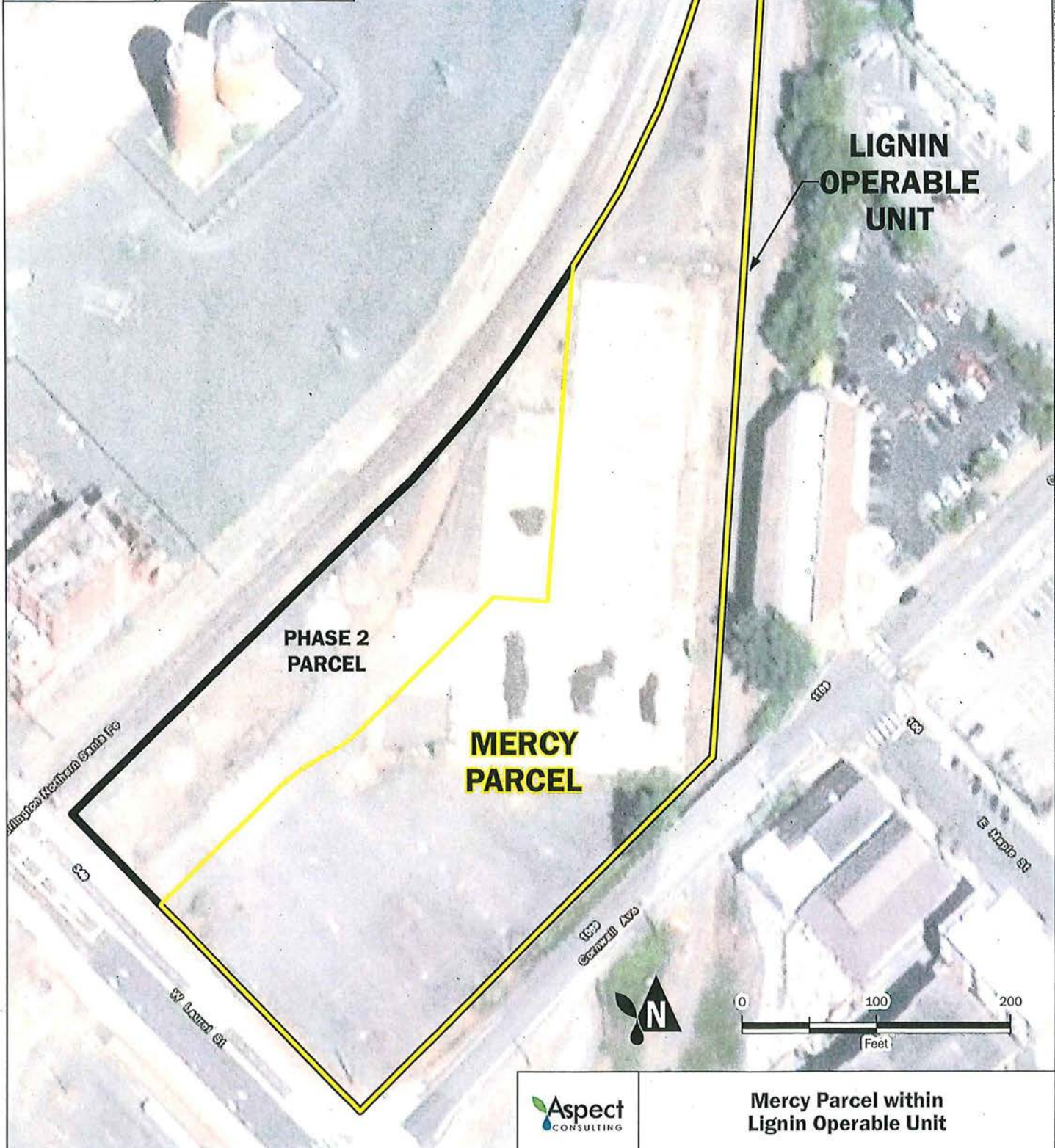


**Lignin Operable Unit within  
Chlor-Alkali RAU of GP West Site**

Map Layer: OASIS | Esri, HERE, Garmin, (c) OpenStreetMap contributors, Source: Esri, HERE, Garmin, Intelmap, Incentiv F Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the

SIS Path: G:\projects\Part of Bellingham University Land\GIS\Documents\Consolidated\Exhibit A Site Map.mxd | Coordinate System: NAD 1983 StatePlane Washington North FIPS 4801 Feet | Date Saved: 5/6/2022 | User: nicolle | Print Date: 5/6/2022

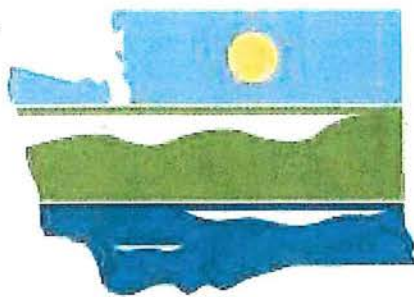
# EXHIBIT C



Basemap Layer Credits || Esri, HERE, Garmin, (c) OpenStreetMap contributors  
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the

	<p><b>Mercy Parcel within Lignin Operable Unit</b></p>
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# EXHIBIT D



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

DRAFT

CLEANUP ACTION PLAN

LIGNIN OPERABLE UNIT

Chlor-Alkali Remedial Action Unit of

Georgia-Pacific West Site

Bellingham, Washington

Facility Site ID: 14

Site Cleanup ID: 2279

June 2, 2022

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# 1 Introduction and Background

This Cleanup Action Plan (CAP) defines the cleanup action selected by the Washington State Department of Ecology (Ecology) for the portion of the Georgia-Pacific (G-P) West Site (Site) referred to as the Lignin Operable Unit (OU) of the Chlor-Alkali Remedial Action Unit (RAU). The Site is being cleaned up under the authority of the Washington State Model Toxics Control Act (MTCA), Chapter 70A.305 of the Revised Code of Washington (RCW), and the Model Toxics Control Act Cleanup Regulation, Chapter 173-340 of the Washington Administrative Code (WAC).

The Port of Bellingham (Port) acquired the former G-P Mill property located at 300 West Laurel Street in Bellingham, Washington, in January 2005. In August 2009, Ecology and the Port entered into Agreed Order No. DE 6834 (Order), which required the Port to perform a Remedial Investigation (RI) and a Feasibility Study (FS) for the Site. The Site is defined by the extent of contamination caused by the release of hazardous substances from the former mill facility, which included a Chlorine Plant<sup>1</sup> and a Pulp and Tissue Mill, and associated facilities.

In August 2013, a Site-wide RI was completed (Aspect, 2013) and an amendment to the Order separated the Site into the Pulp/Tissue Mill and Chlor-Alkali RAUs, which are shown on Figure 1. The amended Order established independent timelines for cleanup of the two RAUs, which allowed for expedited cleanup and redevelopment at the Pulp/Tissue Mill RAU.

For the Pulp/Tissue Mill RAU, Ecology issued the final Cleanup Action Plan (CAP) in October 2014 (Ecology, 2014). In December 2014, the Port and Ecology executed Consent Decree No. 142027008 requiring cleanup of the Site, which included the Pulp/Tissue Mill RAU CAP as Exhibit C. Cleanup construction for the Pulp/Tissue Mill RAU was completed in 2016. Since then, monitoring of groundwater natural attenuation and inspection and maintenance of the environmental cap have been ongoing.

For the Chlor-Alkali RAU, Ecology issued the final CAP in September 2021 (Ecology, 2021). Since then, the Port has been conducting remedial design for cleanup of the Chlor-Alkali RAU under the Order.

The Lignin OU is an approximately 4-acre property located within the Chlor-Alkali RAU and at the corner of Cornwall and Laurel Streets (Figure 1). During G-P's operation of the pulp and paper mill, lignin, a byproduct of pulping, was converted into commercial lignin-containing products.<sup>2</sup> No historical pulp/paper production processes occurred on the Lignin OU, although lignin waste liquors were stored in several aboveground storage tanks near the north<sup>3</sup> edge of the property. G-P used the Lignin Warehouse B, which

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<sup>1</sup> The terms "Chlor-Alkali Plant" and "Chlorine Plant" are used interchangeably.

<sup>2</sup> Including artificial vanilla flavoring, animal feeds, adhesives, pharmaceuticals, dust retardants, fuel pellets, solvents, ferromagnetic liquids, oil well drilling mud thinners, and other products.

<sup>3</sup> For consistency with previous environmental reports for the GP West Site, this document uses the former Georgia-Pacific mill's "Mill north" as its directional reference, with "Mill-north" approximately 45 degrees west of true north (see north arrows on figures).

occupied much of the Lignin OU (Figure 2), for storage of the finished lignin-containing commercial products until 2007. The Port demolished the Lignin Warehouse B in 2020.

The Chlor-Alkali RAU CAP-selected cleanup action for the Lignin OU included hard capping to contain soils contaminated with carcinogenic polycyclic aromatic hydrocarbons (cPAHs) that pose a direct contact risk for an unrestricted land use,<sup>4</sup> plus monitored natural attenuation (MNA) for dissolved chromium concentrations in groundwater.

Since 2019, the Port has been working with local development partners Mercy Housing Northwest and Millworks LLC to evaluate the feasibility of developing affordable/workforce housing and other mixed uses at the Lignin OU. In early 2019, Ecology selected the Port as a recipient of a Toxics Cleanup Healthy Housing Integrated Planning Grant (IPG) to fund early planning efforts for the integrated cleanup and redevelopment of the Lignin OU. In November 2021, Ecology issued a grant to the Port to support remedial design and construction for the Lignin OU Affordable Housing Project. The preliminary plans for the Mercy Housing Northwest Affordable Housing Project will redevelop a portion of the Lignin OU with a total of 83 affordable housing units and childcare facility.

In March 2022, Ecology issued a minor modification to the Order, amending the Schedule of Deliverables to include preparation of a draft CAP and completion of a pre-remedial design investigation (PRDI) for the Lignin OU, in addition to conducting remedial design for the Chlor-Alkali RAU outside of the Lignin OU.

## 2 Summary of Contaminant Nature and Extent

The Site-wide RI and Chlor-Alkali RAU FS identified the following contaminants of concern and impacted media within the Lignin OU:

- cPAHs in soil exceeding a cleanup level based on unrestricted human direct contact
- Chromium in groundwater exceeding cleanup levels that are protective of discharge to marine surface water and sediment<sup>5</sup>

Subsequent sampling and analysis conducted in 2022 confirmed those contaminants of concern and impacted media, and also identified the following:

- Zinc in soil exceeding a cleanup level based on unrestricted human direct contact
- Copper in groundwater exceeding a cleanup level that is protective of discharge to marine surface water and sediment

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<sup>4</sup> Assuming a child's incidental ingestion of soil for a lifetime.

<sup>5</sup> Groundwater throughout the GP West Site, including the Lignin OU, is deemed non-potable in accordance with MTCA.



The following sections further describe soil and groundwater contamination present within the Lignin OU.

## 2.1 Soil Contamination

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Figure 2 depicts the estimated extents of soil contamination at the Lignin OU posing an unacceptable risk for soil direct contact under an unrestricted (residential) land use. This collective area encompasses predominantly shallow soils (upper 2 feet) contaminated by cPAHs, but it also includes one small area containing high zinc concentrations to an estimated depth of 6 feet. While all portions of the historical railroad spur alignments were not sampled, they included treated railroad ties and, where shallow soil samples were collected from them, the soils contained cPAH concentrations greater than the cleanup level; it is therefore inferred that shallow soils along the entire railroad spur alignments contain cPAH exceedances.

The data also confirm that fill soils throughout most of the Lignin OU (at 30 of 37 soil sampling locations) contain concentrations of one or more metals (predominantly copper and zinc) exceeding concentrations predicted by the MTCA three-phase partitioning model (WAC 173-340-747(3)(a)) to contaminate groundwater by leaching. Figure 3 depicts the distribution of sampling locations where detected soil metals concentrations exceed and do not exceed the leaching-based cleanup levels (purple and green symbols, respectively).

### 2.1.1 Exclusion for Terrestrial Ecological Evaluation

The Lignin OU qualifies for an exclusion from conducting a terrestrial ecological evaluation (TEE) under MTCA based on the types of contamination present on the OU and its proximity to ecological receptors. Specifically, the Lignin OU is not contaminated by chlorinated chemicals and there is less than 1.5 acres of contiguous undeveloped land located anywhere within 500 feet of the OU. Therefore, in accordance with MTCA (WAC 173-340-7491(1)(c)), no further terrestrial ecological evaluation is required for the Lignin OU.

## 2.2 Groundwater Contamination

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Despite the widespread distribution of soil metals exceeding leaching criteria, the empirical groundwater data collected within the Lignin OU indicate that metals contamination in groundwater has declined over time and is currently not extensive in space or of high magnitude concentration. Figure 4 illustrates the generalized groundwater flow direction, and locations of monitoring wells with and without metals exceedances during the 2022 groundwater sampling within the Lignin OU.

The gradual improvement in groundwater metals concentrations is indicated by sampling data from well LW-MW01 located along the property's northern boundary (Figure 4), in which dissolved chromium concentrations declined from an average of about 700 µg/L when measured in 2009-2010 to an average of about 30 µg/L when measured in 2022. Despite the gradual improvement over time, low-level metals exceedances persist in

groundwater at the Lignin OU. During one of the two 2022 sampling events,<sup>6</sup> dissolved chromium was detected at a concentration exceeding its cleanup level in newly installed monitoring well LW-MW02 located upgradient<sup>7</sup> of LW-MW01 (Figure 4). In addition, dissolved copper was detected at concentrations exceeding its cleanup level in wells LW-MW02 and LW-MW03 during one of the two 2022 sampling events. No dissolved metals exceedances were detected in wells LW-MW01 and LW-MW04 located generally downgradient of wells LW-MW02 and LW-MW03.

None of the groundwater metals exceedances were reproducible in the two rounds of 2022 sampling and none were greater than two times the cleanup level. The dissolved metals exceedances are largely attributable to natural geochemically reducing conditions that enhance the mobility of metals in the shallow water-bearing unit, as is observed throughout the entire Site.

### 3 Remedial Action Objectives

Remedial action objectives (RAOs) are specific goals for protecting human health and the environment assuming an unrestricted (non-industrial) land use within the Lignin OU. RAOs for the Lignin OU are as follows:

- Permanently remove cPAH- and zinc-contaminated soils to achieve cleanup levels for unrestricted soil direct contact. This will eliminate the need for engineering and institutional controls with respect to soil direct contact exposure for the planned residential redevelopment.
- Remove additional metals-impacted soil to accelerate the restoration timeframe for natural attenuation of metals contamination in groundwater.
- Prevent discharge of metals-contaminated groundwater from the Lignin OU to the Whatcom Waterway.

## 4 The Selected Cleanup Action

### 4.1 Description of Selected Cleanup Action

The selected cleanup action for the Lignin OU consists of the following elements as illustrated on Figure 5:

**Remove Contaminated Soils Posing a Direct Contact Risk.** The cleanup will include the Port's excavation and disposal at a permitted off-Site landfill of an estimated 5,600 tons of soils containing concentrations of cPAHs and/or zinc greater than soil cleanup levels for unrestricted direct contact. This includes soils in the following areas:

- cPAH-contaminated soils extending to an estimated depth of 2 feet in areas north of the historical warehouse including the rail spur there, at the west end of the

<sup>6</sup> Conducted in January and February 2022.

<sup>7</sup> The groundwater flow direction is to the northwest, toward Laurel Street, as depicted on Figure 4.

warehouse, beneath a portion of the warehouse, and along the rail spur extending northeastward from the warehouse (purple crosshatched areas on Figure 5).

- A localized occurrence of zinc-contaminated soils in the southwest portion of the OU extending to the fill-native soil contact at an estimated depth of approximately 6 feet (dark blue crosshatched area on Figure 5).

Once the post-excavation, performance-monitoring sampling demonstrates that direct contact cleanup levels have been achieved for the OU, the excavation areas will be backfilled with suitable clean fill to the design grades within the subsequent affordable housing redevelopment and to existing grades outside of that redevelopment area.

**Remove Structural Obstructions and Metals-Impacted Soils.** The cleanup will also include the Port's removal and off-Site disposition of: (a) an estimated 8,400 tons of remnant structures (e.g., concrete foundation elements including the large floor slab of the former Lignin Warehouse B, asphalt pavement, and railroad spurs) located on top of and adjacent to contaminated soils being removed, and (b) an estimated 10,400 tons of metals-impacted soils requiring excavation to accelerate the restoration timeframe for natural attenuation of metals contamination in groundwater. The excavation depth for most of those soils is 4 feet or less, with a localized excavation as deep as 7 feet (green-shaded areas on Figure 5). Because the metals concentrations in those soils exceed leaching-based soil cleanup levels, removing them will permanently reduce the mass of metals contamination remaining within the Lignin OU soils and thereby accelerate the restoration timeframe for metals concentrations in the OU's groundwater.

The excavation areas will be backfilled as needed with suitable clean fill to meet the design grades for the subsequent redevelopment. All recyclable structural materials (e.g., concrete, asphalt, metal) removed during the cleanup will be transported to permitted facilities for recycling.

**Monitored Natural Attenuation (MNA) of Groundwater.** The cleanup will include MNA to address residual dissolved chromium and copper concentrations that exceed groundwater cleanup levels based on protection of discharge to the Whatcom Waterway. The dissolved metals concentrations are expected to continue to attenuate through a combination of sorption/complexation and dispersion.

The Port will prepare a Compliance Monitoring Plan for Groundwater MNA as a deliverable for cleanup of the Lignin OU. The MNA Compliance Monitoring Plan will identify monitoring locations, analytes, and frequency. The Port will decommission all existing monitoring wells at the start of the Lignin OU soil removal action and will install new monitoring wells for the MNA monitoring program after completion of the soil removal project. The MNA monitoring wells will be positioned along the downgradient edge of the Lignin OU which, based on a groundwater flow direction toward the northwest, would be along the north and northwestern boundaries of the OU as indicated on Figure 4. Specific locations for the new wells will be identified in the MNA Compliance Monitoring Plan and will consider location of utilities or other access considerations following completion of the soil removal action.

The Port will implement a contingent groundwater cleanup action if it is determined that groundwater MNA within the Lignin OU is not sufficient to prevent migration of groundwater exceeding cleanup levels to the Whatcom Waterway (e.g., if a statistically significant increasing trend for concentrations is measured at the downgradient edge of the OU).

**Institutional Controls.** The Port and Ecology will develop environmental covenants for the Lignin OU that restrict certain activities and uses of the property to protect the integrity of the selected cleanup action and thereby protect human health and the environment. It is anticipated that institutional controls for the Lignin OU will:

- Prohibit interference with the completed cleanup action
- Prohibit use of groundwater
- Provide for long-term monitoring and stewardship of the cleanup action

The Port intends to sell Mercy Housing Northwest a parcel of land encompassing the southern portion of the Lignin OU within which the affordable housing redevelopment will occur. The Port will retain ownership of the remaining northern parcel within the Lignin OU. The Port and Mercy Housing Northwest will seek separate environmental covenants for their respective parcels within the Lignin OU. The two parties will work with Ecology and the Attorney General's Office to define each covenant's specific restrictions and requirements applicable to each parcel prior to the covenants being legally recorded with Whatcom County.

## 4.2 Contamination Remaining in the Lignin OU

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The selected cleanup action requires the removal of all contaminated soils posing a potential risk for unrestricted soil direct contact. Therefore, no soil posing a direct contact risk under any future land use will remain following the completion of the cleanup action. Fill soils throughout most of the Lignin OU contain concentrations of one or more metals greater than cleanup levels based on leaching to groundwater. Following the removal of roughly 16,000 tons of soil during the cleanup, an estimated 48,000 tons of fill soil containing metals exceedances of leaching-based soil cleanup levels will remain in the OU.

Groundwater containing residual metals concentrations exceeding cleanup levels based on protection of discharge to the Whatcom Waterway is generally located within the eastern half of the Lignin OU. Groundwater monitoring data indicate that the groundwater cleanup levels are currently achieved at the downgradient edge of the OU, which is approximately 1,000 feet from the point of groundwater discharge to the Whatcom Waterway.

The Groundwater MNA Compliance Monitoring Plan discussed in Section 4.1 will also define requirements for data evaluation and reporting, including a decision process for adjusting the monitoring program over time and ultimately ceasing it. It will also include provisions for implementation of a contingent action if it is determined that groundwater MNA within the Lignin OU is not sufficient to prevent migration of groundwater exceeding cleanup levels to the Whatcom Waterway (e.g., statistically significant increasing trend for concentrations at the downgradient edge of the OU). Contingent

actions the Port may need to perform could include groundwater treatment and/or control. Selection and design of a contingent action would be conducted if potential failure of MNA is indicated based on groundwater compliance monitoring results. At that time, substantial information would be available to determine the causes of failure and, therefore, the most effective and practicable means to remedy it.

### **4.3 Other Remedial Alternatives Evaluated**

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The FS for Chlor-Alkali RAU evaluated eight remedial alternatives (Alternatives 1 through 8). Specific to the Lignin OU portion of the RAU, each of the eight alternatives included groundwater MNA for metals and institutional controls. Alternatives 1 through 6 included capping to contain the cPAH-contaminated soils and Alternatives 7 and 8 included excavation and landfilling of the cPAH-contaminated soils. Refer to Section 7 of the Chlor-Alkali FS (Aspect, 2018) for more detailed descriptions of the eight remedial alternatives evaluated.

### **4.4 Rationale for Selecting Cleanup Action**

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The Chlor-Alkali RAU FS determined that each of the eight remedial alternatives considered would meet the following MTCA threshold requirements and other requirements in accordance with WAC 173-340-360(2):

#### Threshold Requirements

- Protection of human health and the environment
- Compliance with cleanup standards and applicable state and federal laws
- Provision for compliance monitoring

#### Other Requirements

- Use of permanent solutions to the maximum extent practicable
- Provision for a reasonable restoration time frame
- Consideration of public concerns

The FS included a disproportionate cost analysis (DCA) to assess the extent to which the remedial alternatives would use permanent solutions to the maximum extent practicable. The DCA quantified the environmental benefits of each alternative, and then compared incremental benefits versus costs between alternatives. Under MTCA, costs are disproportionate to benefits if the incremental cost of a more permanent alternative over that of a lower-cost alternative exceeds the incremental benefits achieved by the more permanent alternative. Based on the results of the DCA, Alternative 4 was identified as the alternative that is permanent to the maximum extent practicable for the Chlor-Alkali RAU. Refer to Section 8.3 of the Chlor-Alkali RAU FS for more a detailed description of the DCA for the eight remedial alternatives. Ecology's CAP for the Chlor-Alkali RAU selected Alternative 4 as the cleanup action (Ecology, 2021).

For the Lignin OU portion of the Chlor-Alkali RAU, Alternative 4 included capping (containment) of cPAH-contaminated soils, MNA for metals in groundwater, and institutional controls.

Since completion of the Chlor-Alkali CAP, the redevelopment planning for the Lignin OU has advanced to include residential use and a child-care facility. Consistent with that future use, Ecology is increasing the permanence, protectiveness, and long-term effectiveness of the Lignin OU cleanup action to include full removal (instead of capping) of contaminated soils that pose a risk due to direct contact with soil under the future land use. The Chlor-Alkali RAU CAP anticipated completing a more permanent cleanup action for capped areas when justified to support redevelopment, by including the following language:

*“As redevelopment of the RAU occurs, the redevelopment project proponent may choose to permanently remove (excavate/properly dispose), instead of cap, residual contaminated soils if such an action is completed in consultation with, and with approval from, Ecology. Excavation of soils undertaken as part of future redevelopment at the Site may require a formal amendment to this Cleanup Action Plan and any associated future Consent Decree, depending on the contaminant levels of the soil to be excavated and the depth or location of the excavation.”*

MNA for metals in groundwater and institutional controls remain in the selected cleanup action for the Lignin OU.

#### **4.5 Compliance with WAC 173-340-360**

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The cleanup action selected for the Lignin OU complies with the provisions of WAC 173-340-360. It will be protective of human health and the environment, comply with cleanup standards and applicable state and federal laws, and provide for compliance monitoring.

Contaminated soils that pose a direct-contact risk will be excavated and properly disposed of at a landfill permitted to receive and manage the soils. Additional metals-impacted soils will also be excavated and disposed of, and thereby reduce the restoration timeframe for metals in groundwater. MNA will address residual metals contamination in groundwater that exceeds applicable groundwater cleanup levels, and a groundwater MNA Compliance Monitoring Plan will specify identification and implementation of a contingency action if groundwater contaminant migration to the Whatcom Waterway is indicated based on the monitoring information. Institutional controls in the form of an environmental covenant for the Lignin OU will prohibit activities that would interfere with the completed cleanup action, prohibit use of groundwater, and provide for long-term monitoring and stewardship of the cleanup action.

Ecology determines that the selected cleanup action uses permanent solutions to the maximum extent practicable and provides for a reasonable restoration time frame.

### **5 Cleanup Standards**

A cleanup standard consists of a cleanup level for a hazardous substance present at a site, combined with the location where the cleanup level must be met (point of compliance), and other regulatory requirements that apply to the site (“applicable state and federal laws”). The soil and groundwater cleanup standards for the Lignin OU are described below.

## 5.1 Soil

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Table 1 lists soil cleanup levels for the contaminants of concern within the Lignin OU. Soil cleanup levels are provided for the soil direct contact (soil ingestion) and soil-leaching-to-groundwater pathways. In accordance with MTCA, soil cleanup levels based on groundwater protection are different for soils located above the water table (unsaturated soil) versus soils below the water table (saturated soil), as presented in Table 1. The exception is total cPAHs (TEQ), for which the values are the same and are based on an empirical demonstration using groundwater quality data in accordance with MTCA (WAC 173-340-747(9)). Soil cleanup levels based on unrestricted direct contact are the same value for unsaturated and saturated soils.

The point of compliance for soil cleanup levels based on groundwater protection is all depths within the corresponding unsaturated or saturated soil zone. The point of compliance for the direct-contact exposure pathway is from the ground surface to 15 feet below ground surface (bgs).

## 5.2 Groundwater

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Table 2 lists groundwater cleanup levels for the contaminants of concern within the Lignin OU. As described in the Chlor-Alkali CAP (Ecology, 2021), the highest beneficial use of groundwater throughout the Site, including the Lignin OU, is discharge to marine sediment and water—not potable use.

In the Chlor-Alkali RAU CAP, Ecology established conditional points of compliance for achieving groundwater cleanup levels in the sediment bioactive zones of the Log Pond within the Whatcom Waterway and Bellingham Bay based on an evaluation of reasonable restoration timeframes for the mercury plumes in those areas, as presented in Section 9 of the Chlor-Alkali RAU FS (Aspect, 2018). The FS evaluation did not consider metals in Lignin OU groundwater. Therefore, groundwater cleanup levels apply to groundwater throughout the Lignin OU (i.e., a standard point of compliance) in accordance with WAC 173-340-720(8)(b). The fact that Lignin OU groundwater cleanup levels are established to be protective at the point of groundwater discharge to the Whatcom Waterway may be considered in any future assessment for implementation of a contingency action for groundwater MNA as described in Section 4.1.

## 6 Applicable State and Federal Laws

Cleanup standards established for the Lignin OU of the Chlor-Alkali RAU incorporate applicable state and federal laws and regulations in the form of chemical-specific regulatory criteria for soil and groundwater. In addition, there may be location- and action-specific requirements for completing a cleanup action.

In accordance with MTCA, the Lignin OU cleanup action would be exempt from the procedural requirements of RCW Chapters 70A.15, 70A.205, 70A.300, 77.55, 90.48, and 90.58, and of any laws requiring or authorizing state or local government permits or approvals. However, the Port must still comply with the substantive requirements of such

permits or approvals (WAC 173-340-520). The cleanup action must also comply with any applicable federal regulations and obtain any required federal permits.

## 7 Cleanup Implementation Schedule

The March 2022 amended Schedule of Deliverables for the Order identifies milestones for completing this CAP and preparing a Project Plan for and then implementing the PRDI. The subsequent components of the Lignin OU cleanup process are as follows:

- Cleanup design (Engineering Design Report, Construction Plans and Specifications, and Compliance Monitoring Plan for Soil Removal)
- Cleanup construction
- As-Built Report for the cleanup construction
- Environmental covenant
- Groundwater MNA (MNA Compliance Monitoring Plan preparation, initiation of MNA monitoring, and Annual Reports for the MNA monitoring program).

Design and construction of the Lignin OU cleanup are planned to be completed in 2022. Thereafter, groundwater MNA compliance monitoring will continue until the requirements for terminating the monitoring program, as defined in the MNA Compliance Monitoring Plan, have been met.

Any schedule changes agreed to by Ecology and the Port will be formally documented in writing, pursuant to the terms of the Consent Decree's Extension of Schedule section.

## 8 References

- Aspect Consulting, LLC (Aspect), 2013, Remedial Investigation, Georgia-Pacific West Site, Bellingham, August 5, 2013, Volume 1 of RI/FS.
- Aspect Consulting, LLC (Aspect), 2018, Feasibility Study, Chlor-Alkali Remedial Action Unit, Vol. 2b of RI/FS, Georgia-Pacific West Site, Bellingham, Washington, June 2018.
- Washington State Department of Ecology (Ecology), 2014, Cleanup Action Plan, Pulp/Tissue Mill Remedial Action Unit, Georgia-Pacific West Site, Bellingham, Washington, October 30, 2014.
- Washington State Department of Ecology (Ecology), 2021, Cleanup Action Plan, Chlor-Alkali Remedial Action Unit, Georgia-Pacific West Site, Bellingham, Washington, September 7, 2021.



# **TABLES**

## Table 1. Soil Cleanup Levels for Contaminants of Concern

Lignin Operable Unit, Chlor-Alkali RAU Cleanup Action Plan, GP West Site

Constituent of Concern	Soil Cleanup Level (mg/kg)		
	Based on Unrestricted Direct Contact	Based on Leaching to Groundwater	
		Unsaturated Soil	Saturated Soil
<b>Heavy Metals</b>			
Cadmium	80	1	1
Chromium (Total)	120,000	5,200	260
Copper	3,200	36	36
Zinc	24,000	100	85
<b>Polycyclic Aromatic Hydrocarbons (PAHs)</b>			
Total cPAHs (TEQ)	0.19	0.19*	0.19*

**Abbreviations:** cPAH: carcinogenic PAH. mg/kg: milligrams per kilogram. TEQ: toxic equivalent concentration of benzo(a)pyrene.

**Notes:**

Cleanup levels are from the Chlor-Alkali Remedial Action Unit Cleanup Action Plan (Ecology, 2021), with distinction made here for levels based on soil direct contact versus those based on leaching to groundwater.

\*: Determined based on empirical demonstration of soil concentrations protective of groundwater in accordance with WAC 173-340-747(9).

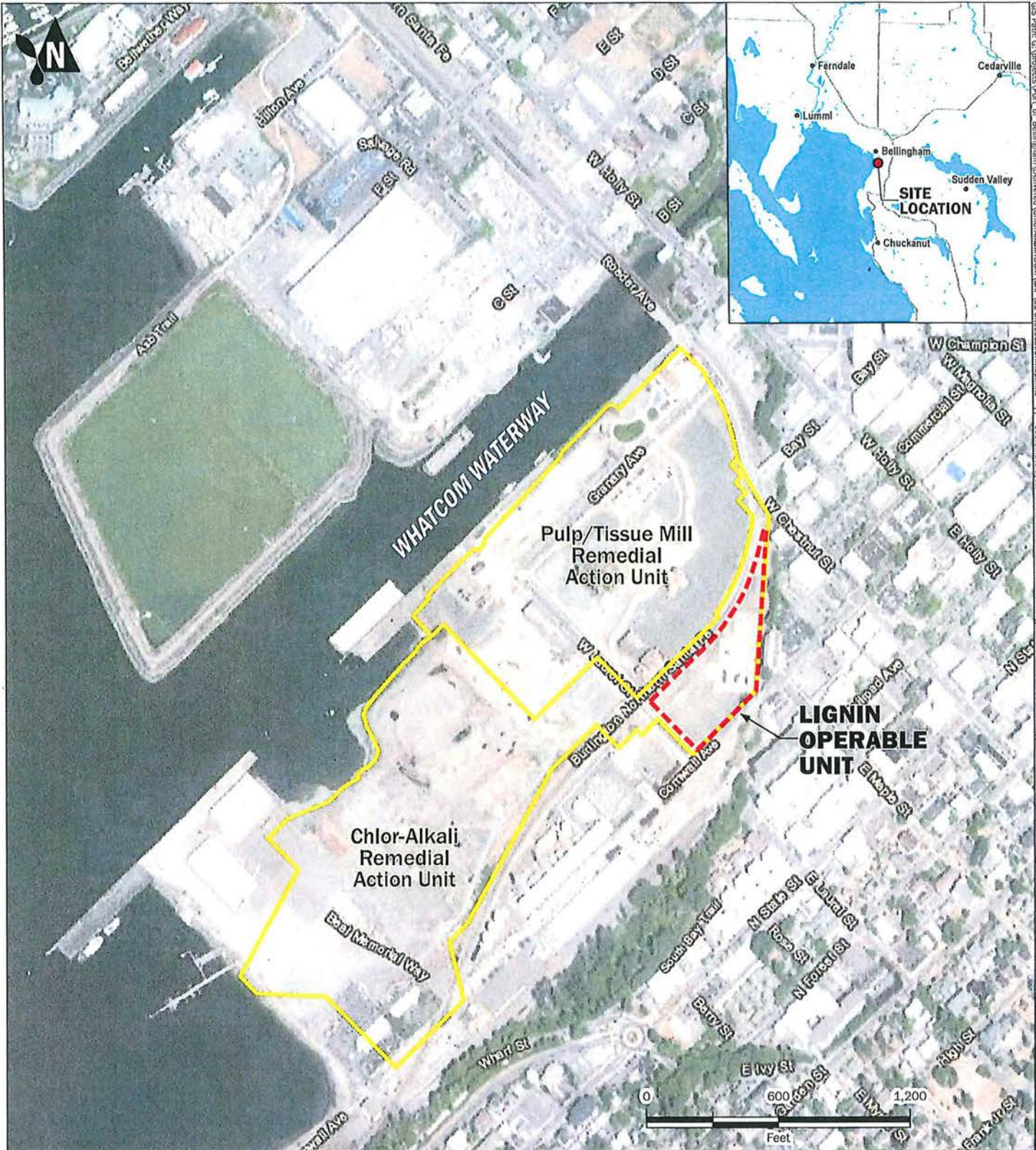
## Table 2. Groundwater Cleanup Levels for Contaminants of Concern

Lignin Operable Unit, Chlor-Alkali RAU Cleanup Action Plan, GP West Site

Constituent of Concern	Groundwater Cleanup Level (µg/L)
<b>Heavy Metals</b>	
Chromium (Total)	260
Copper	3.1
Zinc	81

**Note:** Cleanup levels are from the Chlor-Alkali Remedial Action Unit Cleanup Action Plan (Ecology, 2021).

# FIGURES



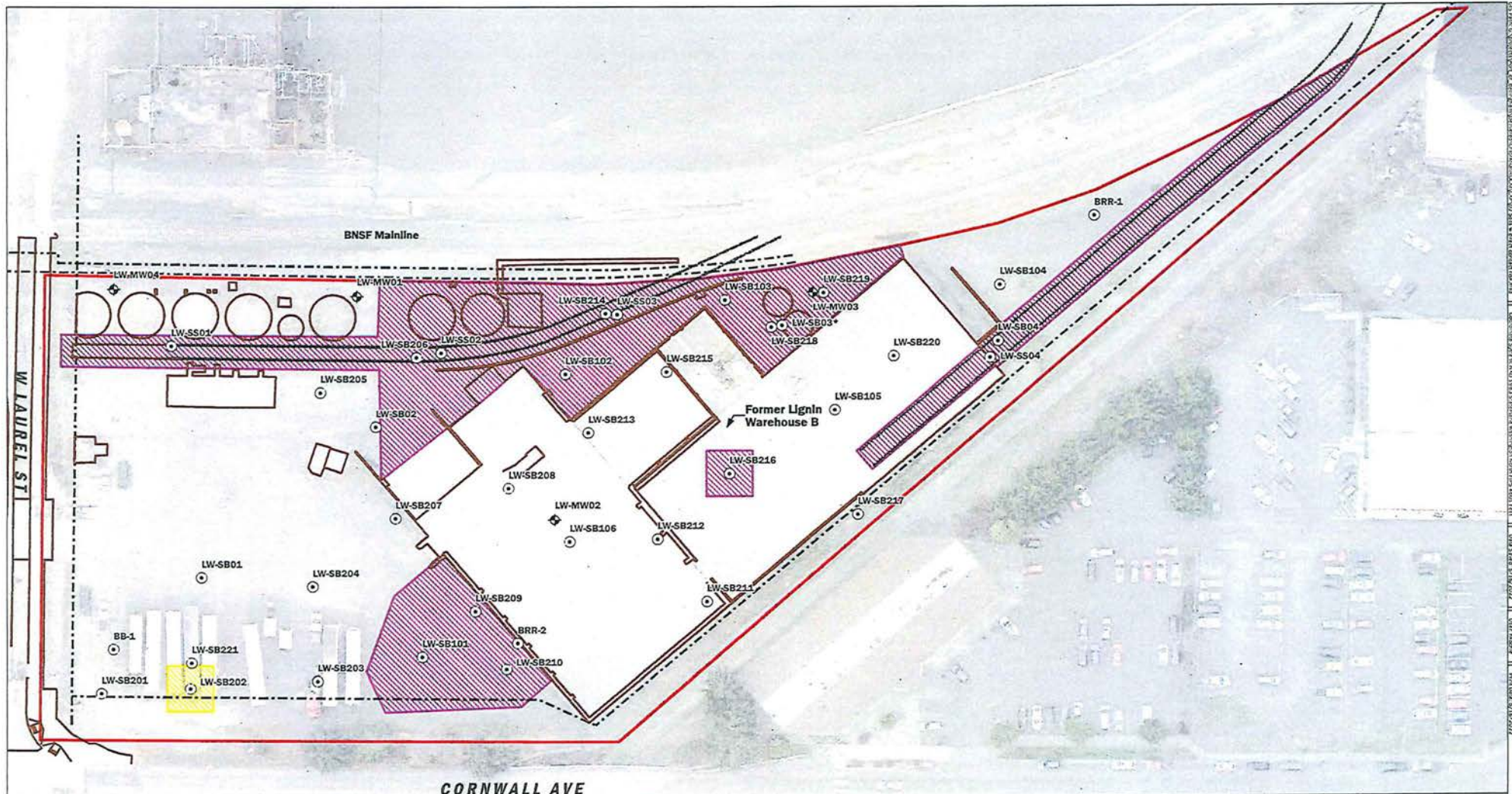
## Lignin Operable Unit within Chlor-Alkali RAU of GP West Site

Cleanup Action Plan  
Lignin Operable Unit, GP West Site  
Bellingham, Washington

	MAY-2022	BY: AAF / SCC	FIGURE NO. <b>1</b>
	PROJECT NO. 210368	REVISED BY: NLK	

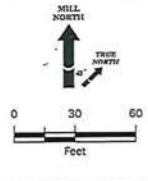
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Esri, HERE, Garmin, (c) OpenStreetMap contributors  
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

GIS Path: G:\projects\part of Bellingham\Delivered\ChlorAlkali\GP West\_Site\_Location.mxd | Coordinate System: NAD 1983 StatePlane Washington North FIPS 4801 Feet | Date Saved: 5/18/2022 | User: mrobin | Print Date: 5/18/2022



**CORNWALL AVE**

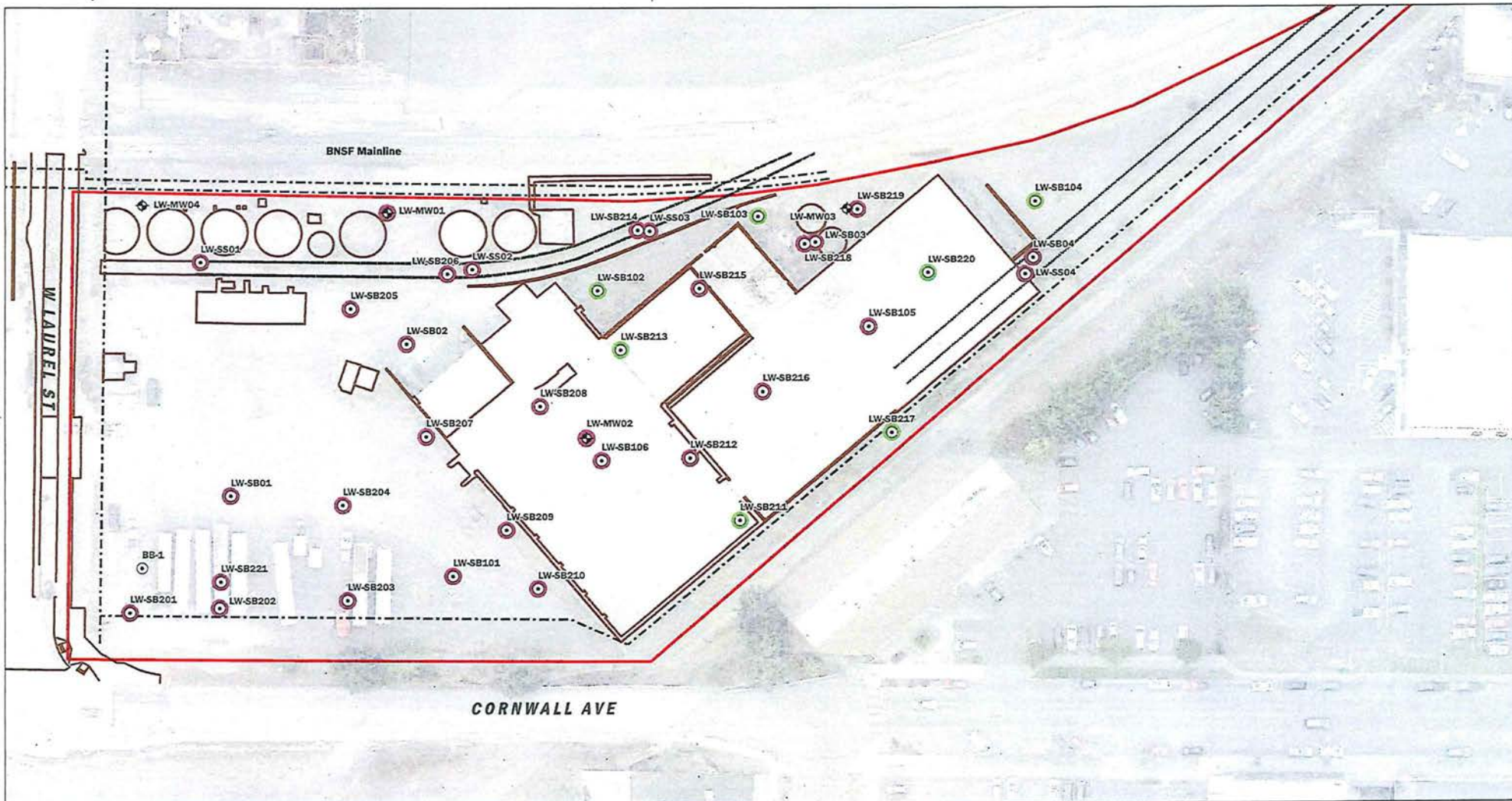
- |                     |   |  |   |
|---------------------|---|--|---|
| <b>Explorations</b> | <b>Soil Contamination Posing Direct Contact Risk</b>  | — Remnant Concrete Structure to be Removed | <span style="border: 1px solid red; display: inline-block; width: 15px; height: 10px;"></span> Lignin Operable Unit |
| ○ Soil Boring       | <span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> Zinc   | — Railroad Spur                            | - - - Existing Easement   |
| ⊕ Monitoring Well   | <span style="background-color: #f080f0; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> Carcinogenic Polycyclic Aromatic Hydrocarbons (cPAHs) |  |   |



**Areas of Soil Contamination Posing Direct Contact Risk**  
 Cleanup Action Plan  
 Lignin Operable Unit, GP West Site  
 Bellingham, Washington

Note:  
 1. Existing features and Lignin operable unit from Millworks survey NOV-2021.  
 Basemap Layer Credits | | Whatcom County

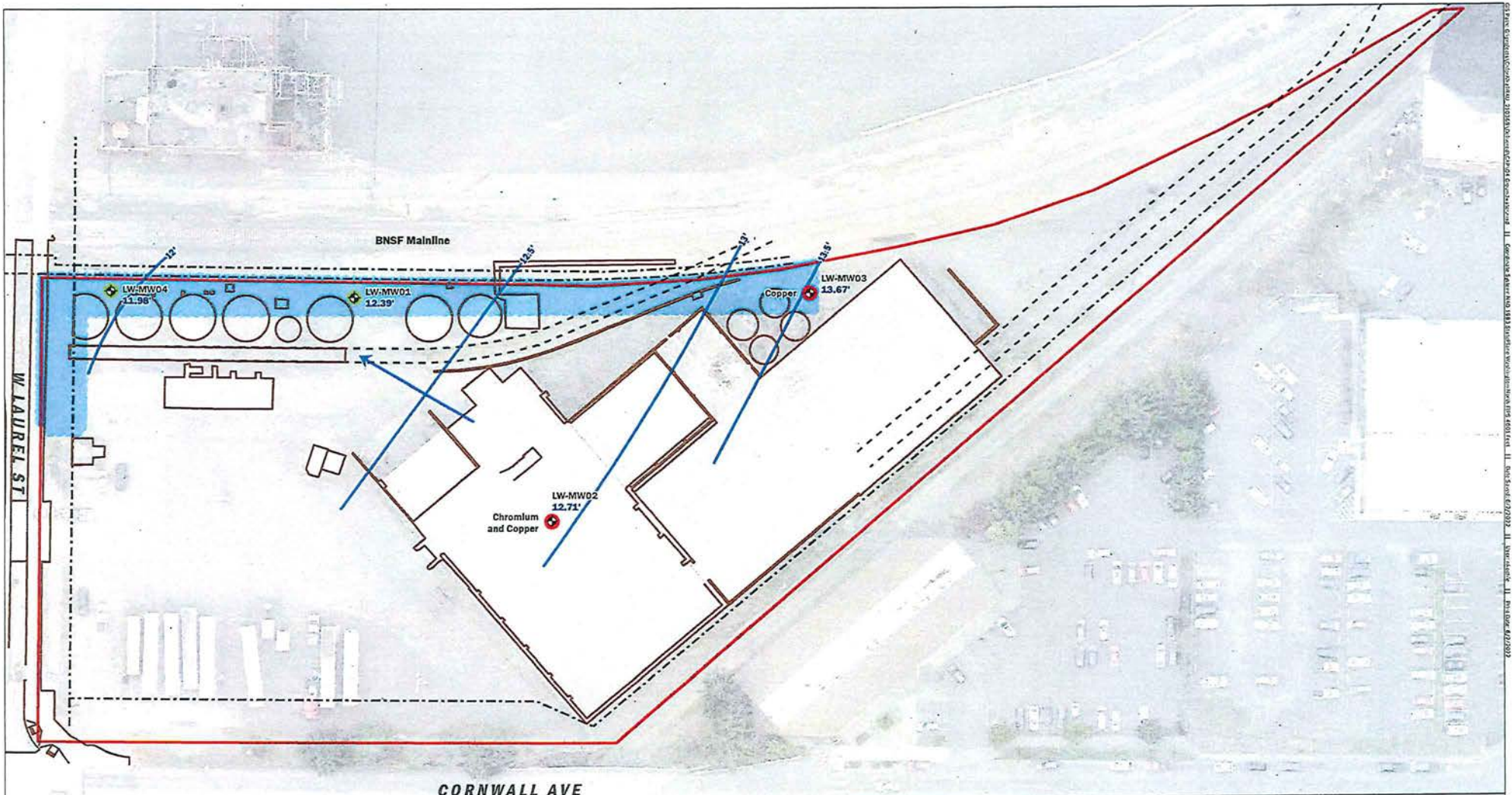
Aspect CONSULTING	MAY-2022	BY S/JG / AAF	FIGURE NO.
	PROJECT NO. 210368	REVISION BY NLK	<b>2</b>



<b>Explorations</b> Soil Boring Monitoring Well	<b>Soil Metals Concentrations</b> Exceeds concentration modeled to be protective of leaching Less than concentration modeled to be protective of leaching	Remnant Concrete Structure to be Removed Railroad Spur Lignin Operable Unit Existing Easement	 MILL NORTH TRUE NORTH 0 30 60 Feet	<p><b>Distribution of Soil Metals Concentrations Relative to Leaching-Based Cleanup Levels</b></p> <p>Cleanup Action Plan          Lignin Operable Unit, GP West Site          Bellingham, Washington</p> <table border="1"> <tr> <td data-bbox="1575 1372 1690 1421"> </td> <td data-bbox="1690 1372 1806 1421">         MAY-2022          PROJECT NO. 210368       </td> <td data-bbox="1806 1372 1921 1421">         BY: SJG / MAF          REVIEWED BY: NLK       </td> <td data-bbox="1921 1372 2026 1421">         FIGURE NO. 3       </td> </tr> </table>		MAY-2022 PROJECT NO. 210368	BY: SJG / MAF REVIEWED BY: NLK	FIGURE NO. 3
	MAY-2022 PROJECT NO. 210368	BY: SJG / MAF REVIEWED BY: NLK	FIGURE NO. 3					

Notes:  
 1. CUL = soil cleanup level.  
 2. Existing features and Lignin operable unit from Millworks survey NOV-2021.  
 Basemap Layer Credits | 1 | Whatcom County

Project: 210368 - Distribution of Soil Metals Concentrations Relative to Leaching-Based Cleanup Levels  
 Date: 05/16/2022  
 Scale: 1" = 300'  
 Author: SJG/MAF  
 Reviewer: NLK  
 Project No: 210368



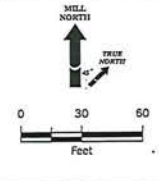
- Explorations**
- ◆ Monitoring Well
  - CUL exceedance in January and/or February 2022 groundwater samples. Exceeding constituent is listed.
  - No CUL exceedances in January or February 2022 groundwater samples
  - Anticipated General Area for Future Groundwater MNA Monitoring Wells

Water table elevation, NAVD88  
1/24/2022

Generalized Groundwater  
Flow Direction

- Remnant Concrete Structure to be Removed
- - - Existing Easement
- - - Railroad Spur
- Lignin Operable Unit

Notes:  
1. Existing features, Lignin operable unit, and utility lines from Millworks survey NOV-2021.  
2. City raw water lines from Georgia-Pacific CAD file.



### Groundwater Flow Direction and Metals Exceedances

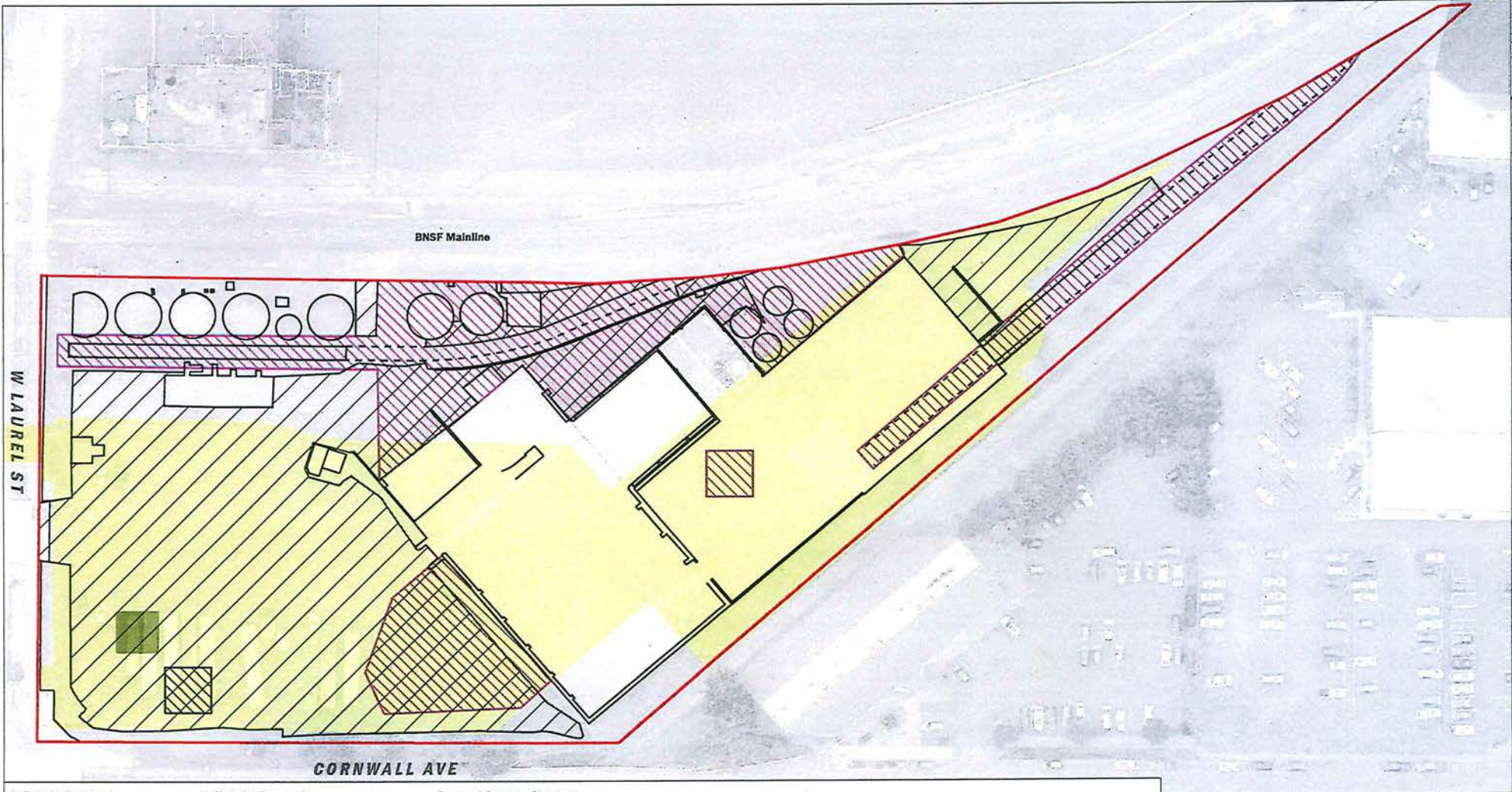
Cleanup Action Plan  
Lignin Operable Unit, GP West Site  
Bellingham, Washington



JUN-2022	BY: SUG / AAF	FIGURE NO.
PROJECT NO. 210368	REVISION BY: NLK	4

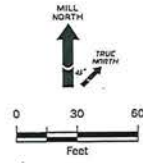


11. Site: GP West Site - Lignin Operable Unit, GP West Site, Bellingham, Washington  
 12. Date: 05/10/2022  
 13. Project No: 210368  
 14. Revision: 1  
 15. Scale: 1" = 30'



<b>Soils to be Removed</b>		<b>Soils to be Removed</b>		<b>Remnant Concrete Structure</b>	
<b>Soil Exceeding Direct Contact CULs</b>		<b>Additional Metals-Impacted Soils*</b>		<b>to be Removed</b>	
Metals > direct contact CUL (6-ft excavation)	0.5- to 4-foot deep excavation	Railroad Spur to be Removed	Pavement to be Removed		
cPAH > direct contact CUL (2-ft excavation)	7-foot deep excavation	Lignin Operable Unit			

**Notes:**  
 1. CUL = cleanup level  
 2. Existing features and Lignin operable unit from Millworks survey NOV-2021.  
 \*1. Because the affordable housing redevelopment subgrade design is in process, the excavation depths may change somewhat by the time that the cleanup construction plans and specifications are finalized. All excavation depths are approximate.



**Selected Cleanup Action**  
 Cleanup Action Plan  
 Lignin Operable Unit, GP West Site  
 Bellingham, Washington

	MAY-2022	<small>BY</small> SJG / AAF	<small>FIGURE NO.</small> <b>5</b>
	<small>PROJECT NO.</small> 210368	<small>REVIEW BY:</small> NLK	

# EXHIBIT E

**Exhibit E**  
**Schedule of Deliverables**  
**Lignin Operable Unit, Chlor-Alkali RAU, Georgia-Pacific West Site**

Deliverable/Milestone		Schedule
<b>A. Administrative</b>		
A.1	Lodge Consent Decree (CD) Amendment in Court (CD Amendment Effective Date)	Within 30 days of Execution by Port and Ecology
A.2	Progress Reports to Ecology	For first three years following CD Amendment Effective Date, quarterly on the 15th of the month beginning after Effective Date. Thereafter, annually in the CD Amendment anniversary month.
<b>B. Soil Removal</b>		
B.1	Draft Engineering Design Report (EDR)	Submit to Ecology within 30 days of CD Effective Date (A.1)
B.2	Final EDR	Submit to Ecology within 30 days following Ecology review comments on draft (B.1)
B.3	Draft Construction Plans and Specifications (CPS)	Submit to Ecology within 30 days of Final EDR (B.2)
B.4	Final CPS	Submit to Ecology within 30 days following Ecology review comments on draft (B.3)
B.5	Draft Compliance Monitoring Plan (CMP) for Soil Removal	Submit to Ecology with Draft CPS (B.3)
B.6	Final CMP for Soil Removal	Submit to Ecology within 30 days following Ecology review comments on draft (B.5)
B.7	Cleanup Construction (Soil Removal)	Complete within 90 days from Final CPS
B.8	Draft As-Built Report for Soil Removal	Submit to Ecology within 60 days of completion of construction
B.9	Final As-Built Report for Soil Removal	Submit to Ecology within 30 days following Ecology review comments on draft (B.8)
<b>C. Environmental Covenants (ECs)</b>		
C.1	Draft Environmental Covenant (EC) for Mercy Parcel	Submit to Ecology within 45 days of CD Amendment Effective Date
C.2	Final EC for Mercy Parcel	Submit to Ecology within 10 days following Ecology review comments on draft (C.1)
C.3	Proof of Recording of EC for Mercy Parcel	Submit to Ecology within 10 days following Final EC (C.2)
C.4	Draft EC for Port Phase 2 Parcel	Submit to Ecology within 45 days of CD Amendment Effective Date
C.5	Final EC for Port Phase 2 Parcel	Submit to Ecology within 10 days following Ecology review comments on draft (C.4)
C.6	Proof of Recording of EC for Port Phase 2	Submit to Ecology within 10 days following Final EC (C.5)

**Exhibit E**  
**Schedule of Deliverables**  
**Lignin Operable Unit, Chlor-Alkali RAU, Georgia-Pacific West Site**

Deliverable/Milestone		Schedule
<b><i>D. Groundwater Monitored Natural Attenuation (MNA)</i></b>		
D.1	Draft Groundwater MNA Compliance Monitoring Plan (MNA CMP)	Submit to Ecology within 90 days of Final CMP for Soil Removal (B.6)
D.2	Final Groundwater MNA CMP	Submit to Ecology within 30 days following Ecology review comments on
D.3	Groundwater MNA Compliance Monitoring Implementation	Start within 30 days from Final As-Built Report for Soil Removal (B.9)
D.4	Draft Annual Groundwater MNA Report	Submit to Ecology within 60 days after validation of the year's analytical data
D.5	Final Annual Groundwater MNA Report	Submit to Ecology within 30 days following Ecology review comments on draft (D.4)

**Notes:**

*Schedule assumes 30-day Ecology review periods for draft deliverables. Dates falling on weekends or holidays will be the following business day.*

*Abbreviations: CD: Consent Decree; CMP: Compliance Monitoring Plan; CPS: Constructions Plans & Specifications; EC: Environmental Covenant; EDR: Engineering Design Report; MNA: Monitored Natural Attenuation (for groundwater).*