

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:)
)
) AGREED ORDER
Briggs Nursery, Inc. and Gary E. Briggs)
4407 Henderson Blvd. SE) No. 1315
Olympia, WA 98501-4469)

TO: Briggs Nursery, Inc. and Gary E. Briggs

I.

Jurisdiction

This Agreed Order ("Order") is issued pursuant to the authority of RCW 70.105D.050(1).

II.

Findings of Fact

Ecology makes the following Findings of Fact, without admission of such facts by Briggs Nursery, Inc. and Gary E. Briggs (Briggs).

1. Briggs are the owner and operator of a wholesale nursery located on approximately 120 acres at 4407 Henderson Blvd. SE, Olympia, WA 98501-4469.

Specifically, the Nursery is located north of Yelm Highway and east of Ward Lake encompassing land on both sides of Henderson Boulevard SE, in Sections 35 and 36, Township 18 North, Range 2 West,

latitude 47°0'21.5"N, longitude 122°52'50.8"W.

(Exhibit A) Gary Briggs is the majority stockholder of Briggs Nursery, Inc., which is in the process of relocating its operations to a larger location in Porter, Washington.

2. Gary E. Briggs is the owner of the land on which the Nursery operates and leases the land to the Nursery. This land is currently on a schedule for development as the Briggs Urban Village and this Remedial Investigation/Risk Assessment/Feasibility Study is to be conducted in accordance with the master plan approval by the City.
3. The Nursery property borders Ward Lake on the east and includes 6 surface depressions known as "kettles" (North Kettle, Northwest Kettle, Northeast Kettle, Southeast Kettle, South Kettle and Central Kettle) which collect and hold varying amounts of stormwater from unimproved areas, nursery operations, Yelm Highway, South Street, Pifer Street, and Henderson Boulevard due to the natural topography and existing improvements to the area. The Nursery also includes unimproved areas, growing operations, greenhouses, a

warehouse, shop, chemical storage trailers, office building and laboratory. (See Exhibit B)

4. The "Site" is defined by regulation as anywhere hazardous substances have come to be located (WAC 173-340-200) and includes the property described in Paragraph 1 as Briggs Nursery, Inc., excluding the 5-acres of property known as the Briggs Nursery Debris Field, located on the southeast side of the Central Kettle. (For Legal Descriptions see Exhibit C) The cleanup of Briggs Nursery Debris Field was conducted separately under Agreed Order No. DE 02TCPSR-4593. All requirements of Agreed Order No. DETCPSR-4593 have been completed and the Briggs Nursery Debris Field has been delisted from the Hazardous Sites List (HSL) and is thereby not included as part of the Site.

5. In 1996 Landau Associates, Inc. performed a limited environmental investigation consisting of the analyses of one sediment sample from four different kettles, the Southwest-Central-Northwest- and one unidentified Kettle(s). In addition, a total of four soil samples were collected from two locations near the future

Briggs Urban Village Park. The analytical results of this exercise resulted in detections of dichlorodiphenyldichloroethene (DDE), dichlorodiphenyltrichloroethane (DDT), metals such as Thallium, Arsenic and Chromium and Polychlorinated Dibenzo Dioxins/Furans (PDD/F), although the detections are stated to be below current regulatory standards.

6. In 1998, a Limited Phase I Environmental Site Assessment was performed on Briggs' property by Phillips Services Corporation (PSC). The result of this assessment includes the preliminary identification of potentially contaminated areas including two underground storage tanks, chemical mixing areas and several septic systems associated with the various structures. Several temporary trailer structures contained chemicals and according to staff interviews conducted for the purpose of this assessment, chemical mixing operations were conducted at these and other permanent structures throughout the facility. According to the report, there was evidence of chemical spillage at all of these areas. These operations have several sinks which are plumbed so

that waste water exits the structure and becomes part of the surface water runoff. Most of the chemical mixing areas contained little or no containment capacity. Solid pellets of chemical fertilizers were visible at and around these mixing areas and evidence of these chemicals were observed in runoff streams enroute to the previously described Kettles. Several locations at the Site contained wood, plastic material, metal or debris. Several containers were discovered at these and other locations, some containers were full or partially full of unknown substances and others were empty. According to employee interviews, the Nursery does not maintain a stormwater pollution prevention plan.

7. L.C. Lee and Associates (LCLA) conducted additional contaminant sampling in 2000. There is a deep water well on site used for irrigation that was tested for Arsenic, Beryllium, Chromium and Thallium, all of which were undetected. Two samples were analyzed for metals, pesticides, herbicides from one location near the Fertilizer Shed/Fertilizer Injection Area. The samples contained detectable concentrations of DDT,

Arsenic and Chromium, however, all concentrations are stated to be below current regulatory limits. Two soil samples were collected from one location east of the Central Kettle, analyses included metals, pesticides/Polychlorinated Bi-phenyls (PCB), herbicides and dioxins/furans. Detections are stated to be below regulatory limits and included Chromium, Arsenic and PDD/Fs. Two samples were collected from one location east of the South Kettle, as well as east of the Northwest Kettle and analyzed only for metals. Arsenic and Chromium detections were similar to other locations and are stated to be below their respective regulatory limits. One sediment and one water sample was collected from the Northeast Kettle and were analyzed for PCBs and metals, and PCBs, respectively. The only detection was Chromium in the sediments and the concentration is stated to be less than regulatory limits. One sediment and one water sample was collected from the Southeast Kettle and analyzed for metals, pesticides/PCBs, herbicides and dioxins/furans. Compounds detected in the sediment sample include dichlorodiphenyldichloroethane (DDD), DDE, PCB and

several dioxin/furan compounds. Water detections include dichlorophenoxy acetic acid (2,4-D) and dioxin/furan compounds.

8. On January 18, 2002, Thurston County Health Department performed an Initial Investigation on behalf of the Department and concluded that based on the nature of the business and various analytical results, further characterization work is necessary. Some areas of concern identified are surface water and sediments in Kettle(s), underground storage tanks, and chemical storage/mixing areas, as well as other operational areas of the Site. As noted by Phillips Services Corporation in 1998, surface water and waste water from some plumbing fixtures flow to the Kettles. In 2003, Ecology documented road runoff, site stormwater and sediment flowing from the Site into Ward Lake via overflow pipes from the Northeast Kettle.
9. In June of 2004, the Department assessed a hazard ranking for the Nursery using the Washington Ranking Method (WARM), as required by MTCA. Ecology calculated a hazard ranking of 2, (with 1

being the highest and 5 being the lowest) for the property.

III.

Ecology Determinations

1. Briggs Nursery, Inc. and Gary E. Briggs are an "owner or operator" as defined at RCW 70.105D.020(11) of a "facility" as defined in RCW 70.105D.020(4).

2. The Site is known as Briggs Nursery, Inc., located at 4407 Henderson Blvd. SE, Olympia, WA 98501, and includes any area where hazardous substances from nursery operations have come to be located (WAC 173-340-200). 3. The substances found at the facility including metals, pesticides, herbicide(s), PCBs and dioxin/furan compounds are "hazardous substances" as defined at RCW 70.105D.020(7).

4. Based on the presence of these hazardous substances at the facility and all factors known to the Department, there is a threatened release of hazardous substances from the facility, as defined in RCW 70.105D.020(19).

5. By a letter dated June 22, 2004, Briggs voluntarily waived its rights to notice and comment and accepted Ecology's determination that Briggs is a "potentially liable person" under RCW 70.105D.040.

6. Pursuant to RCW 70.105D.030(1) and 70.105D.050, the Department may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.

7. Based on the foregoing facts, Ecology believes the remedial action required by this Order is in the public interest.

IV.

Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that Briggs take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein.

Although Briggs has stated that characterization work performed to date does not indicate significant contamination, chemical detections indicate a threatened release of hazardous substances at the Site and further investigation and characterization is warranted. Additionally, several areas of concern lie under existing

structures and characterization will not be possible prior to demolition activities.

The Remedial Investigation/Risk Assessment/Feasibility Study requirements outlined in Exhibit D build upon the previous independently conducted investigations performed by Briggs which are described in Section II of this Agreed Order. Exhibit D is incorporated here by reference and Exhibit D is an integral and enforceable part of this Order.

Briggs Nursery Inc. is presently in the process of relocating. As part of the relocation, the company is removing greenhouses and support facilities. The relocation and removal of surface structures and related field irrigation facilities may continue. Briggs will provide 48 hours notice to Ecology prior to any demolition or removal activities, and all workers involved in these activities will be provided a copy of this Agreed Order. No underground structures, including underground fuel tanks and fuel lines, shall be removed except under the terms of this Agreed Order.

V.

Terms and Conditions of Order

1. Definitions. Unless otherwise specified, the definitions set forth in ch. 70.105D RCW and ch. 173-340 WAC shall control the meanings of the terms used in this Order.

2. Public Notices. RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.

3. Remedial Action Costs. Briggs shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and Order preparation, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2).

Briggs shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work

performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs will result in interest charges.

4. Designated Project Coordinators. The project coordinator for Ecology is:

Lisa Pearson
Department of Ecology
Southwest Regional Office
Toxics Cleanup Program
PO Box 47775
Olympia, WA 98501

The project coordinator for Briggs is:

Name Ms. Kathy Brunson

Address

Briggs Nursery, Inc.

P.O. Box 658

Elma, WA 98541

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Briggs, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the project coordinator(s). Should Ecology or

Briggs change project coordinator(s), written notification

shall be provided to Ecology or Briggs at least ten (10) calendar days prior to the change.

5. Performance. All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert, with appropriate training, experience and expertise in hazardous waste site investigation and cleanup. Briggs shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the Site. Briggs shall provide a copy of this Order to all agents, contractors and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors and subcontractors will be in compliance with this Order.

Except where necessary to abate an emergency situation, Briggs shall not perform any remedial actions at the Nursery outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

6. Access. Ecology or any Ecology authorized representative shall have the authority to enter and freely move about the Site at all reasonable times for the purposes
Briggs Agreed Order

of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by Briggs. By signing this Agreed Order, Briggs agrees that this Order constitutes reasonable notice of access, and agrees to allow access to the Site at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by Briggs during an inspection unless doing so interferes with Ecology's sampling. Briggs shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days notice before any sampling activity.

7. Public Participation. Ecology shall maintain the responsibility for public participation at the site. Briggs shall help coordinate and implement public participation for the site.

8. Retention of Records. Briggs shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of Briggs Agreed Order

the work performed pursuant to this Order, all records, reports, documents, and underlying data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of Briggs, then Briggs agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution. Briggs may request Ecology to resolve disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), to this Order. Ecology resolution of the dispute shall be binding and final. Briggs is not relieved of any requirement of this Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

10. Reservation of Rights/No Settlement. This Agreed Order is not a settlement under ch. 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against Briggs to recover remedial action costs paid to and received by Ecology under this Agreed Order. In addition, Ecology will

Briggs Agreed Order -15- July 15, 2004

not take additional enforcement actions against Briggs to require those remedial actions required by this Agreed Order, provided Briggs complies with this Agreed Order.

Ecology reserves the right, however, to require additional remedial actions at the Site should it deem such actions necessary.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from Briggs Nursery, Inc.

In the event Ecology determines that conditions at the Site are creating or have the potential to create a danger to the health or welfare of the people on the Site or in the surrounding area or to the environment, Ecology may order Briggs to stop further implementation of this Order for such period of time as needed to abate the danger.

11. Transference of Property No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Briggs without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to transfer of any legal or equitable interest Briggs may have in the site or any portions thereof, Briggs shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, Briggs shall notify Ecology of the contemplated transfer.

12. Compliance with Other Applicable Laws. All actions carried out by Briggs pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements. Pursuant to RCW 70.105D.090(1), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial action under this Order that are known to be applicable at the time of issuance of the Order have been included in Exhibit E and are binding and enforceable requirements of the Order.

Briggs has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event Briggs determines that additional permits or approvals addressed in RCW

70.105D.090(1) would otherwise be required for the remedial

action under this Order, it shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or Briggs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Briggs shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by Briggs and on how Briggs must meet those requirements. Ecology shall inform Briggs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Briggs shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW

70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the State to administer any federal law, the exemption shall not apply and Briggs shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

Substantive permit requirements are contained in Exhibit E.

VI.

Satisfaction of this Order

1. The provisions of this Order shall be deemed satisfied upon Briggs' receipt of written notification from Ecology that Briggs has completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Agreed Order have been complied with.

2. This order defines a three phase characterization and review of the Site. The western phase (Area 1) is scheduled to be abandoned and fully available for testing in 2004; the central shop area (Area 2) is still being used by the Nursery and will be demolished and tested as the business completes its move over the next year; and for the remaining property east of Henderson (Area 3) it is expected

that Nursery operations will continue through 2006, at which time final testing and action will occur.

Development is anticipated as Areas are determined to be in compliance with MTCA.

VII.

Enforcement

1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:
 - A. The Attorney General may bring an action to enforce this Order in a state or federal court.
 - B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
 - C. In the event Briggs refuses, without sufficient cause, to comply with any term of this Order, Briggs will be liable for:
 - (1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
 - (2) civil penalties of up to \$25,000 per day for each day it refuses to comply.

D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under Section 6 of ch. 70.105D RCW.


Effective date of this Order: July 30, 2004

Briggs Nursery, Inc.


STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

By


DAVID JARZYNSKA

By


Rebecca S. Lawson, P.E.
Regional Section Manager
Southwest Regional Office
Toxics Cleanup Program

Gary E. Briggs

By

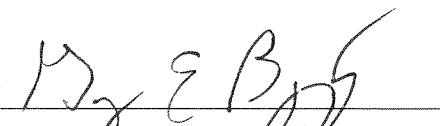

GARY E. Briggs

EXHIBIT A - AREA MAP

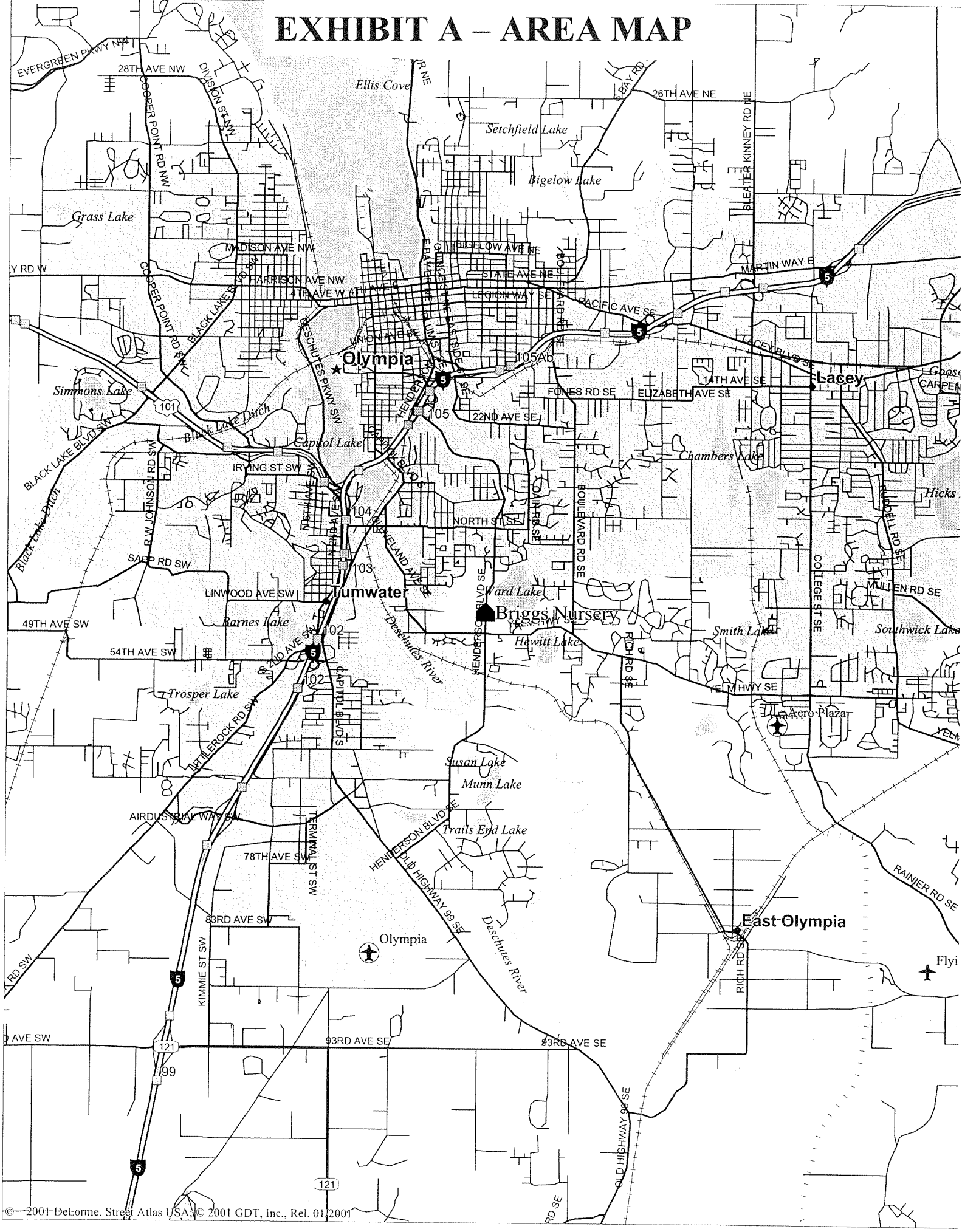
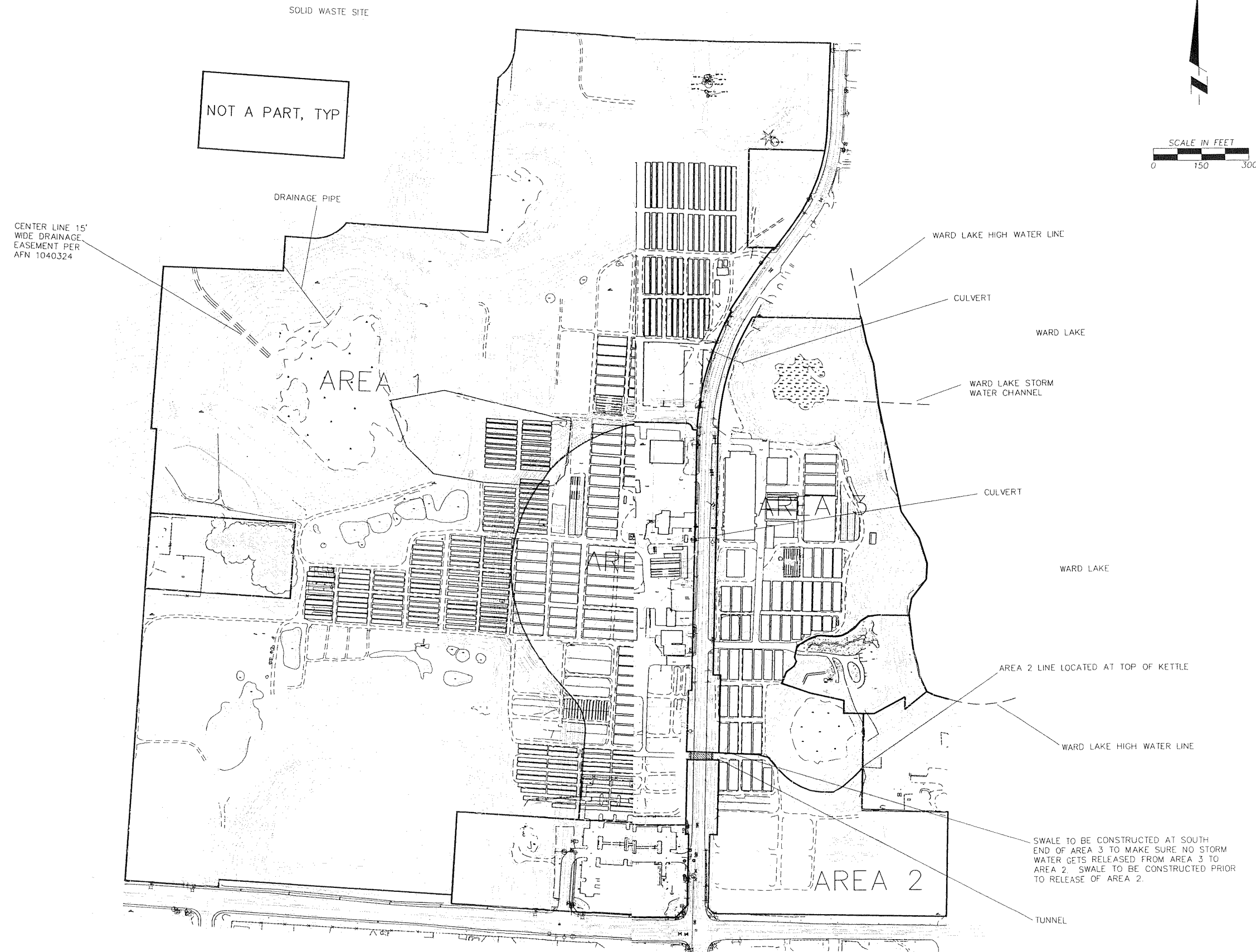


EXHIBIT B - SITE MAP



REVISIONS	DATE

PROJECT NAME
BRIGGS VILLAGE WEST
 OLYMPIA, WASHINGTON

File: D:\CADD\Drawg Path: C:\CADD\1755-003 Briggs Village North Residential Phase 2\CADD\DWG\1 Plotted By: andrew Date: 13-Jul-04 4:19:57pm

Parametrix <small>ENGINEERING, PLANNING, ENVIRONMENTAL SCIENCES</small> <small>8820 FALLON LANE</small> <small>SPokane, WA 99210</small> <small>P: 509.485.3000 F: 509.452.0154</small> <small>www.parametrix.com</small>			
DATE	DESIGNED	DRAWN	CHECKED
07-13-04	N/A		
JOB NO.	1755-003		EUA

DESCRIPTION
Briggs Nursery Inc. Agreed Order Site Map

EXHIBIT C – LEGAL DESCRIPTIONS

AREA 1

A part of vacated South Street abutting Lot 4, Block 6, of Ward's Homestead, recorded at Volume 2 of Plats, page 63, a part of Government Lot 1 of Section 35, a part of the Southeast quarter of the Northeast quarter of said Section 35, a part of Government Lots 2 and 3 of Section 36, and a part of the Southwest quarter of the Northwest quarter of Section 36, Township 18 North, Range 2 West, Willamette Meridian, Thurston County, Washington, and being further described as follows:

Commencing at the West quarter corner of said Section 36; thence North $01^{\circ}35'14''$ East along the West line of said Southwest quarter of the Northwest quarter of Section 36, for 30.00 feet to the Point of Beginning and being the Northerly right-of-way of Olympia-Yelm Highway as shown on the Record of Survey recorded at Auditor's File No. 3048902; thence South $88^{\circ}04'26''$ East along said Northerly right-of-way, for 434.73 feet to the Southwest corner of Parcel B of Boundary Line Adjustment No. 1560, recorded at Volume 2376, page 64; thence North $01^{\circ}33'03''$ East along the West line of said Parcel B, for 295.31 feet to the Northwest corner of said Parcel B; thence South $88^{\circ}32'31''$ East along the North line of Parcel B, 386.06 feet; thence North $02^{\circ}01'48''$ East for 274.23 feet to a curve, from which, the radius point bears North $87^{\circ}58'12''$ West, 138.00 feet; ; thence Northwesterly along said curve to the left, through a central angle of $45^{\circ}00'00''$, for an arc length of 108.39 feet; thence North $42^{\circ}58'12''$ West for 128.16 feet to a curve, from which, the radius point bears North $47^{\circ}01'48''$ East, 471.00 feet; thence Northerly along said curve to the right, through a central angle of $86^{\circ}46'29''$, for an arc length of 713.33 feet; thence North $42^{\circ}58'12''$ West, for 1000.49 feet to the South line of the Plat of South Street Heights recorded at Volume 24 of Plats, page 14 and also being the North right of way of unopened South Street of said Ward's Homestead; thence North $88^{\circ}15'44''$ West along said South line of South Street Heights and said North right of way, for 5.38 feet to a point on a curve being the Southeasterly right-of-way of South Street/Pifer Street of said South Street Heights; from which, the radius point bears North $54^{\circ}16'19''$ West, 125.00 feet; thence Southwesterly along said curve to the right, through a central angle of $56^{\circ}00'02''$, for an arc length of 122.17 feet; thence North $88^{\circ}16'17''$ West along said Southerly right of way, for 84.28 feet to the Southwest corner of said Plat of South Street Heights and to the Northeast Corner of Parcel A of Boundary Line Adjustment No. 7218 recorded at Volume 9, page 196; thence South $01^{\circ}42'04''$ West along the East line of said Parcel A, for 120.00 feet to the Southeast corner of said Parcel A; thence North $88^{\circ}16'17''$ West along the South line of said Parcel A and along the South line of Lots 1, 2, and 3 of Short Subdivision No. 1814, recorded at Volume 18, page 274, for 382.57 feet to the Southwest corner of said Lot 1 of Short Subdivision No. 1814 and to the East line of Parcel 2 of Short Subdivision No. 7162, recorded at Volume 21, page 158; thence South $01^{\circ}42'03''$ West along said East line of Parcel 2 and an extension thereof, for 510.69 feet, more or less, to the North line of Block 23 DesChutes Valley Addition recorded at Volume 11 of Plats, page 23; thence South $88^{\circ}14'36''$ East along said North line of Block 23, for 15.56 feet, more or less, to the Northeast Corner of said Block 23; thence South $02^{\circ}02'53''$ West along the East line of said Block 23, for

264.22 feet, more or less, to the Northwest corner of a parcel conveyed Briggs Development Company, Inc. according to the Warranty Deed recorded at Auditor's File No. 3125432 on December 16, 1997; thence South 88°03'23" East along the North line of said parcel, for 455.40 feet to the Northeast corner of said parcel; thence South 02°02'53" West along the East line of said parcel, for 238.92 feet to the Southeast Corner of said parcel; thence North 88°03'23" West along the South line of said parcel, for 455.40 feet to the Southwest Corner of said parcel and to the East line of Block 22 of said DesChutes Valley Addition; thence South 02°02'53" West along the East line of Blocks 18, 19, and said Block 22 of DesChutes Valley Addition, for 925.68 feet to the said Northerly right-of-way of Olympia-Yelm Highway as shown on the Record of Survey recorded at Auditor's File No. 3048902; thence South 88°03'23" East along said Northerly right-of-way, for 595.23 feet to Point of Beginning.

EXCEPTING THEREFROM, a part of said Southeast quarter of the Northeast quarter of Section 35, and of said Southwest quarter of the Northwest quarter of Section 36, Township 18 North, Range 2 West, Willamette Meridian, Thurston County, Washington, and being further described as follows:

Commencing at the West quarter corner of said Section 36; thence North 01°35'14" East along the West line of said Southwest quarter of the Northwest quarter of Section 36, for 30.00 feet to the Northerly right-of-way of Olympia-Yelm Highway as shown on the Record of Survey recorded at Auditor's File No. 3048902 and being the Point of Beginning; thence South 88°04'26" East along said Northerly right-of-way, for 434.73 feet to the Southwest corner of Parcel B of Boundary Line Adjustment No. 1560, recorded at Volume 2376, page 64; thence North 0°33'03" East along the West line of said Parcel B, for 35.53 feet to a point being 61.98 feet northerly as measured perpendicularly from the South line of said Southwest quarter of the Northwest quarter of Section 36; thence North 88°32'31" West along a line 61.98 feet northerly and parallel to said South line of Southwest quarter of Northeast quarter of Section 36, for 429.11 feet to a point 62.03 feet northerly as measured perpendicularly to the South line of said Southeast quarter of the Northeast quarter of Section 35, and from which, said West quarter corner of said Section 36 bears South 06°44'55" West, 62.24 feet; thence North 88°03'23" West along a line 62.03 feet northerly of and parallel to said South line of the Southeast quarter of the Northeast quarter of Section 35, for 5.99 feet, more or less, to the East line of said Southeast quarter of the Northeast quarter of Section 35; thence continuing North 8°03'23" West along a line 62.03 feet northerly of and parallel to said South line of the Southeast quarter of the Northeast quarter of Section 35, for 299.12 feet; thence South 01°56'37" West, for 23.01 feet to a point 39.02 feet Northerly as measured perpendicularly to said South line of Southeast quarter of the Northeast quarter of Section 35; thence North 88°03'23" West along a line 39.02 feet northerly of and parallel to said South line of Southeast quarter of the Northeast quarter of Section 35, for 299.49 feet, more or less, to the East line of Block 18 of DesChutes Valley Addition recorded at Volume 11 of Plats, page 23; thence South 02°02'53" West along said East line of Block 18, for 9.02 feet to said Northerly right-of-way of Olympia-Yelm Highway as shown on the Record of Survey recorded at Auditor's File No. 3048902; thence South 88°03'23" East along said Northerly right-of-way, for 595.23 feet to the Point of Beginning.

TOGETHER WITH that part of Lots 3 and 4, Block 7, of Ward's Homestead, recorded at Volume 2 of Plats, page 63 and a portion of vacated South Street and Third Street of

said Ward's Homestead, and that part of Government Lots 2 and 3 of Section 36, and the Southwest quarter of the Northwest quarter of Section 36, Township 18 North, Range 2 West, Willamette Meridian, Thurston County, Washington, and being further described as follows:

Commencing at the West quarter corner of said Section 36; thence North $01^{\circ}35'14''$ East along the West line of said Southwest quarter of the Northwest quarter of Section 36, for 30.00 feet to the Northerly right-of-way of Olympia-Yelm Highway as shown on the Record of Survey recorded at Auditor's File No. 3048902; thence South $88^{\circ}04'26''$ East along said Northerly right-of-way, for 434.73 feet to the Southwest corner of Parcel B of Boundary Line Adjustment No. 1560, recorded at Volume 2376, page 64; thence North $01^{\circ}33'03''$ East along the West line of said Parcel B, for 295.31 feet to the Northwest corner of said Parcel B; thence South $88^{\circ}32'31''$ East along the North line of Parcel B, for 858.08 feet to the Northeast corner of said Parcel B and the Westerly right-of-way of Henderson Boulevard; thence North $02^{\circ}01'52''$ East along said Westerly right-of-way, for 420.59 feet; thence South $87^{\circ}58'08''$ East, for 10.00 feet; thence North $02^{\circ}01'52''$ East along said Westerly right-of-way, for 793.88 feet to a curve, from which, the radius point bears South $87^{\circ}58'08''$ East, 848.49 feet; thence Northerly along said Westerly right-of-way and said curve to the right, through a central angle of $03^{\circ}03'38''$, for an arc length of 45.32 feet to the Point of Beginning; thence North $87^{\circ}58'08''$ West for 191.21 feet; thence North $02^{\circ}01'52''$ East for 2.00 feet; thence North $87^{\circ}58'08''$ West, for 90.00 feet to a curve, from which, the radius point bears South $02^{\circ}01'52''$ West, 471.00 feet; thence Southwesterly along said curve to the left, through a central angle of $48^{\circ}13'35''$, for an arc length of 396.45 feet; thence North $42^{\circ}58'12''$ West, for 1000.49 feet to the South line of the Plat of South Street Heights recorded at Volume 24 of Plats, page 14 and also being the North right of way of unopened South Street of said Ward's Homestead; thence South $88^{\circ}15'44''$ East along said North right of way, for 23.56 feet to the West line of said Section 36; thence continuing along said North right of way, South $88^{\circ}17'50''$ East for 421.91 feet to the Southeast corner of said Plat of South Street Heights and also being the West right of way of unopened Third Street of said Ward's Homestead; thence North $02^{\circ}01'53''$ East along said West right of way, for 484.47 feet to a curve, from which, the radius point bears North $37^{\circ}45'38''$ West, 125.00 feet and being the Southeasterly right-of-way of South Street/Pifer Street as shown on said Plat of South Street Heights; thence Northeasterly along said Southeasterly right-of-way and said curve to the left, through a central angle of $50^{\circ}12'29''$, for an arc length of 109.54 feet; thence North $02^{\circ}01'53''$ East along the Easterly right-of-way, for 58.91 feet, more or less, to the North Line of said Lot 3, Block 7, Ward's Homestead recorded in Volume 2 of Plats, page 63; thence South $8^{\circ}24'45''$ East along the said North line of said Lots 3 and 4, Block 7 of Ward's Homestead for 758.51 feet, more or less, to the Southwest corner of the Plat of Brigadoon recorded in Volume 23 of Plats, page 34; thence South $88^{\circ}24'45''$ East along the South line of said Plat of Brigadoon, for 230.52 feet to the Southwest corner of Lot 4 of Short Subdivision No. 0870 recorded at Volume 9, page 288; thence South $88^{\circ}24'45''$ East along the South line of said Lot 4, for 255.09 feet to the Southeast corner of said Lot 4 and being the said Westerly right-of-way of Henderson Boulevard; thence South $03^{\circ}12'30''$ West along said Westerly right-of-way, for 263.98 feet to a curve, from which, the radius point bears North $86^{\circ}47'30''$ West, 542.94 feet; thence Southwesterly along said right-of-way and said curve to the right, through a central angle of $33^{\circ}49'59''$, for an arc length of 320.61 feet; thence South $37^{\circ}02'29''$ West along said Westerly right-of-way, for 105.83 feet; thence North $52^{\circ}57'31''$ West along said Westerly

right-of-way, for 5.00 feet; thence South 37°02'29" West along said Westerly right-of-way, for 135.98 feet to a curve, from which, the radius point bears South 52°57'31" East, 853.49 feet; thence Southwesterly along said Westerly right-of-way and said curve to the left, through a central angle of 06°34'55", for an arc length of 98.04 feet; thence South 59°32'26" East along said Westerly right-of-way, for 5.00 feet to a curve, from which, the radius point bears South 59°32'26" East, 848.49 feet; thence Southwesterly along said Westerly right-of-way and said curve to the left, through a central angle of 25°22'04", for an arc length of 375.67 feet to the Point of Beginning.

EXCEPTING THEREFROM that portion of Lot 4, Block 7, of Ward's Homestead, as recorded in Volume 2 of Plats, Page 63, records of said county, described as follows: Beginning at the intersection of the north line of South Street (Unopened), with the west right of way line of Henderson Boulevard, as shown on record of survey recorded under Auditor's File No. 3133008, records of said county; thence North 88°15'52" West along said north line of South Street, a distance of 87.62 feet to the east line of the west 365 feet of said Lot 4, Block 7, of Ward's Homestead; thence North 01°52'57" East along said east line a distance of 309.02 feet; thence South 87°58'02" East a distance of 236.11 feet to said west right of way line of Henderson Boulevard, and a point on a curve to the right having a radius point which bears North 79°13'49" West a distance of 542.94 feet; thence southwesterly along said curve through a central angle of 26°16'26", an arc distance of 248.95 feet; thence South 37°03'11" West along said right of way line a distance of 97.14 feet to the Point of Beginning.

ALSO EXCEPTING THEREFROM that portion of Government Lot 3, Section 36, Township 18 North, Range 1 West, W.M., described as follows: Commencing at the northwest corner of said Government Lot 3; thence South 01°37'40" West a distance of 713.56 feet along the west line of said Section 36; thence South 85°59'20" East a distance of 295.90 feet to the True Point of Beginning of this exception; thence continuing South 85°59'20" East a distance of 161.51 feet; thence North 88°25'25" East a distance of 196.41 feet; thence North 76°17'31" East a distance of 26.00 feet; thence North 40°15'40" East a distance of 45.16 feet; thence north 02°30'33" East a distance of 169.15 feet; thence north 81°53'25" West 413.98 feet; thence South 73°53'46" West a distance of 174.27 feet to the toe of a bank; thence along said tow of bank 169 feet more or less to a point that bears North 50°18'08" West a distance of 118.34 feet from the True Point of Beginning; thence South 50°18'08" East a distance of 118.34 feet to the True Point of Beginning.

AREA 2

That part of Government Lot 3 of Section 36, and the Southwest quarter of the Northwest quarter of Section 36, Township 18 North, Range 2 West, Willamette Meridian, Thurston County, Washington, and being further described as follows:

Commencing at the West quarter corner of said Section 36; thence North 01°35'14" East along the West line of said Southwest quarter of the Northwest quarter of Section 36, for 30.00 feet to the Northerly right-of-way of Olympia-Yelm Highway as shown on the Record of Survey recorded at Auditor's File No. 3048902; thence South 88°04'26" East along said Northerly right-of-way, for 434.73 feet to the Southwest corner of Parcel B of Boundary Line Adjustment No. 1560, recorded at Volume 2376, page 64; thence North

01°33'03" East along the West line of said Parcel B, for 295.31 feet to the Northwest corner of said Parcel B; thence South 88°32'31" East along the North line of Parcel B, for 386.06 feet to the Point of Beginning; thence continuing North 88°32'31" East along said North Line of Parcel B, for 472.02 feet to the Northeast corner of said Parcel B and the Westerly right-of-way of Henderson Boulevard; thence North 02°01'52" East along said Westerly right-of-way, for 420.59 feet; thence South 87°58'08" East, for 10.00 feet; thence North 0°01'52" East along said Westerly right-of-way, for 793.88 feet to a curve, from which, the radius point bears South 87°58'08" East, 848.49 feet; thence Northerly along said Westerly right-of-way and said curve to the right, through a central angle of 03°03'38", for an arc length of 45.32 feet ; thence North 87°58'08" West for 191.21 feet; thence North 02°01'52" East for 2.00 feet; thence North 87°58'08" West, for 90.00 feet to a curve, from which, the radius point bears South 02°01'52" West, 471.00 feet; thence Southwesterly along said curve to the left, through a central angle of 135°00'04", for an arc length of 1109.78 feet; thence South 42°58'12" East, for 128.16 feet to a curve, from which, the radius point bears South 4°01'48" West, 138.00 feet; thence Southeasterly along said curve to the right, through a central angle of 45°00'00", for an arc length of 108.39 feet; thence South 02°01'48" West, for 274.23 feet to the Point of Beginning.

TOGETHER WITH that portion of Lot 1 of Large Lot Subdivision No. 971960, as recorded under Auditor's File No. 3160226, records of Thurston County, Washington, and that portion of right of way of Henderson Boulevard, described as follows: Beginning at the northeast corner of Parcel B of Boundary Line Adjustment No. 1560, as recorded in Volume 2376 of the General Index, at Page 64, records of Thurston County, Washington; thence North 02°01'52" East along the west line of said right of way a distance of 297.12 feet; thence South 86°35'08" East a distance of 222.82; thence South 74°41'59" East a distance of 34.42 feet to the beginning of a curve to the right, having a radius point which bears North 59°56'30" East a distance of 221.70 feet; thence easterly along said curve through a central angle of 55°24'22" an arc distance of 214.39 feet; thence North 59°46'13" East a distance of 36.18 feet; thence North 49°07'39" East a distance of 37.03 feet; thence North 45°36'06" East a distance of 33.81 feet; thence North 37°00'38" East a distance of 15.34 feet to the east line of Parcel A, Boundary Line Adjustment No. 961443, as recorded under Auditor's File No. 3072214; thence South 01°31'54" West along said east line a distance of 135.12 feet; thence South 88°32'31" East along the south line of said Parcel A a distance of 270.00 feet to the east line of said Lot 1 of Large Lot Subdivision No. 971960; thence South 01°31'54" West along said east line a distance of 326.78 feet to the southeast corner of said Lot 1; thence North 88°44'56" West along the south line of said Lot 1 a distance of 730.16 feet; thence North 43°16'59" West a distance of 26.19 feet; thence North 02°01'52" East a distance of 229.41 feet; thence South 87°58'08" East a distance of 23.50 feet; thence North 02°01'52" East a distance of 298.65 feet; thence North 86°35'08" East a distance of 100.03 feet to the westerly right of way line of Henderson Boulevard; thence North 02°01'52" East along said right of way line a distance of 25.01 feet to the True Point of Beginning.

EXCEPTING THEREFROM the above described Area 2 parcel, that portion of Government Lot 3, Section 36, Township 18 North, Range 1 West, W.M., described as follows:

Commencing at the northwest corner of said Government Lot 3; thence South 01°37'40" West a distance of 713.56 feet along the west line of said Section 36; thence South

85°59'20" East a distance of 295.90 feet to the True Point of Beginning of this exception; thence continuing South 85°59'20" East a distance of 161.51 feet; thence North 88°25'25" East a distance of 196.41 feet; thence North 76°17'31" East a distance of 26.00 feet; thence North 40°15'40" East a distance of 45.16 feet; thence north 02°30'33" East a distance of 169.15 feet; thence north 81°53'25" West 413.98 feet; thence South 73°53'46" West a distance of 174.27 feet to the toe of a bank; thence along said tow of bank 169 feet more or less to a point that bears North 50°18'08" West a distance of 118.34 feet from the True Point of Beginning; thence South 50°18'08" East a distance of 118.34 feet to the True Point of Beginning.

AREA 3

Lot 1 of Large Lot Subdivision No. 971960, as recorded under Auditor's File No. 3160226, records of Thurston County, Washington,

Together with that portion of Lot 2 of said Large Lot Subdivision No. 971960 lying westerly of the shoreline of Ward Lake, as shown on Record of Survey recorded under Auditor's File No. 3133008, records of said county.

Excepting therefrom those portions of the above described Lots 1 and 2, lying southerly and easterly of the following described line:

Beginning at the northeast corner of Parcel B of Boundary Line Adjustment No. 1560, as recorded in Volume 2376 of the General Index, at Page 64, records of Thurston County, Washington; thence North 02°01'52" East along the west line of said right of way a distance of 297.12 feet; thence South 86°35'08" East a distance of 100.03 feet to the west line of said Lot 1 of Large Lot Subdivision No. 971960, and True Point of Beginning of this description; thence continuing South 86°35'08" East a distance of 226.23 feet; thence South 74°41'59" East a distance of 34.42 feet to the beginning of a curve to the right, having a radius point which bears North 59°56'30" East a distance of 221.70 feet; thence easterly along said curve through a central angle of 55°24'22" an arc distance of 214.39 feet; thence North 59°46'13" East a distance of 36.18 feet; thence North 49°07'39" East a distance of 37.03 feet; thence North 45°36'06" East a distance of 33.81 feet; thence North 37°00'38" East a distance of 15.34 feet to the east line of Parcel A, Boundary Line Adjustment No. 961443, as recorded under Auditor's File No. 3072214; thence North 01°31'54" East along said east line of Parcel A a distance of 169.74 feet; thence North 88°32'31" West a distance of 60.00 feet; thence North 76°40'11" West a distance of 108.36 feet; thence North 70°56'26" West a distance of 93.41 feet; thence North 22°11'38" East a distance of 40.28 feet; thence North 54°25'09" East a distance of 30.45 feet; thence North 26°08'00" East 16.44 feet; thence North 24°04'17" West 13.68 feet; thence North 13°20'50" East a distance of 37.12 feet; thence North 59°44'19" East a distance of 41.50 feet; thence North 69°09'01" East a distance of 28.34 feet; thence North 83°15'10" East a distance of 11.34 feet; thence South 85°08'27" East a distance of 41.90 feet; thence North 83°48'44" East a distance of 24.39 feet; thence North 62°43'37" East a distance of 22.57 feet; thence North 52°30'43" East a distance of 26.32 feet; thence north 42°29'23" East a distance of 26.04 feet; thence North 56°38'31" East a distance of 26.23 feet; thence North 83°36'15" East a distance of 31.01 feet; thence North 88°32'31" West a distance of 99.39 feet more or less, to the

shoreline of Ward Lake, as shown on said Record of Survey recorded under Auditor's File No. 3133008, and the terminus of this described line.

EXHIBIT D – SCOPE OF WORK

1 Briggs Data Submittal Period

A detailed file review and reconciliation of Briggs' and the Department of Ecology's (Ecology) files will occur and Briggs will submit to the Department (Ecology) any environmental data collected to date that is not already on file at the Southwest Regional Office. Ecology will identify any data gaps not addressed in previous environmental studies and notify Briggs of findings.

2 Draft Remedial Investigation Work Plan

A draft Remedial Investigation (RI) Work Plan will be submitted by Briggs and will address such data gaps identified by Ecology, as necessary, to better characterize the extent, distribution and sources of hazardous substances detected at the Site.

The RI performed on the Site will be conducted in a phased approach, including but not limited to Phase I (outlying areas west of Henderson Blvd.), Phase II (interior areas west of Henderson Blvd.) and Phase III (areas located east of Henderson Blvd.). A draft RI work plan will be presented to Ecology for comment and approval prior to implementation of each phase of work. At the completion of each phase of work, a detailed RI Report shall be presented to Ecology for comment and approval. Each phase work plan shall include a schedule for implementing the associated work.

3 Final Remedial Investigation Work Plans

Briggs shall submit final RI Work Plans, for Ecology's approval, addressing Ecology's comments on the draft work plans.

4 Implement the Approved Remedial Investigation Phases

Briggs will implement the RI phases according to the approved Final RI Work Plan(s).

5 Draft Remedial Investigation Reports

Briggs will submit draft RI Reports regarding the implementation and results of the RI phases for Ecology's review.

6 Final Remedial Investigation Reports

Briggs will submit final RI reports, for Ecology's approval, addressing Ecology's comments on the draft reports.

7 Risk Assessments

Using data collected during and prior to the RI phases, a Risk Assessment (RA) will be performed to evaluate risk to human and ecological receptors.

Briggs will submit a draft RA Report for each phase of the RI, regarding the implementation and results of the RA analysis, for Ecology's review.

Briggs will submit a final RA Report for each phase of the RI, addressing Ecology's comments on the draft report.

8 Draft Feasibility Study Reports

Using data collected in previous environmental studies as well as the RI phases, Briggs will perform a Feasibility Study to develop and evaluate cleanup action alternatives for each phase that is determined by Ecology to require further remedial action under WAC 173-340. The draft Feasibility Study Report(s) will be developed according to standards in WAC 173-340-350, and will be submitted to Ecology for comment and approval.

The cleanup remedies evaluated shall protect human health and the environment, including terrestrial and aquatic receptors identified in the Risk Assessment. Cleanup remedies shall eliminate, reduce, or otherwise control risks posed through each exposure pathway and migration route. Residual threats that accompany each alternative shall be evaluated to determine if remedies protective of human health are also protective of ecological receptors. The feasibility studies shall include at least one permanent cleanup alternative to serve as a baseline against which other alternatives shall be evaluated.

9 Final Feasibility Study Reports

Briggs will submit final Feasibility Study reports, for Ecology's approval, addressing Ecology's comments on the draft reports.

10 SCHEDULE

**TO BE DETERMINED
BASED ON CLOSURE
AND DEMOLITION
ACTIVITIES**



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July 14, 2004

Lisa Pearson
Environmental Engineer
Toxics Cleanup Program
Department of Ecology
Southwest Regional Office
P.O. Box 47775
Olympia, WA 98504-7775

Re: Exhibit E, as Amended by City Comments

Dear Lisa:

I propose that this letter form the proposed Exhibit E to the Agreed Order. Actions taken in accordance with agreed orders under the Model Toxics Control Act are exempt from local and agency permitting requirements, but the agency must identify and integrate local and agency "substantive" requirements into the approved work plan and any required remediation to the extent feasible with appropriate clean up.

Jurisdictionally we are located in the City of Olympia. For purposes of the Agreed Order, several City Code sections seem to be appropriate:

1. Shoreline master program for the Thurston Region covers the shoreline of Ward Lake (a Rural designation) and lands 200 feet from the line of ordinary high water on the Briggs site.

a. Normally a substantial development permit is required for all work in excess of \$5,000 within the shoreline area. Permits are not required for model toxics work, but all work must comply with the substantive requirements of the code.

b. Work anticipated in the shoreline includes drilling one or more test wells from the top of the bank to the water table. The City has no specific requirements for wells in the shoreline area, except that the wells must meet WDOE standards for monitoring well construction, operation, and closure.

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July 14, 2004

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c. Additional work in the shoreline requires sampling and testing. The City has no specific standards for sampling and testing, except the admonition to disturb as little area as necessary to complete the tests and to restore any test area to assure that no runoff or turbidity would reach the lake.

d. A final work element in the shoreline may involve the excavation and removal of material within 200 feet of the shoreline if a clean up action were required and removal of material was required. In such event, again, the City has no specific criteria in the shoreline program. Contaminated spoils would have to be removed, and clean soils disposed on site in a manner that does not cause a fill in the lake to create new land, nor result in any turbidity reaching the lake.

2. Critical area codes: The City critical area ordinance addresses natural steep slopes and wetlands that are found on the Briggs site. Allowed uses are identified at OMC 14.10.303, Table 14.10.303.

a. Site investigation is permitted in all critical areas and special conditions are “none.” OMC 14.10.339(B)(50).

b. The City has no “standard” for non destructive testing, except the general admonition to disturb as little of the critical area or buffer as necessary to do the testing and restore the site when testing is complete as necessary to preserve functions and values.

c. If some form of excavation and grading is required, the City standards require:

- i. Characterization of the critical area as part of the larger site.
- ii. Assess the impact on the critical area, both from activities outside the critical area and from proposed activities within the critical area.
- iii. Propose adequate protection mechanisms for the specific critical area.

Full details at OMC 14.10.306.

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d. The only specific substantive prohibition applicable to the clean up investigation potentially applicable is that fill in Class II wetlands and associated buffers is prohibited “unless it is demonstrated that the impact is unavoidable and necessary and the project is in the public interest.” OMC 14.10.339(B)(23).

e. Any grading or filling of the site as a result of required remediation would be subject to the grading requirements of the City, which do incorporate the substantive requirements of the Drainage Design and Erosion Control Manual for the Thurston Region. (1990), as amended. OMC 14.10.525.

Any substantive work within Ward Lake would be subject to HPA requirements.

The HPA process recognizes the model toxics preemption, RCW 77.55.035. The substantive requirement is found in RCW 70.55.090, which cross references RCW 90.74.020, which provides any work shall require:

. . . equal or better biological functions and values, compared to the existing conditions, for the target resources or species . . .

RCW 90.74.020(3).

The City of Olympia has clarified the City requirements by memo dated July 13, 2004, the substance of which is as follows:

#1. Shoreline Master Program for Thurston Region

- Test Wells. A test well would fit into the category of “Research and Education,” and would be allowed. Impacts should be minimized.
- Excavation and removal of material. The policies of “Mining and Drilling” apply; e.g. excavation should not “substantially alter or cause irreparable damage to normal geohydraulic processes, channel form and alignment, and meandering patterns of adjacent and nearby water bodies...”; accessory equipment and materials should be stored and sited landward from the ordinary high-water mark; operations should protect the receiving waters from degradation; and a report is required.
- Deposit clean soils in excavated area. The “Mining and Drilling” section also has policies for restoring disturbed areas, including restoration to a biologically productive or useful condition which is compatible with existing land, shoreline, and water uses. (See Section Three X.B.17 and 18.)

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#2. Critical Areas Ordinance

- Site Investigation. This is permitted in steep slopes and Type II Wetland buffers with an administrative review.
- Monitoring wells. These are permitted in steep slopes and Type II Wetland buffers with an administrative review.
- Soil Removal (similar to mineral extraction). This is allowed under a conditional use permit on steep slopes, but not allowed in a Type II Wetland or its buffer.
- Soil Replacement. Restoration/revegetation is allowed on steep slopes and in Type II Wetlands and their buffers.

One final issue is that steep slopes have a fifty-foot buffer of existing vegetation at the top and toe of the slope. This buffer can be reduced to twenty-five feet after review and approval of a special report.

Taking the CAO as a whole:

No soil removal allowed in a Type II Wetland or its buffer; this may not even materialize, but if contaminated soils are found in the wetland or its buffer, then a decision will have to be made whether containment will suffice, or if there is some other solution; and,

Steep slope buffer at top and toe of slope, which might cause difficulty in maneuvering on the slope and in extracting any contaminated soils. If the latter is an issue, careful removal of the soils and restoration and revegetation would be the preferred "least impact" choice.

I am not aware of any other permits that might be required for the investigation or remediation of the site. Should additional requirements be identified through the duration of the Agree Order, such substantive requirements may be added to this exhibit.

Very truly yours,



Alexander W. Mackie

July 14, 2004
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AWM:kr

cc: Susan Messegee
Gary Briggs
Kathy Brunson
Kevin Freeman
Cathie Carlson