



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Central Region Office

1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

October 18, 2023

Alan Cubberley  
Circle K Stores  
1100 Situs Court, Suite 100  
Raleigh, NC 27606

**Re: No Further Action Opinion for the Following Contaminated Site –  
Use of Model Remedy 1 for Sites with Petroleum Impacts to Groundwater**

- **Site Name:** Sun Mart 30 (Circle K 2706049)
- **Site Address:** 6006 W Clearwater Avenue, Kennewick
- **Facility/Site ID:** 36343669
- **Cleanup Site ID:** 12145
- **VCP Project No.:** CE0471

Dear Alan Cubberley:

The Washington State Department of Ecology (Ecology) received your request on January 24, 2022 for an opinion regarding the sufficiency of your independent cleanup of the Sun Mart 30 facility (Site) under the Voluntary Cleanup Program (VCP).<sup>1</sup> This letter provides our opinion and analysis. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW.<sup>2</sup>

## Opinion

Ecology has determined that no further remedial action is necessary to clean up contamination at the Site. The application of Model Remedy 1 from Ecology Publication 16-09-057, *Model Remedies for Sites with Petroleum Impacts to Groundwater* is appropriate for this Site.

Ecology bases this opinion on an analysis of whether the remedial action meets the substantive requirements of MTCA and its implementing regulations, which are specified in Chapter 70A.305 RCW and Chapter 173-340 WAC<sup>3</sup> (collectively called “MTCA”).

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<sup>1</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Voluntary-Cleanup-Program>

<sup>2</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

<sup>3</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

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## Site Description

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following release(s):

- Gasoline, benzene, toluene, ethylbenzene, xylene, and naphthalene in soil.

Enclosure A includes Site description, history, and diagrams.

Please note that releases from multiple sites can affect a parcel of real property. At this time, Ecology has no information that other sites affect the parcel(s) associated with this Site.

## Basis for the Opinion

Ecology bases this opinion on the information contained in the following documents:

- Blaes Environmental, Confirmation Soil Boring Report, May 17, 2023
- Blaes Environmental, Soil Remediation Report, January 23, 2022
- Blaes Environmental, Initial Soil and Groundwater Site Characterization Report, January 21, 2020
- Blaes Environmental, Revised Workplan for Soil and Groundwater Site Characterization, August 27, 2013
- Blaes Environmental, Work Plan for Soil and Groundwater Site Characterization, April 9, 2013
- Blaes Environmental, Environmental Due Diligence Site Assessment Report, November 23, 2012.

You can request these documents by filing a records request.<sup>4</sup> For help making a request, contact the Public Records Officer at [recordsofficer@ecy.wa.gov](mailto:recordsofficer@ecy.wa.gov) or call (360) 407-6040. Before making a request, check if the documents are available on the Sun Mart 30 website.<sup>5</sup>

This opinion is void if information in any of the listed documents is materially false or misleading.

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<sup>4</sup> <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>

<sup>5</sup> <https://apps.ecology.wa.gov/cleanupsearch/site/12145>

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## **Analysis of the Cleanup**

Ecology has concluded that no further remedial action is necessary to clean up contamination at the Site. Ecology bases its conclusion on the following analysis:

### **Characterizing the Site**

Ecology has determined your completed Site characterization is sufficient for setting cleanup standards and selecting a cleanup action. Enclosure A describes the Site.

An initial Site assessment identified two locations where diesel and gasoline were released, near the northeast end of the dispenser island and the underground storage tank (UST) nest. Further investigation identified that the petroleum contamination was contained from 10 to 80 feet below ground surface (bgs), with groundwater measured approximately 127 feet bgs. This contamination included associated volatile organic compounds (VOCs) of benzene, toluene, ethylbenzene, and xylene commonly referred to as BTEX. Site characterization and remedial efforts identified the vertical and horizontal extent of the petroleum contamination and that its impacts only exceeded cleanup levels in subsurface soils.

Groundwater was sampled as a precaution to eliminate the potential exposure pathway. These groundwater samples did not yield contamination concentrations above MTCA cleanup levels. These samples coupled with the vertical distance between the contamination and groundwater eliminate this exposure pathway.

Vapor intrusion is a common pathway of concern when VOCs are present. This pathway was not pursued because the location of the contamination was and remains greater than 60 feet from any enclosed structures.

### **Setting Cleanup Standards and Selecting Cleanup Actions**

Ecology has determined the cleanup levels and points of compliance you set for the Site meet the substantive requirements of MTCA.

The soil cleanup standards established in Table 1 of the Soil Remediation Report are sufficient to meet the substantive requirements of MTCA. The use of standard points of compliance (POCs) based on direct contact for unrestricted land use is also appropriate. Standard POCs based on direct contact are defined as throughout the site from the ground surface to 15 feet below the ground surface. Soil samples were compared to MTCA Method A cleanup levels for unrestricted land use.

While no groundwater samples exceeded cleanup levels, they were compared to MTCA Method A cleanup levels for the beneficial use of drinking water. These standards are meant to be protective of a variety of existing and future uses of groundwater.

<b>Contaminant of Concern</b>	<b>MTCA Method A Soil Cleanup Level (mg/kg)</b>	<b>MTCA Method A Groundwater Cleanup Level (µg/liter)</b>
Gasoline	30	800
Diesel	2,000	500
Benzene	0.03	5
Toluene	7	1,000
Ethylbenzene	6	700
Xylenes	9	1,000
Naphthalene	5	160

Contaminated soils within the direct contact POCs were located beneath the operating structure of the island dispenser. This made soil removal and disposal impracticable, therefore a series of soil vapor extractions (SVE) was used. A cleanup action must either remove or destroy the contamination, restore the site to cleanup levels, or contain the contamination in such a way that minimizes future exposure of humans and ecological receptors (plants and animals).

### **Implementing the Cleanup Action**

Ecology has determined your cleanup meets the standards set for the Site.

Confirmational samples (confirmation borings CB-1 and CB-2) demonstrate that the cleanup action achieved cleanup levels at the POCs and comply with state and federal laws which are protective of human health and the environment. Contamination of gasoline and naphthalene remain above cleanup levels in soil between a depth of 50 and 65 feet bgs, a depth that is greater than the direct contact POCs and not a threat to groundwater.

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You must decommission resource protection wells<sup>6</sup> installed as part of the remedial action that are not needed for any other purpose at the Site. Wells must be decommissioned in accordance with WAC 173-160-460.<sup>7</sup>

## **Listing of the Site**

Based on this opinion, Ecology will update the Site status on the Confirmed and Suspected Contaminated Sites List and the Leaking Underground Storage Tanks List.

## **Limitations of the Opinion**

### **Opinion Does Not Settle Liability with the State**

Liable persons are strictly liable, jointly, and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion does not:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70A.305.040(4).<sup>8</sup>

### **Opinion Does Not Constitute a Determination of Substantial Equivalence**

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine if the action you performed is substantially equivalent. Courts make that determination. See RCW 70A.305.080<sup>9</sup> and WAC 173-340-545.<sup>10</sup>

### **State is Immune from Liability**

The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. See RCW 70A.305.170(6).<sup>11</sup>

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<sup>6</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-160-410>

<sup>7</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-160-460>

<sup>8</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040>

<sup>9</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.080>

<sup>10</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545>

<sup>11</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.170>

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## **Termination of Agreement**

Thank you for cleaning up the Site under the VCP. This opinion terminates the VCP Agreement governing VCP Project No. CE0471.

## **Questions**

If you have any questions about this opinion or the termination of the Agreement, please contact me by phone at 509-406-6959 or email at [Kyle.Parker@ecy.wa.gov](mailto:Kyle.Parker@ecy.wa.gov).

Sincerely,



Kyle Parker  
Toxics Cleanup Program  
Central Regional Office

Enclosures (1): A – Site Description, History, and Diagrams

cc: Daniel Blaes, Blaes Environmental Inc.  
Fiscal, VCP Fiscal Analyst  
TCP, Operating Budget Analyst

# Enclosure A

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Site Description, History, and Diagrams



## **Site Description**

The Sun Mart 30 facility (Site) is located on the northwest corner of Clearwater Avenue and Kellogg Street in Kennewick, Washington. The Site is in a mixed urban setting that consists of commercial and residential developments. Potential ecological receptors are limited due to the Sites location, and human direct contact is limited as remaining contamination is more than 15 feet deep and below paved areas.

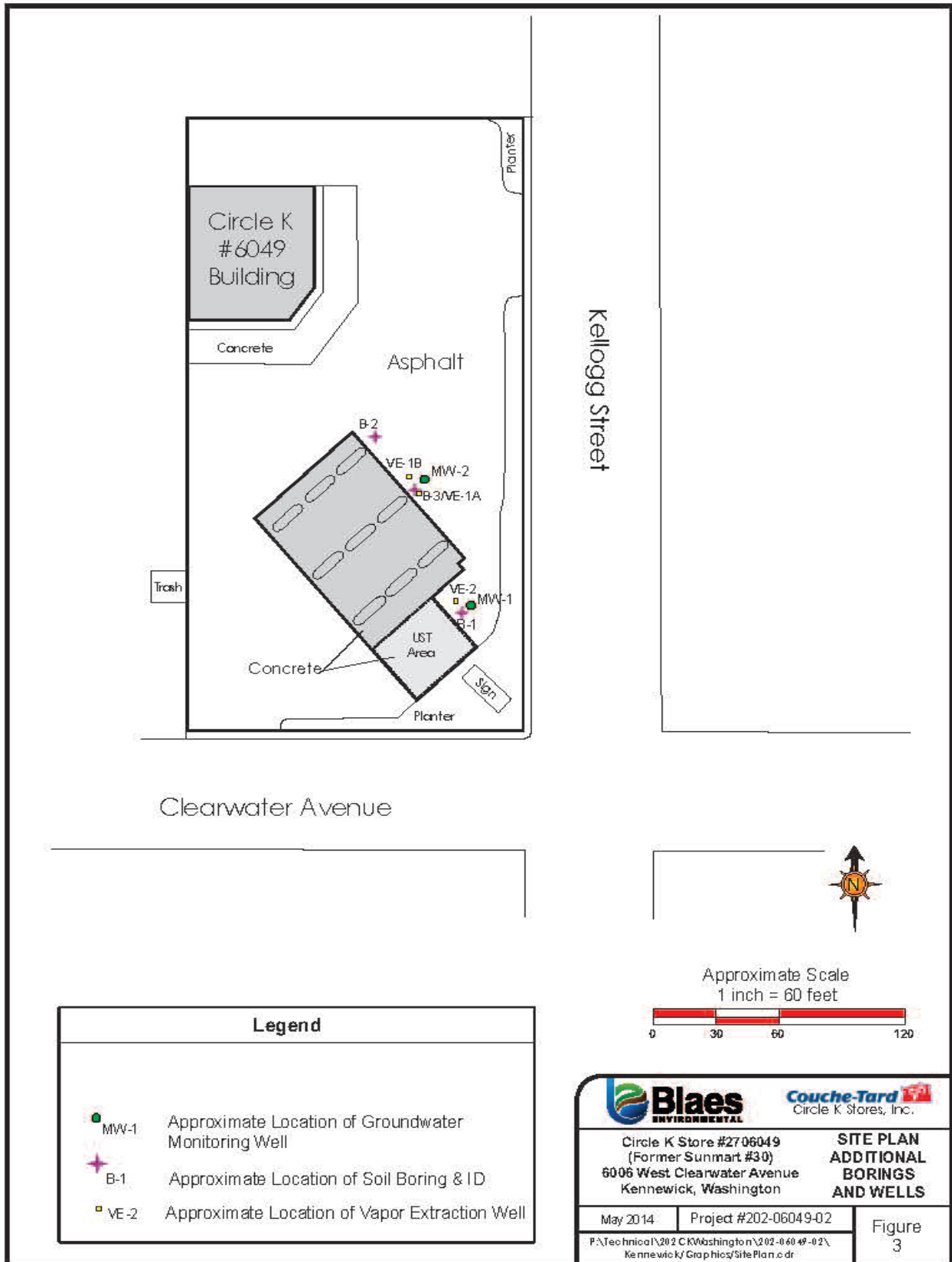
The Site operates as a gas station and convenience store. A Site assessment indicated petroleum impacted soil near the dispenser island and the gas storage tanks. Gasoline concentrations above applicable cleanup levels (CULs) were noted in soils from 10 to 80 feet below ground surface (bgs) and diesel was never sampled above CULs. Groundwater is measured at approximately 127 feet bgs. No Groundwater samples contained contaminants of concern above Site CULs.

## **Site History**

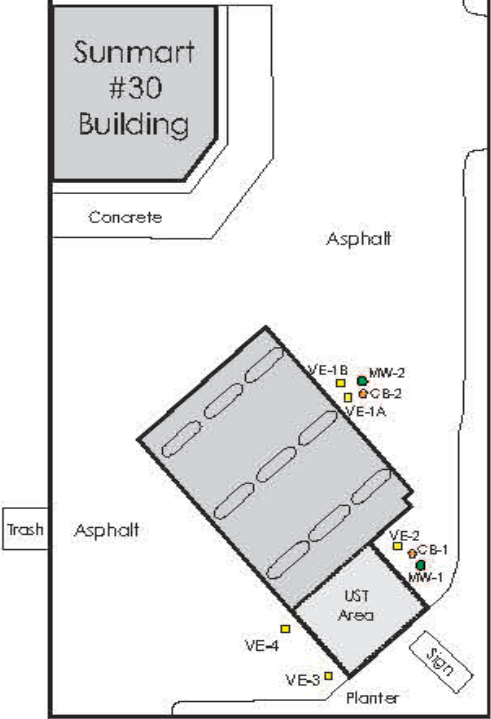
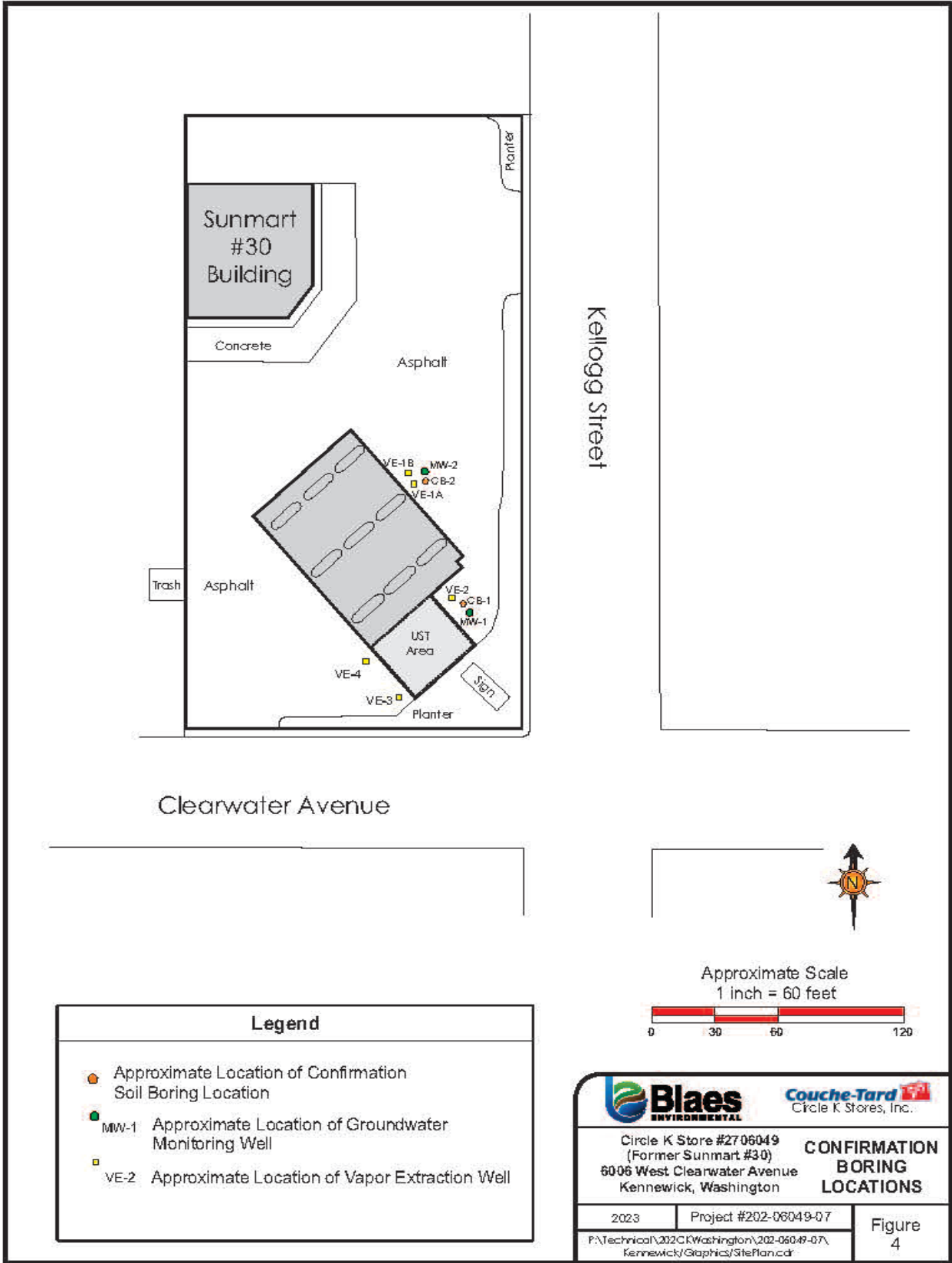
Historically the Site operated as a gas station. Site samples indicate that the release of petroleum products occurred from the dispenser piping and potentially the gas storage tanks. In November of 2012 Ecology received an initial site assessment indicate a release had occurred at the Site. Work plans for site characterization were submitted in 2013, with characterization occurring in 2020. A soil remediation report was provided in 2022 with a confirmation sampling report in May 2023. Soil remediation was conducted through a series of soil vapor extraction events.






# Site Diagrams



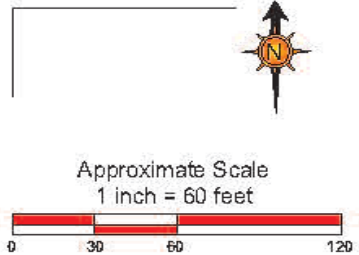





Legend	
	Approximate Location of Confirmation Soil Boring Location
	MW-1 Approximate Location of Groundwater Monitoring Well
	VE-2 Approximate Location of Vapor Extraction Well

Kellogg Street

Clearwater Avenue



 	
Circle K Store #2706049 (Former Sunmart #30) 6006 West Clearwater Avenue Kennewick, Washington	
<b>CONFIRMATION BORING LOCATIONS</b>	
2023	Project #202-06049-07
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Figure 4	