Second Periodic Review

Former Scott Paper Mill
17th – 20th Street & R Avenue
Anacortes, WA 98221

For the

Toxics Cleanup Program

Washington State Department of Ecology
Lacey, Washington

January 2024

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Draft Final

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Headquarters

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1.0 INTRODUCTION

This document is a review by the Washington State Department of Ecology (Ecology) of post-cleanup conditions and monitoring data to assure human health and the environment are being protected at the Former Scott Paper Mill Site (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA) regulations, Chapter 173-340 Washington Administrative Code (WAC).

Cleanup activities at this Site were completed under Consent Decree No. 09-2-01247-7 (dated June 12, 2009). While the cleanup actions achieved the Site-specific cleanup levels set forth in the Cleanup Action Plan (CAP; Ecology 2009) and discussed further in Section 2.3.1, subsurface upland soils underlying engineered caps contain concentrations of petroleum hydrocarbons (diesel and heavy oil), metals (arsenic, copper and lead) and carcinogenic polycyclic aromatic hydrocarbons (cPAHs) above unrestricted use MTCA cleanup levels. Similarly, subsurface marine sediments underlying engineered caps contain concentrations of mercury, polychlorinated biphenyls (PCBs), total volatile solids (TVS) and wood that exceed Sediment Management Standard (SMS) cleanup criteria. The MTCA cleanup levels for soil are established under WAC 173-340-740. The MTCA cleanup levels for groundwater are established under WAC 173-340-720. The MTCA cleanup levels for sediment are established under SMS (WAC 173-204-560[2]). WAC 173-340-420(2) requires Ecology to conduct a periodic review of a Site every 5 years under the following conditions:

i. Whenever the department conducts a cleanup action.

ii. Whenever the department approves a cleanup action under an order, agreed order or consent decree.

iii. Or, as resources permit, whenever the department issues a no further action opinion.

iv. One of the following conditions exists at the site:

- Institutional controls or financial assurance are required as part of the cleanup.
- Where the cleanup level is based on a practical quantitation limit.
- Or, where in the department's judgment, modifications to the default equations or assumptions using site-specific information would significantly increase the concentration of hazardous substances remaining at the site after cleanup or the uncertainty in the ecological evaluation or the reliability of the cleanup action is such that additional review is necessary to assure long-term protection of human health and the environment.

When evaluating whether human health and the environment are being protected, the factors Ecology shall consider include [WAC 173-340-420(4)]:

[2] SMS (Chapter 173-204 WAC) Revised February 2013.

- The effectiveness of ongoing or completed cleanup actions, including the effectiveness of engineered controls and institutional controls in limiting exposure to hazardous substances remaining at the site.
- New scientific information for individual hazardous substances of mixtures present at the site.
- New applicable state and federal laws for hazardous substances present at the site.
- Current and projected site use.
- Availability and practicability of higher preference technologies; and
- the availability of improved analytical techniques to evaluate compliance with cleanup levels.

Ecology shall publish a notice of all periodic reviews in the Site Register and provide an opportunity for public comment.

2.0 SUMMARY OF SITE CONDITIONS

2.1 Site History

The former Scott Paper Mill was located in Anacortes, Washington, on the west shore of Fidalgo Bay (Vicinity Map; Section 6.1). The development of the shoreline as an industrial area began in the late 1800s. Prior to development of the Site, the area was largely a shallow tideland. In 1892, a lumber mill was built at the Site that extended on pilings into Fidalgo Bay. The lumber mill was located in the area referred to as the Port Uplands Area (Pre-Construction Site Plan; Section 6.2). Wharves and offshore log rafts were present in much of the northern portion of the Marine Area (extending from the shoreline to about the inner harbor line) until the late 1940s. Between approximately 1890 and 1940, approximately 5 to 20 feet of fill materials including sawdust and mill refuse were placed throughout the former tide flat beneath and adjacent to the wharves, also extending onto the MJB North Area.

In 1925, a pulp mill was constructed at the property referred to as the MJB North Area. Pulp was produced using an acid-sulfate process using byproducts from the lumber mill. In 1940, Scott Paper purchased the pulp and lumber mills and operated the facilities until 1955. Process improvements by Scott Paper included the conversion to an ammonium sulfite process in 1952, the construction of a 16-inch effluent pipeline to Guemes Channel and an on-site surge pond for the pipeline in May 1951, and the addition of pulp bleaching facilities in 1955. Effluent was discharged directly into Fidalgo Bay from 1925 to 1951. A knots and tailings pond were constructed in 1959, on what is now Port Parcel 2, to reduce settleable solids in the mill's effluent. Materials known to have been utilized at the former pulp mill include petroleum, sulfur, anhydrous ammonia, ammonium hydroxide, and chlorine. Bunker C and diesel fuels were used to generate power and operate equipment. The pulp mill closed in 1978.

Scott Paper was acquired by Kimberly Clark (K-C) in December 1995. The former Scott Paper Mill operations were bounded by the Cap Sante Marina to the north, Fidalgo Bay to the east, and Q Avenue to the west. To the south, the maximum extent of former Scott Paper Mill operations was approximately 20th Street. Site boundaries are depicted on the Pre-Construction Site Plan (Section 6.2). In 1978 and 1979, the Port purchased the northern portion of the Site. The southern portion of the Site was purchased by the Snelson-Anvil Corporation in 1979 and has been owned by MJB since 1990. In 1999, Sun Healthcare Systems, Inc. (SHS) purchased Parcel 2 from the Port and, following initial cleanup and redevelopment, subsequently subdivided and sold Parcel 2 into four sublots. In 2008, the Port acquired a narrow strip of the Marine Area between the Port and MJB properties.

2.2 Site Investigations

Detailed investigations of Port Parcel 2 were performed by ThermoRetec (ThermoRetec 1999a), followed by preparation of a soil CAP for this area (ThermoRetec 1999b).

Between 2004 and 2008, the Port conducted environmental investigations of Port-owned property pursuant to Consent Decree No. 03-2-00492-1 dated March 21, 2003. The work

required under this Consent Decree included preparation of a Remedial Investigation/ Feasibility Study (RI/FS) for soil at Port Parcels 1 and 3, groundwater throughout the Port Uplands Area, and marine sediments offshore of the Port Uplands Area.

Concurrent investigations of the MJB North Area were performed under Agreed Order No. DE 1783 dated January 27, 2005 between K-C and Ecology. The work required under this Agreed Order included preparation of an RI/FS for soil and groundwater at the MJB North Area and marine sediments offshore of the MJB North Area. K-C conducted the marine sediment investigation. K-C (pursuant to agreements with MJB) performed upland soil and groundwater investigations.

In addition to the work described above, Consent Decree No. 03-2-00492-1 and Agreed Order No. DE 1783 also required the Port and K-C, respectively, to address any remaining Site-wide RI/FS issues. To ensure that Site-wide issues were efficiently addressed, the Port, K-C, and MJB combined the various required elements of the Consent Decree and Agreed Order into a single Site-wide RI/FS report. The final RI/FS report (GeoEngineers et al. 2008) was approved by Ecology on December 16, 2008.

2.3 Cleanup Levels and Points of Compliance

Cleanup standards consist of 1) cleanup levels that are protective of human health and the environment; and 2) the point of compliance at which the cleanup levels must be met. Site-specific cleanup levels and points of compliance for indicator hazardous substances were established in the CAP (Ecology 2009) and are summarized in this section.

2.3.1 Cleanup Levels

Site-specific cleanup levels for indicator hazardous substances in soil, groundwater, and sediment are discussed below. Details regarding the derivation of these cleanup levels are provided in the CAP (Ecology 2009).

2.3.1.1 Soil

Soil cleanup levels for the Site are presented in Table 1. Soil cleanup levels for the Port Uplands and MJB North Areas were developed based on MTCA Method B cleanup level (direct contact) for unrestricted land use, protection of groundwater as surface water, concentrations protective of terrestrial ecological receptors[3] and natural background levels throughout the soil column in accordance with WAC 173-340-740. Because Site groundwater is not a current or reasonably likely future source of drinking water, cleanup levels for Site soil need not be protective of groundwater for drinking water use. Additionally, an empirical demonstration was used in the RI/FS and showed that existing chemical concentrations in Site soil are protective of groundwater

[3] The wildlife exposure model in WAC 173-340-900 (Table 749-4), supplemented with published Environmental Protection Agency (EPA) soil-worm bioaccumulation factors (BAFs) for selected metal including copper, nickel and zinc was used to calculate soil concentrations that are protective of terrestrial wildlife for the MJB North Area. Different soil cleanup levels to protect terrestrial ecological receptors were developed for the Port Uplands Area.

discharge to marine surface water at the proposed conditional point of compliance for groundwater.

Within the 75-Foot Shoreline Buffer Zone, nearshore soil remediation levels were developed for the removal of contaminated soils from 0 to 10 feet bgs. The nearshore soil remediation levels were developed to ensure that adjacent sediments would not re-contaminate above Sediment Quality Standard (SQS) chemical criteria. Other performance monitoring standards for the 75-Foot Shoreline Buffer Zone included those for the Port Uplands and MJB North Areas for human health and ecological exposure applicable to the 0 to 6 feet bgs (conditional point of compliance).

Site-specific soil remediation levels applicable to the shoreline buffer zone are also presented in Table 1.

Table 1. Soil Cleanup Levels

		Upland Areas		Shoreline Buffer Zone		
		Port Uplands Area	MJB North Area	Port Uplands Area	MJB North Area	Port Upland and MJB North Area
Analyte	Units	All Depths		0 to 6 feet bgs		6 to 10 feet bgs
TPH-Diesel	mg/kg	2,000	2,000	2,000	2,000	2,000
TPH-Oil	mg/kg	2,000	2,000	2,000	2,000	2,000
Total cPAHs TEQ	µg/kg	140	140	140	140	NE
Total PCBs	mg/kg	1	1	1	1	1.3
Antimony	mg/kg	32	32	32	32	NE
Arsenic	mg/kg	20	20	20	20	NE
Total Chromium	mg/kg	117	117	117	117	NE
Copper	mg/kg	100	366	100	366	390
Lead	mg/kg	220	220	220	220	530
Mercury	mg/kg	9	9	0.59	0.59	0.59
Nickel	mg/kg	100	977	100	977	NE
Thallium	mg/kg	5.6	5.6	5.6	5.6	NE
Zinc	mg/kg	270	622	270	622	NE
Total Dioxins and Furans TEQ	ng/kg	11	11	11	11	NE
Total Dioxins	ng/kg	5	5	5	5	NE

Analyte	Units	Upland Areas		Shoreline Buffer Zone		
		Port Uplands Area	MJB North Area	Port Uplands Area	MJB North Area	Port Upland and MJB North Area
		All Depths		0 to 6 feet bgs		6 to 10 feet bgs
Total Furans	ng/kg	3	3	3	3	NE

Notes:
bgs = below ground surface
TPH = total petroleum hydrocarbons
PAH = polycyclic aromatic hydrocarbons
TEQ = Toxicity Equivalent Quotient
PCB = polychlorinated biphenyl
mg/kg = milligrams per kilogram
µg/kg = micrograms per kilogram
ng/kg = monograms per kilogram
NE = not established

2.3.1.2 Groundwater

Groundwater cleanup levels for the Site are presented in Table 2. As discussed in the CAP (Ecology 2009), human ingestion of hazardous substances in groundwater is not a potential exposure pathway because groundwater at the Site or that can potentially be affected by the Site is not a current or reasonable future source of drinking water. Consequently, the Site groundwater qualifies as a non-potable water source.

Table 2. Groundwater Cleanup Levels

Analyte	Units	Upland Areas		Shoreline Buffer Zone	
		Port Uplands Area	MJB North Area	Port Uplands Area	MJB North Area
TPH-Diesel	µg/L	500		500	
TPH-Oil	µg/L	500		500	
Total cPAHs TEQ	µg/L	0.1		0.1	
Total PCBs	µg/L	1.8		1.8	
Antimony	µg/L	640		640	
Arsenic	µg/L	8		8	
Total Chromium	µg/L	50		50	
Copper	µg/L	20		20	
Lead	µg/L	8.1		8.1	
Mercury	µg/L	0.04		0.04	

Analyte	Units	Upland Areas		Shoreline Buffer Zone	
		Port Uplands Area	MJB North Area	Port Uplands Area	MJB North Area
Nickel	µg/L	22		22	
Zinc	µg/L	160		160	

Notes:
TPH = total petroleum hydrocarbons
PAH = polycyclic aromatic hydrocarbons
TEQ = Toxicity Equivalent Quotient
µg/L = micrograms per liter

2.3.1.3 Sediment

Sediment cleanup levels are presented in Table 3. No promulgated SMS criteria exist for wood debris in sediment. Consequently, sediment bioassays were performed to develop site-specific cleanup levels for wood debris content and TVS that are protective of sediment habitats (GeoEngineers et al. 2008; Ecology 2009). Based on interpretation of the available biological data, surface sediment TVS levels greater than 12.2 percent (dry-weight basis) and/or wood debris content greater than 25 percent (by volume) were identified as having the potential for site-specific deleterious effects exceeding SQS biological criteria.

Table 3. Sediment Screening Levels

Analyte	Units	Marine Area	
		Sediment Cleanup Objective (SCO)	Cleanup Screening Level (CSL)
Wood Debris (by volume)	%	25	25
Total Volatile Solids (TVS)	%	12.2	12.5
TPH-Diesel	mg/kg	2,000	2,000
TPH-Oil	mg/kg	2,000	2,000
Total PCBs	mg/kg dw	0.13	1
Total PCBs	mg/kg OC	12	65
Arsenic	mg/kg dw	57	93
Copper	mg/kg dw	390	390
Lead	mg/kg dw	450	530
Mercury	mg/kg dw	0.41	0.59

Notes:
TPH = total petroleum hydrocarbons
TEQ = Toxicity Equivalent Quotient
PCB = polychlorinated biphenyl
mg/kg = milligrams per kilogram
dw = dry weight
OC = organic carbon normalized

2.3.2 Points of Compliance

Under MTCA, the point of compliance is the point or location on a site where the cleanup levels must be met. This section describes the points of compliance for soil, groundwater, and sediment.

2.3.2.1 Soil

The standard point of compliance for the soil cleanup levels presented in Table 1 will be throughout the soil column from the ground surface to 15 feet below the ground surface (bgs), in accordance with WAC 173-340-740(6)(d) and WAC 173-340-7490(4)(b). For potential terrestrial ecological exposures, MTCA regulations allow a conditional point of compliance to be established from the ground surface to 6 feet bgs (the biologically active zone according to MTCA default assumptions), provided that environmental covenants are used to address potential excavation of deeper soil (WAC 173-340- 7490[4][a]). Accordingly, in areas of the Site where potential ecological exposures are a concern, and where appropriate environmental covenants can be implemented, a conditional point of compliance for soil concentrations protective of terrestrial ecological receptors will apply throughout the soil column from 0 to 6 feet bgs.

There are limited areas of the Site where attainment of soil cleanup levels within the 0 to 6 feet bgs conditional point of compliance is impracticable, such as immediately adjacent to, or beneath existing buildings or other Site structures. In such localized areas, and consistent with WAC 173-340-740(6)(f), other engineering approaches such as capping the soil with asphalt or concrete pavement, or placement of an indicator layer and clean soil cap (similar to cleanup actions previously implemented at Port Parcel 2; ThermoRetec 2000) will provide the necessary environmental protection.

2.3.2.2 Groundwater

Because groundwater cleanup levels are based on protection of marine surface water and not protection of groundwater as drinking water, Ecology has established a conditional point of compliance for groundwater at the groundwater/surface water interface along the shoreline. Accordingly, shoreline monitoring wells will be used to evaluate compliance with groundwater cleanup levels for the Uplands Area.

2.3.2.3 Sediment

The point of compliance for marine sediments is the biologically active surface water habitat zone, which consists of sediments within 10 centimeters (cm) of the mudline.

2.4 Remedial Actions

Following detailed investigations of Port Parcel 2 (ThermoRetec 1999a) and subsequent preparation of a soil CAP for this area (ThermoRetec 1999b), cleanup at Parcel 2 was conducted

by SHS, with oversight by Ecology under the MTCA Voluntary Cleanup Program (VCP). The Parcel 2 cleanup included, among other elements, removal and offsite landfill disposal of approximately 3,500 tons of petroleum-contaminated soil (excavation areas are depicted in Section 6.3), soil capping, and environmental covenants to prevent future exposure to subsurface soil at the property and to restrict groundwater use for drinking water. Work also included the installation of a sheetpile wall along the shoreline (near MW-112) for containment of residual contaminated soil, concurrently providing structural foundation support for the building constructed by SHS. A project completion report for the Parcel 2 property was submitted to Ecology in 2000 (ThermoRetec 2000).

In 2000, Ecology issued a No Further Action (NFA) letter for diesel-range and oil-range petroleum hydrocarbons, carcinogenic polycyclic aromatic hydrocarbons (cPAHs), PCBs, dioxins/furans, wood debris, and metals in soil at Parcel 2 (Ecology 2000). The NFA letter was conditional to long-term groundwater monitoring to ensure continued environmental protection. However, in 2005 Ecology modified the type of written opinions it provides under the VCP, and no longer provides NFA letters for a single medium such as soil (Ecology 2005). Accordingly, Ecology subsequently rescinded the NFA letter on September 26, 2006, as the completed cleanup did not address all contamination in all media at the Site.

In February 2005, the Port completed a MTCA Bank Stabilization Interim Action along the Seafarers' Memorial Park shoreline under the Consent Decree (Landau 2005). As part of the bank stabilization, the shoreline along parts of the Port and MJB properties were temporarily reinforced to minimize erosion from storm-generated wave and current action. Since at least 1962, shoreline erosion has contributed to contaminant transport from the uplands to the marine area (GeoEngineers et al. 2008).

In 2008, the Port installed two underground storage tanks (USTs) at Parcel 3. An interim action was completed to address contaminated soils and wood debris removed during the tank installation activities. Remedial activities are documented in the Interim Action Completion Report (GeoEngineers 2009).

Between 2009 and 2011, major cleanup efforts to address any remaining Site-wide contamination were completed by the Port and the K-C pursuant to Consent Decree No. 09-2-01247-7. In accordance with the Engineering Design Report (EDR; GeoEngineers et al. 2009), the Port was the lead respondent for the cleanup efforts within the northern upland portion of the Site (referred to as the Port Uplands Area) and the Marine Area which includes the portion of land located 75-feet upland of mean higher-high water (MHHW; referred to as the 75-Foot Shoreline Buffer Zone). K-C was the lead respondent for the cleanup efforts within the southern upland portion of the Site (referred to as the MJB North Area). Specific cleanup activities completed by the Port and K-C are presented in the following report volumes:

- Volume 1 - Port Uplands and Marine Area As-Built Construction Completion Report, Former Scott Paper Mill Site, Anacortes, Washington, Ecology Consent Decree No. 09-2-01247-7, dated September 12, 2012, Prepared for the Washington State Department of Ecology on Behalf of the Port of Anacortes.

- Volume 2 - MJB North Area As-Built Construction Completion Report, Former Scott Paper Mill Site, Anacortes, Washington, Ecology Consent Decree No. 09-2-01247-7, dated January 27, 2012, Prepared for the Washington State Department of Ecology.

Post-construction monitoring of the Site, as required and approved by Ecology, is being used to evaluate the near- and long-term effectiveness of the completed remedial actions of uplands and in-water at the Site.

2.4.1 Uplands Area and 75-Foot Shoreline Buffer Zone Remedial Actions

Cleanup areas within the Port Uplands Area, MJB North Area and 75-Foot Shoreline Buffer Zone are shown relative to the Site in Section 6.3 – Upland Area Post-Construction Site Plan. Based on field screening results, visual observations and the results of verification samples obtained during remedial excavation activities, a total of approximately 82,500 cubic yards (100,400 tons) of contaminated soil was removed from the Port Uplands Area and 75-Foot Shoreline Buffer Zone for permitted landfill disposal. In addition, approximately 6,300 cubic yards (13,200 tons) of contaminated soil was removed from the MJB North Area for permitted landfill disposal. A comprehensive as-built construction completion report to document the cleanup activities that were completed at the Site was prepared by the Port and K-C (Volumes 1 and 2 listed above).

Within the Port Uplands and 75-Foot Shoreline Buffer Zone, contaminants of concern either were not detected or were detected at concentrations less than soil cleanup levels with the following exceptions:

- Heavy oil-range petroleum hydrocarbons were detected greater than cleanup levels in soil at the northern Remedial Excavation Area 5 sidewall. Soil represented by this sample was not removed to avoid the risk of damaging two 10,000-gallon USTs and associated product piping at this location. However, because the detected concentration of hydrocarbons in this sample is not greater than two times the site-specific soil cleanup level (WAC 173-340-740(7)(e)(i)) and less than 10 percent of the sample concentrations exceed the site-specific soil cleanup level (WAC 173-340-740(7)(e)(ii)), soil represented by this sample was determined to be statistically insignificant by Ecology.
- Composite sidewall samples were collected from the sidewalls of Remedial Excavation Area 5, Remedial Excavation Area 6, Remedial Excavation Area 8 and Remedial Excavation Area 9 for chemical analysis of dioxins and furans. Dioxins and/or furans calculated using the toxic equivalent (TEQ) methodology relative to 2,3,7,8-TCDD were detected at concentrations exceeding the soil cleanup level in the northern and southern sidewalls of Remedial Excavation Area 5, northern sidewall of Remedial Excavation Area 8 and eastern and southern sidewalls of Remedial Excavation Area 9. Dioxin and furan chemical testing was completed in accordance with the EDR to document soil conditions at the final excavation limit. However, removal of soil containing dioxins and furans was not an Ecology-required cleanup objective for the Site.
- Diesel- and heavy oil-range petroleum hydrocarbons and metals (arsenic, lead and

copper) were detected greater than cleanup levels in soil at the base of Remedial Excavation Area MJB2 west of the 75-foot shoreline buffer (Remedial Excavation Area 11). However, soil with residual contamination at this location is located below the Ecology-approved 6-foot point of compliance established for the MJB North Area.

- Carcinogenic PAHs (cPAHs) calculated using the TEQ methodology relative to benzo(a)pyrene was detected greater than the cleanup level in soil in the eastern sidewall of Remedial Excavation Area 11. Soil with residual contamination east of MHHW are isolated by the marine area cap as required by Ecology.
- Lead was detected at a concentration greater than the cleanup level for soil at the base of Remedial Excavation Area 12. However, soil with residual contamination at this location is located below the Ecology-approved 10-foot point of compliance established for the shoreline buffer zone.

Within the MJB North Uplands Area, the contaminants of concern either were not detected or were detected at concentrations less than soil cleanup levels within the 6-foot (10-foot shoreline buffer zone) for compliance depth with the cleanup area of MJB North.

2.4.2 Marine Area Remedial Actions

The cleanup areas within Marine Area are shown relative to the Site in Section 6.4 – Marine Area Post-Construction Site Plan. Dredging within the impacted Marine area was completed to remove contaminated sediment, wood, and other debris exceeding site-specific sediment cleanup levels and to accommodate the placement of the marine cap and backfill. Dredging for the marine cap included the removal of sediment, dimensional lumber, wood debris and relic piles within the inter-tidal area to a depth of at least 3 feet below the mudline. Within the subtidal area, dredging for the marine backfill was conducted to a depth of approximately 2 feet below mudline with a 1-foot overdredge allowance.

Approximately 20,300 cubic yards of impacted material were removed from the intertidal dredge area. In addition, approximately 29,700 cubic yards of sediment and wood debris were removed from the subtidal dredge area. Approximately 19,700 cubic yards of clean dredged sediment determined to be suitable for open-water disposal by the Dredge Material Management Program (DMMP) was transported to the Port Gardner disposal site. The remainder (approximately 20,700 tons) of contaminated sediment and wood debris and approximately 850 tons of creosote piling generated from the Marine Area were transported and disposed at an off-site permitted facility.

Contaminants of concern that are protectively isolated below marine caps and habitat backfill are as follows:

- The percentage of TVS exceeded the cleanup level in the following sediment sample GEI-SED-1 located within the subtidal area east of the Port Upland Area, sediment sample GEI-SED-6 located within the subtidal area east of the MJB North Area, and sediment samples GEI-SED-7, -8, -10 and -11 located within the intertidal area east of

the Port Upland Area. The sediment area represented by these samples is isolated by protective cover materials (marine cap or habitat back-fill material) measuring at least 2 feet in thickness.

- The percentage of wood content exceeded the cleanup level in sediment sample GEI-SED-6 located within the subtidal area east of the MJB North Area and GEI-SED-8 located within the intertidal area east of the Port Upland Area. The sediment area represented by these samples is isolated by protective cover materials measuring at least 2 feet in thickness.
- The concentration of mercury exceeded the cleanup level in sediment sample GEI-SED-6 located within the subtidal area east of the MJB North Area. However, the sediment area represented by these samples is isolated by protective cover materials measuring at least 2 feet in thickness.
- The concentration of PCBs exceeded the cleanup level in sediment sample GEI-SED-7 and GEI-SED-8 located within the intertidal area east of the Port Upland Area. However, the sediment area represented by these samples is isolated by protective cover materials measuring at least 2 feet in thickness.

Site restoration and mitigation measures for the Marine Area as part of remedial action included construction of two wave attenuation structures, replacement of the pier structure, backfilling/ capping, placement of marine habitat fill in areas outside of dredged areas in preparation for mitigation eelgrass planting.

2.5 Compliance Monitoring

2.5.1 Upland Area and 75-Foot Shoreline Buffer Zone

Compliance monitoring of the Upland Area and 75-Foot Shoreline Buffer Zone were completed in accordance with the Ecology-approved Post-Construction Groundwater Monitoring Sampling and Analysis Plan Set dated September 15, 2011 (Anchor 2011 and GeoEngineers 2011). Groundwater monitoring efforts were coordinated between the Port and K-C to evaluate the effectiveness of the cleanup actions completed at the Site:

- Port Upland and Marine Area – To document groundwater conditions related to Remedial Excavation Areas 1 through 13, the Port installed twelve post-construction monitoring wells (MW-201 through MW-212).
- MJB North Area – To document groundwater conditions related to Remedial Excavation Areas MJB-1 through MJB-4, MJB-6, RA-11a, RA11b, HR-1 through HR-5, K-C installed twelve post-construction monitoring wells (MW-213 through MW-222 and MW-6R).

Post-construction monitoring well installation activities for the Site are summarized in As-Built Reports (Anchor 2012 and GeoEngineers 2012). Between August 2011 and 2020, a total of four rounds of quarterly (Rounds 1 through 4, eight rounds of semi-annual (Rounds 5 through 12) and

six rounds of annual (Rounds 13 through 18) post-construction groundwater monitoring have been completed. Post-construction groundwater monitoring activities completed by the Port and K-C are presented in the following reports:

- Port Uplands and Marine Area Post Construction Groundwater Monitoring Report – Year 8 and 9, Former Scott Paper Mill Site, Anacortes, Washington, Ecology Consent Decree No. 09-2-01247-7, dated November 9, 2020 for the Washington State Department of Ecology.

- MJB North and Marine Area Post-Construction Years 8 and 9 (Rounds 15 to 18) Groundwater Monitoring Report, Former Scott Paper Mill Site, Anacortes, Washington, Ecology Consent Decree No. 09-2-01247-7 dated November 4, 2020 for the Washington State Department of Ecology.

Based on the results of the 18 rounds (quarterly, semi-annual, or annual) of groundwater sampling and analysis, the data show that the groundwater has reached either a steady state or contains concentrations of contaminants of concern below the established cleanup standards except for one well (MW 219) which exceeds for arsenic. However, MW 219 is located internal to the Port Upland area and because it is not located at the conditional point of compliance, this well is not used for determining compliance with cleanup standards.

Based on a review of 9-year-long groundwater monitoring results with 25 wells at various locations and data showing that the concentrations of contaminants of concern are stable and meet the cleanup standards at the conditional point of compliance, along with the significant source material removal effort completed between 2009 through 2011, further monitoring of groundwater at the Port Uplands and 75-Foot Shoreline Buffer Zone, and MJB North Area is not required.

2.5.2 Marine Area

Within the Marine Area, physical and biological monitoring activities were completed to evaluate the success of the stated goals, functional objectives, and established performance standards as outlined in the Ecology-approved Work Plan (Grette Associates 2011). Specifically, the Port collected information to determine whether the completed mitigation was on track to meet the performance standards established for the Site. Physical and biological monitoring of the Site was conducted over a 10-year period as outlined in Table 4.

Table 4. Physical and Biological Monitoring Schedule

Years After Construction (Monitoring Year)	Biological Monitoring	Physical Monitoring
0 (2011)		X[c]
1 (2012)	X	X[d]

Years After Construction (Monitoring Year)	Biological Monitoring	Physical Monitoring
2 (2013)	X	X[d]
3 (2014)		
4[a] (2015)	X	X[e]
5 (2016)		
6 (2017)	X[f]	
7 (2018)		
8 (2019)		
9 (2020)		
10[b] (2021)	X	X[e]

Notes:
[a] Preliminary comparison to performance standards.
[b] Final comparison to performance standards.
[c] "As-built" survey.
[d] Photograph points and visual inspection of fine material placed on landward side of wave attenuators only, no bathymetric survey.
[e] Physical monitoring will include bathymetric survey, photograph points and visual inspection of fine material placed on landward side of wave attenuators only.
[f] Pacific Herring Survey only (recommended for Survey).

In addition, chemical testing of the surface of the sediment cap that was placed within the intertidal portion of the Marine Area was completed by the Port in accordance with the Ecology-approved Sampling and Analysis Plan Addendum (GeoEngineers 2017) to document post-construction sediment conditions and evaluate the effectiveness of the sediment cap placed during the 2009/2010 Cleanup Action.

2.5.2.1 Physical Monitoring

Physical monitoring of the Marine Area portion of the Site was completed to document surface elevations over a 10-year period. An "As-Built" survey completed in 2011 (Year 0) was completed to establish the baseline elevations of the sediment cap and mitigation areas. Surveys completed in 2015 (Year 4) and 2021 (Year 10) were completed to monitor changes in the surface elevations of the sediment cap and mitigation areas to ensure long-term stability and compliance with the established design criteria. The 2021 (Year 10) survey of the Marine Area is presented in Section 6.5. Changes in elevations between 2011 (Year 0) and 2021 (Year 10) survey are depicted in Section 6.6 and changes in elevations between 2015 (Year 4) and 2021 (Year 10) survey are depicted in Section 6.7.

Overall, there has been little change in the surface elevation, generally less than 0.5 feet, since the 2011 (Year 0) survey. In isolated areas, elevations have changed by up to 1.5 feet. However, these areas are temporal and occur in different locations between survey events and are likely the result of natural wind- and tide-driven dynamic distribution of finer-grained surface materials overlying the coarser-grained cap armor. Within the sediment cap area, the relative surface elevation changes between the 2011 (Year 0) and 2021 (Year 10) is predominantly less than 0.25 feet which indicates that sediment cap in the Marine Area portion of the Site has remained stable and that the integrity of the cap material is intact. There is no evidence that the underlying capped sediment has been exposed since completion of cap construction.

2.5.2.2 Biological Monitoring

Biological monitoring of the Marine Area portion of the Site was completed to document changes in eelgrass presence over a 10-year period and compliance with the established performance criteria. Transplant plots and eelgrass distribution following the 2021 (Year 10) survey are depicted in Section 6.8. Overall, the Site is providing quality macroalgae and riparian habitats with the continued eelgrass survival and colonization of the Marine Area.

The results of the 2015 (Year 4) monitoring of the Site (Grette 2016) indicated that the transplanted eelgrass and the large number of volunteer eelgrass turions were thriving with patchy eelgrass beds covering approximately 3.11 acres of the Site and an estimated total number of turions of 472,443 which exceeded Sites performance standards.

During the Year 10 (2021) monitoring of the Site (Grette 2021), the observed extent of the eelgrass bed had decreased to 1.33 acres of the highest turion densities in the north portion of the Marine Area west of the wave attenuators.

Based on the conclusions of the 2021 (Year 10) biological monitoring (Grette 2021), the Site continues to provide the required level of habitat functions and values for fish and wildlife species which meets the overall goals for the Site, including removal of the contaminated sediment to provide an overall increase in habitat functions and values, and public recreation utilization. Long-term, it is expected that the eelgrass coverage at the Site will continue to contract and expand as part of the natural variability that is observed in eelgrass beds. Accordingly, additional actions or further biological monitoring are not necessary.

2.5.2.3 Chemical Monitoring

Chemical monitoring of the Marine Area portion of the Site was completed to evaluate the post-construction performance of sediment caps relative to the sediment screening criteria (Appendix 6.9). In accordance with the Ecology-approved Sediment Sampling and Analysis Plan (GeoEngineers 2017), sediment sample collection utilized a tiered approach consisting of an evaluation of the surface sediments within the marine cap area (Phase 1) prior to the collection and chemical analysis of surface sediment within the marine backfill area (Phase 2).

Two rounds of Phase 1 chemical monitoring of the sediment cap have been completed since construction of the cap. Sediment cap monitoring activities are presented in the following

reports:

- Post-Construction Sediment Cap Monitoring Data Report, Former Scott Paper Mill Site, Anacortes, Washington, Ecology Consent Decree No. 09-2-01247-7, dated April 17, 2018 for the Washington State Department of Ecology.
- Post-Construction Sediment Cap Monitoring Data Report – Year 10, Former Scott Paper Mill Site, Anacortes, Washington, Ecology Consent Decree No. 09-2-01247-7 dated September 22, 2023 for the Washington State Department Ecology.

Based on the results of the September 2017 sediment cap monitoring event, compliance with the Site cleanup criteria was demonstrated at each sample location and Phase 2 monitoring was not required based on the Ecology-approved criteria. During the July 2023 sediment cap monitoring event, compliance with the Site cleanup criteria was further demonstrated at each sampling location. A localized low-level total PCB exceedance observed in a single sample collected in 2023 is attributable to an off-Site source. Localized accumulation of natural marine organic material in this sample likely resulted in preferential sorption of PCBs with low bioavailability in the interstices of the larger rock cap materials at the sample location. Based on the weight-of-evidence provided by the monitoring data, the overall integrity of the sediment cap remains intact. Accordingly, further Year-10 Phase 2 monitoring is not necessary unless requested by Ecology with site-specific reasoning.

Consistent with the Ecology-approved Sediment Sampling and Analysis Plan (GeoEngineers 2017), long-term chemical monitoring of the sediment cap will be performed utilizing a tiered approach that re-occupies previous sampling locations to evaluate the post-construction performance over-time. Future environmental data collection will be performed at the direction of Ecology for the next Periodic Review to verify the ongoing integrity of the cap and that the remedy continues to function as intended.

2.6 Environmental Covenant

Based on the current/future Site use, surface cover and cleanup objectives, it was determined that an environmental covenant was necessary for the MJB North Area (Tax Parcel No. P32963 and P32965). An environmental covenant for the MJB North Area was submitted to Ecology on November 12, 2013 and countersigned by Ecology on November 14, 2013 that imposed the following limitations summarized below by section (the full Environmental Covenant is Section 6.10):

- Section 1: Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited.
- Section 2: Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

- Section 3: Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action or create a new exposure pathway is prohibited without prior written approval from Ecology.
- Section 4: The Owner of the Property must give thirty (30) days advance written notice to Ecology of Owner's intent to convey any interest in the Property.
- Section 5: The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restriction on the use of the Property.
- Section 6: The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant.
- Section 7: The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose to evaluating the Remedial Action.
- Section 8: The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect.

3.0 PERIODIC REVIEW

3.1 Effectiveness of Completed Cleanup Actions

Soils with petroleum hydrocarbon, metals (arsenic, copper and lead), cPAHs and dioxins and furans concentrations exceeding cleanup levels are still present at the Site. However, the remedy implemented during the 2009/2010 Cleanup Action prevents exposure to this contamination by ingestion and direct contact with soils. Disturbance of residual soil contamination within the MJB North Area below a depth of 6 feet is being restricted by an environmental covenant. This covenant prohibits activities that would result in the release of contaminants at the Site without Ecology's approval, prohibits any use of the property that is inconsistent with the covenant, and serves to ensure the long-term integrity of the remedy.

Groundwater throughout the Site meets the established cleanup standards at the conditional point of compliance. One internal well (MW 219) contains concentrations of arsenic above the cleanup standards. The results of the 18 rounds (quarterly, semi-annual, or annual) of groundwater sampling and analysis indicate that arsenic at this location has reached a steady state. Because contaminant concentrations are below cleanup levels at each of the conditional point of compliance well locations, the cleanup standard has been met.

In the Marine Area sediment cap, contaminants of concern either were not detected or were detected at concentrations less than established cleanup standards except for total PCB Aroclors at one location (SED-09) located east of the MJB North Area. Because PCBs were not a contaminant of concern for the MJB North Area, were not detected in the post-dredge sediment surface at this location, and were not detected above the cleanup criteria at other sampling locations, the occurrence of PCB contamination is not indicative of cap breakthrough and most likely is transitory material that has come to be deposited on the surface of the sediment cap from an off-site source. As a result, the overall integrity of the sediment cap remains intact, and the remedy continues to function as intended.

Based upon the Site visit conducted on August 25, 2021 the remedy implemented during the 2009/2010 Cleanup Action at the Site continues to eliminate exposure to contaminated soils by ingestion and contact. The paved surfaces, landscaped areas and sediment cap appear in satisfactory condition and no repair, maintenance, or contingency actions have been required. A photo log is available as Section 6.11.

3.2 New Scientific Information for Individual Hazardous Substances for Mixtures Present at the Site

There is no new scientific information for the contaminants related to the Site.

3.3 New Applicable State and Federal Laws for Hazardous Substances Present at the Site

When the cleanup action plan was implemented, the cleanup at the Site was governed by WAC 173-340, and WAC 173-204, and all other applicable, relevant, and appropriate requirements. WAC 173-340-702(12)(c) provide that,

> *"A release cleaned up under the cleanup levels determined in (a) or (b) of this subsection shall not be subject to further cleanup action due solely to subsequent amendments to the provision in this chapter on cleanup levels, unless the department determines, on a case-by-case basis, that the previous cleanup action is no longer sufficiently protective of human health and the environment."*

The Sediment Management Standards (WAC 173-204) were revised in 2013. The revision introduced the detailed procedures for evaluating risks to human health and upper trophic levels species from ingestion of bioaccumulative chemicals. Even so, Ecology determines that the cleanup action conducted is still protective of human health and the environment based on the monitoring results.

3.4 Current and Projected Site Use

The Port Uplands Area is expected to continue to be used in its current configuration, with commercial uses on Parcel 2 and Seafarers' Memorial Park on Parcel 3. Construction of a Marine Skills Center was completed on Parcel 1 in 2010. The current and projected Site use of the Port Uplands Area remains unchanged.

MJB North Area is currently being redeveloped with new residential spaces, retail spaces, a hotel and event center and will include public walkways with beach and water access. Grading and construction work started in fall 2021 for the completion of new streets and utility infrastructure that will extend 17th Street east beyond the intersection of Q and R Avenue, extend T Avenue north beyond 22nd Street, and extend R Avenue south (off Seafarers Way) to connect with 22nd Street and T Avenue. The initial phase of redevelopment is anticipated to be completed by late 2025. Full completion duration for the redevelopment is anticipated to be on the order of 10 to 15 years.

3.5 Availability and Practicability of Higher Preference Technologies

The remedy implemented included removal and/or containment of hazardous substances, and it continues to be protective of human health and the environment. While higher preference cleanup technologies may be available, they are still not practicable or cost-effective at this Site.

3.6 Availability of Improved Analytical Techniques to Evaluate Compliance with Cleanup Levels

The analytical methods used at the time of the remedial action were capable of detection below selected Site cleanup levels. The presence of improved analytical techniques would not affect decisions or recommendations made for the Site.

4.0 CONCLUSIONS

- The Cleanup Actions completed at the Site between 2009 and 2011 are protective of human health and the environment.
- Soils cleanup levels have not been met at the standard 15-foot point of compliance in all areas of the Site; however, MTCA regulations allow a conditional point of compliance to be established from the ground surface to 6 feet bgs (the biologically active zone according to MTCA default assumptions), provided that environmental covenants are used to address potential excavation of deeper soil (WAC 173-340- 7490[4][a]). In all areas of the Site, cleanup standards at the conditional point of compliance have been met since the long-term integrity of the containment system is ensured, and the requirements for containment technologies are being met.
- Groundwater cleanup levels have not been met throughout the Site; however, because groundwater cleanup levels are based on protection of marine surface water and not protection of groundwater as drinking water, a conditional point of compliance for groundwater has been established at the groundwater/surface water interface along the shoreline. Groundwater monitoring results show that the groundwater has reached either a steady state or contains concentrations of contaminants of concern below the established cleanup standards. At the conditional point of compliance, the cleanup standards have been met for all monitoring wells.
- Monitoring of the Marine Area indicates that there have been no significant changes in the elevations from the 2011 (Year 0) as-built survey. In addition, eelgrass survival and colonization of the Site during 2015 (Year 4) exceeded Site performance standards. However, during the 2021 (Year 10), the observed extent of the eelgrass bed decreased. Based on conclusions of the 2021 (Year 10) survey, the Site continues to provide the required level of habitat functions and values for fish and wildlife species which meets the overall goals for the Site, including removal of the contaminated sediment to provide an overall increase in habitat functions and values, and public recreation utilization.
- Chemical analysis of the sediment cap has identified one PCB exceedance in a localized intertidal area east of the MJB North Area. However, the previous sampling data does not indicate the presence of PCB in this area. The occurrence of the PCB contamination at the single sampling location is most likely transitory and is material has come to be deposited on the surface of the sediment cap from an off-Site source and is not the result of cap breakthrough as shown in the physical monitoring of the sediment cap.
- Institutional controls in the form of a covenant are in place for the MJB North Area and will be effective in protecting public health and the environment from exposure to hazardous substances and protecting the integrity of the cleanup action.

Based on this periodic review, Ecology has determined that the requirements for the 2009/2010 Cleanup Action are being followed and that no additional cleanup actions are required by the property owner(s). It is the property owner's responsibility to continue to inspect the Site to assure that the integrity of the remedy is maintained.

4.1 Next Review

The next review for the Site will be scheduled 5 years from the date of this periodic review (2028). In the event that additional cleanup actions or institutional controls are required, the next periodic review will be scheduled 5 years from the completion of those activities.

5.0 REFERENCES

Anchor QEA. 2012. As-Built Report, MJB North and Marine Area Post-Construction Groundwater Monitoring Wells, Former Scott Paper Mill Cleanup Site, Ecology Consent Decree No. 03 2 00492 1. November 11.

Anchor QEA. 2011. MJB Uplands and Marine Area Post-Construction Groundwater Monitoring Sampling and Analysis Plan, Former Scott Paper Mill Cleanup Site, Ecology Consent Decree No. 03 2 00492 1. November.

GeoEngineers, Inc. and Anchor Environmental, LLC. (GeoEngineers et al.) 2010. Final Draft Engineering Design Report (EDR), Former Scott Paper Company Mill Site, Anacortes, Washington, Ecology Consent Decree No.09-2-01247-7. March 11.

GeoEngineers. 2023. Post-Construction Sediment Cap Monitoring Data Report - Year 10, Former Scott Paper Mill Site, Former Scott Paper Mill Cleanup Site, Ecology Consent Decree No. 03 2 00492 1. September 12.

GeoEngineers. 2017a. Sediment Sampling and Analysis Plan Addendum, Former Scott Paper Mill Site, Former Scott Paper Mill Cleanup Site, Ecology Consent Decree No. 03 2 00492 1. August 24.

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GeoEngineers. 2011. Port Uplands and Marine Area Post-Construction Groundwater Monitoring Sampling and Analysis Plan, Former Scott Paper Mill Cleanup Site, Ecology Consent Decree No. 03 2 00492 1. September 8.

GeoEngineers. 2009. Interim Action Completion Report, Permanent Fuel System and UST Installation, Former Scott Paper Mill Cleanup Site, Ecology Consent Decree No. 03 2 00492 1. Report prepared for Port of Anacortes. February 13.

GeoEngineers, AMEC Geomatrix, and Anchor Environmental (GeoEngineers et al.). 2008. Final Remedial Investigation/Feasibility Study Report: Port Uplands Area, MJB North Area, and Marine Area. November 7.

Grette Associates LLC (Grette). 2016. Former Scott Paper Mill Clean-Up Project, Former Scott Paper Mill Site; Year 4 (2015) Long-Term Monitoring Report. Prepared for the Port of Anacortes. March.

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Landau Associates (Landau). 2005. Interim Action Completion Report, Seafarers' Memorial Park Bank Stabilization, Former Scott Paper Company Mill Site, Anacortes, Washington. Prepared for the Port of Anacortes. August 4.

ThermoRetec. 2000. Completion Report for the Soils Cleanup Action at Parcel 2 of the Former Scott Paper Mill Site, Anacortes, Washington. Prepared for SHS.com. May 22.

ThermoRetec. 1999a. Remedial Investigation and Feasibility Study for Soils at Parcel 2 of the Former Scott Paper Company Mill Site, Anacortes, Washington. Prepared for Sun Systems. January 8.

ThermoRetec. 1999b. Cleanup Action Plan, Parcel 2 of the Former Scott Paper Company Mill Site, Anacortes, Washington. Prepared for Sun Health-Care Systems, Inc. by ThermoRetec. February 8.

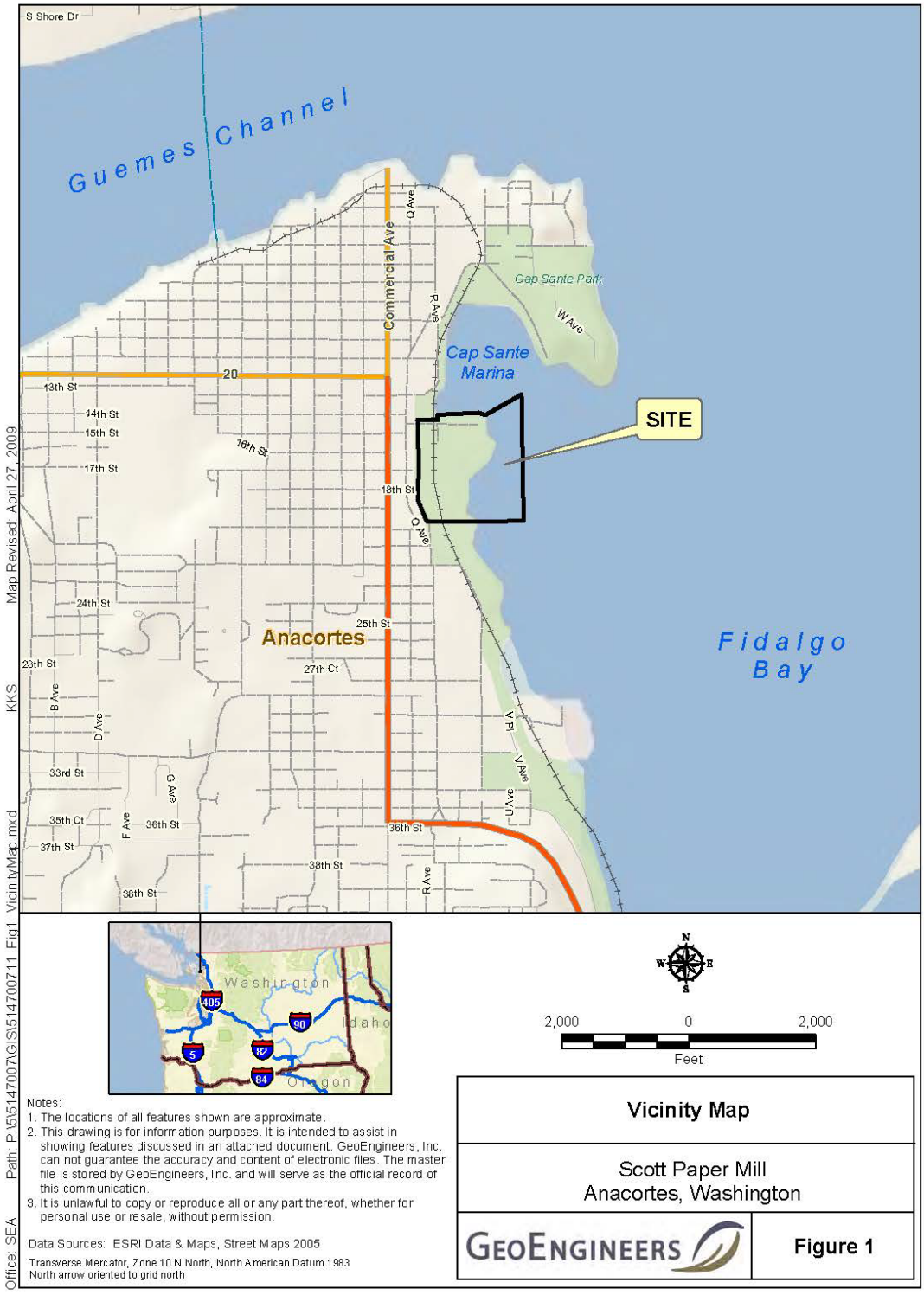
Washington State Department of Ecology (Ecology), 2009. Cleanup Action Plan (CAP), Former Scott Paper Company Mill Site, Anacortes, Washington. May 8.

Washington State Department of Ecology (Ecology), 2005. Focus on Opinions Regarding Independent Remedial Actions from Ecology's Toxics Cleanup Program. Washington State Department of Ecology, Publication No. 05-09-049.

Washington State Department of Ecology (Ecology), 2000. Letter to Kevin Welch, CEO/President, Shared Healthcare Systems, Inc., re: No Further Action Letter. Ronald Timm, Hydrogeologist, Toxic Cleanup Program, Washington State Department of Ecology, Bellevue, Washington. October 26.

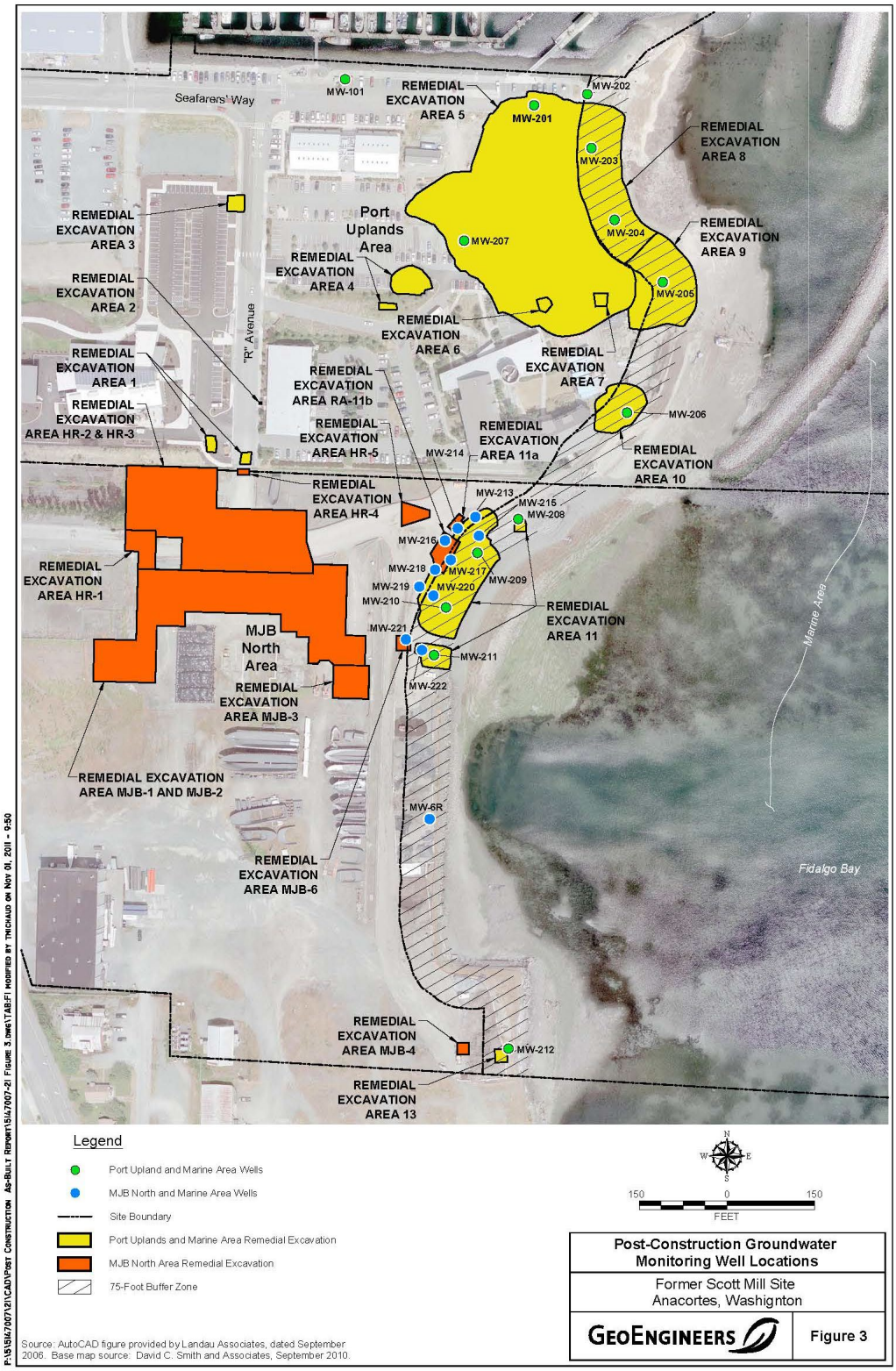
6.0 APPENDICES

6.1 Vicinity Map

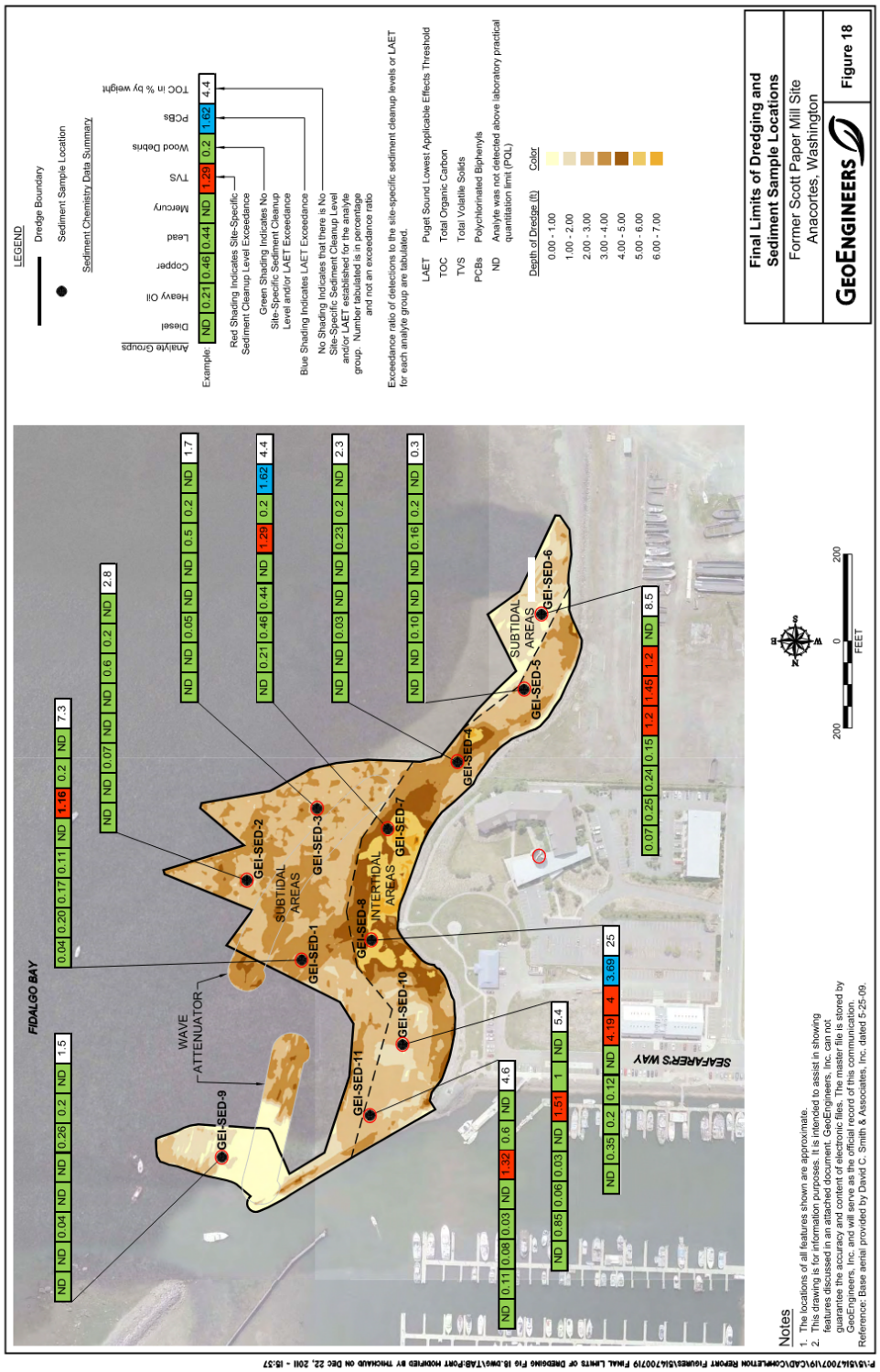


6.2 Pre-Construction Site Plan

6.3 Upland Area Post-Construction Site Plan

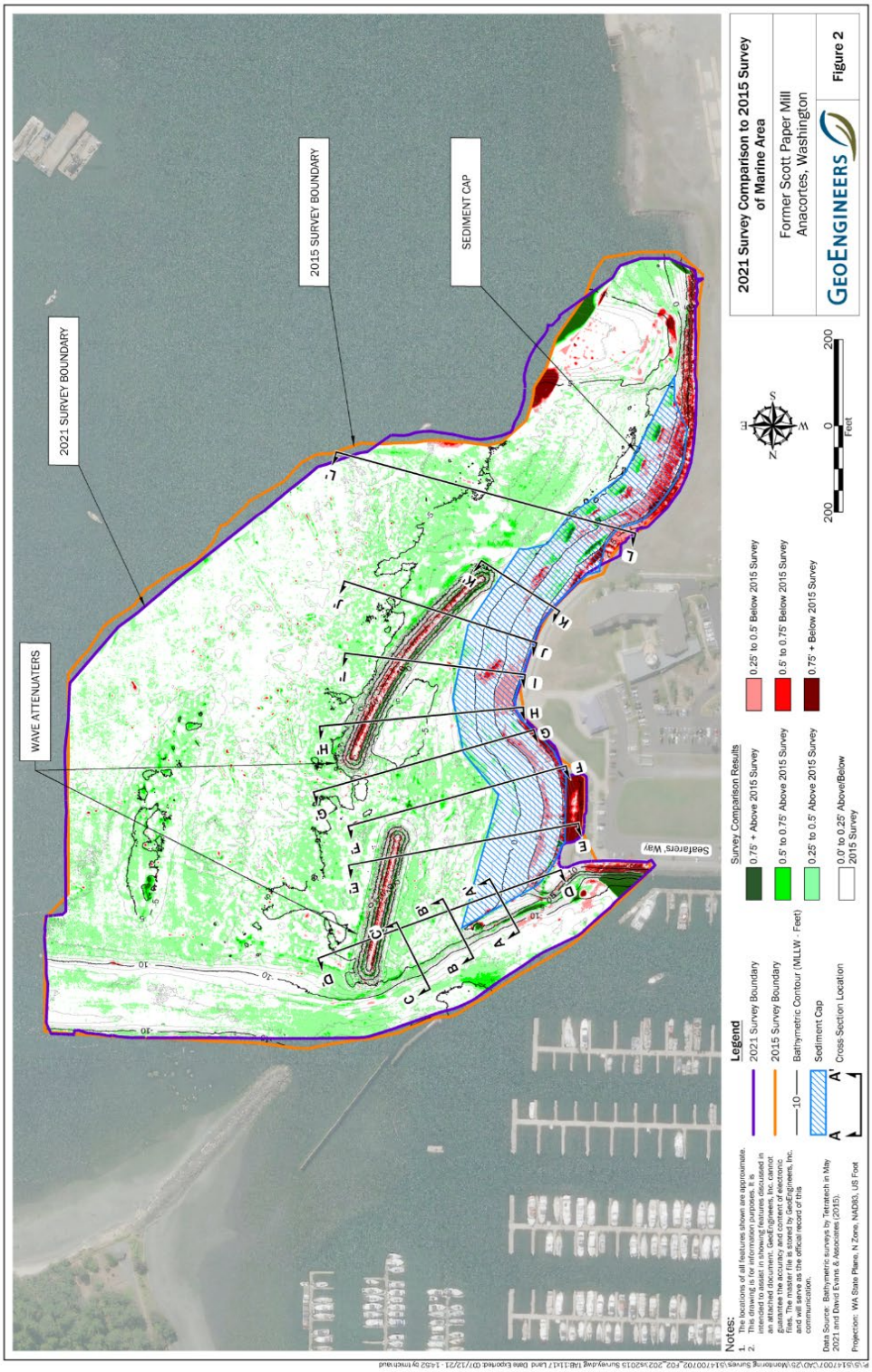


6.4 Marine Area Post-Construction Site Plan

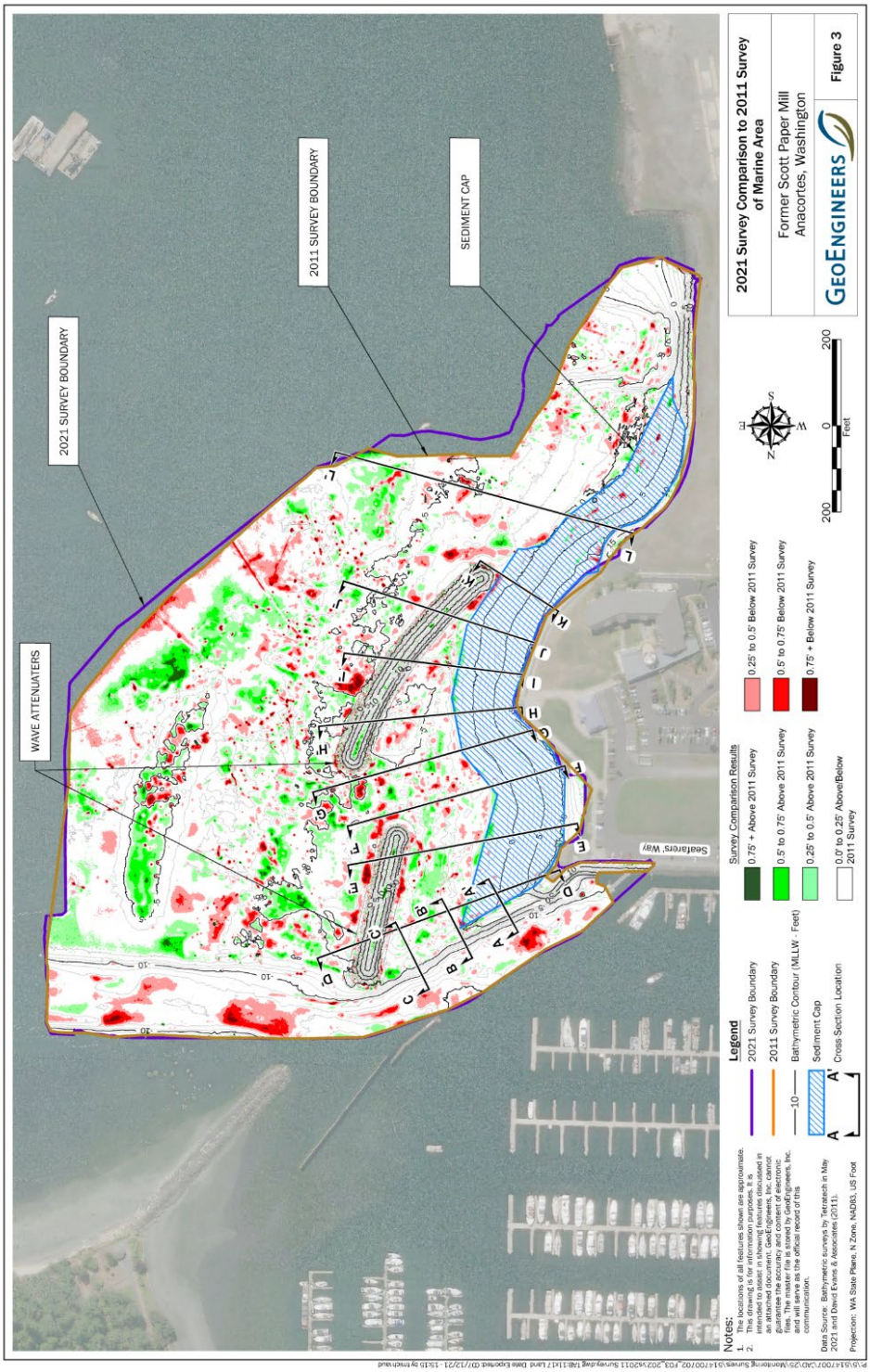


6.5 Year 10 (2021) Bathymetric Survey

6.6 Comparison of Year 10 (2021) Bathymetric Survey to the Year 4 (2015) Survey



6.7 Comparison of Year 10 (2021) Bathymetric Survey to "As-Built" Survey



6.8 Year 10 (2021) Eelgrass Distribution

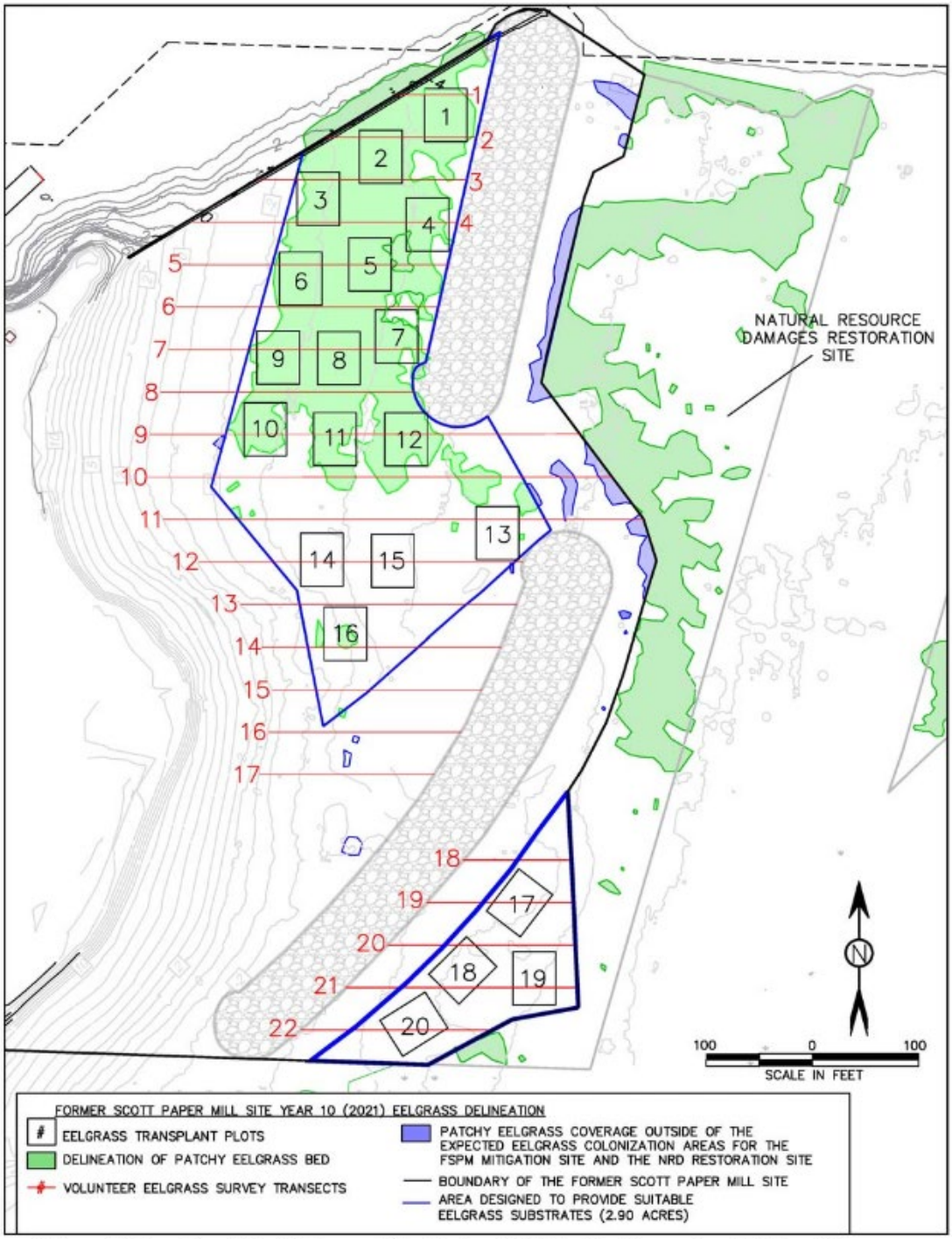
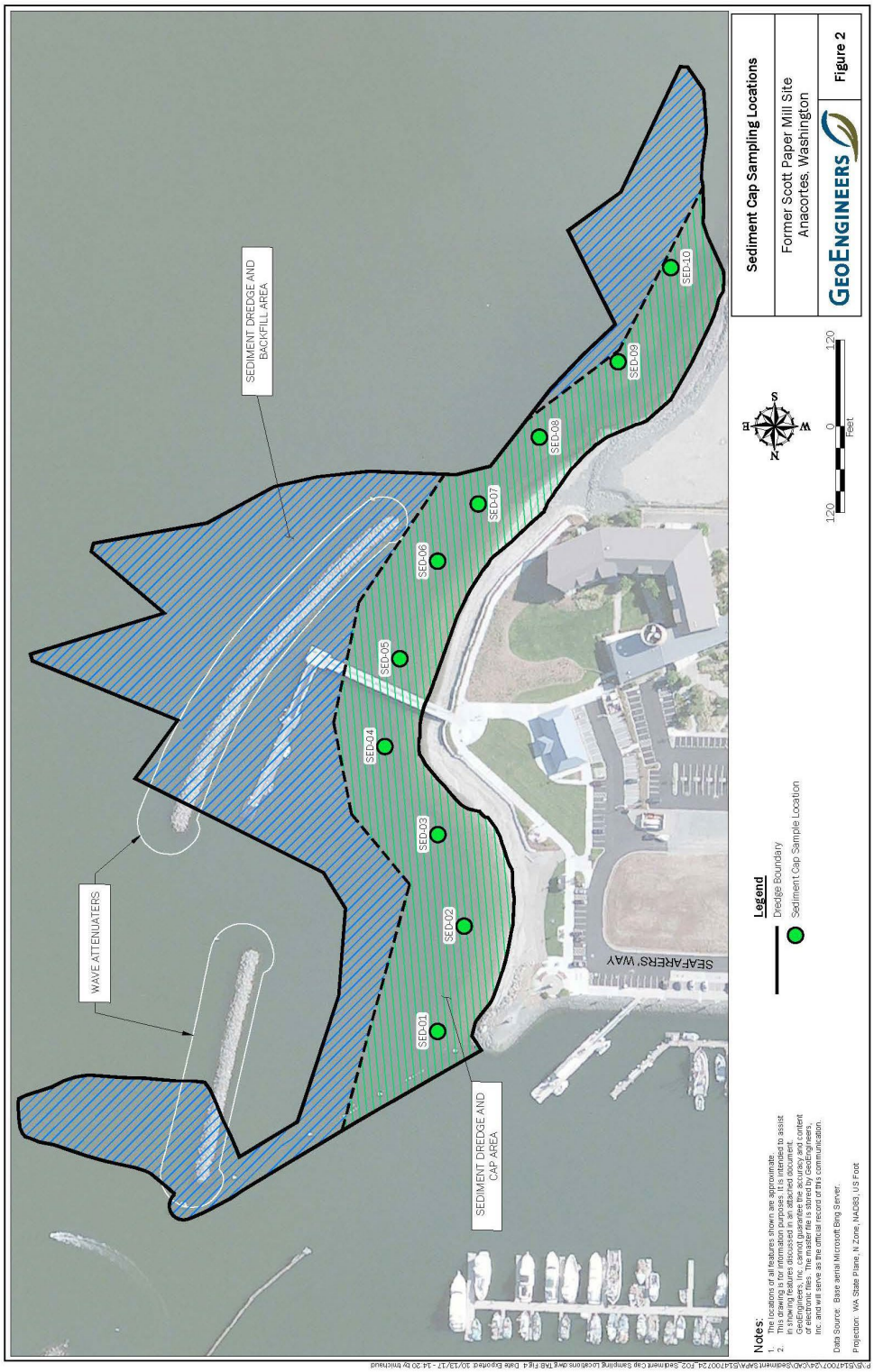


Figure 7. Results of the Eelgrass Monitoring Within the Transplant Plots at the Former Scott Paper Mill Site.

6.9 Marine Area Sediment Cap Monitoring



6.10 Environmental Covenant

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After Recording Return to:

Sandra Caldwell
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Environmental Covenant

Grantor: MJB Properties LLC

Grantee: State of Washington, Department of Ecology

Abbreviated Legal Description: Quarter 00 Section 19 Township 35 Range 02 (see Exhibit A for full legal description)

Tax Parcel Nos.: P32963 and P32965

Environmental Covenant for MJB Properties LLC, Anacortes, WA – Page 1

Environmental Covenant

Grantor, MJB Properties LLC, hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this 5th day of November, 2013, in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by MJB Properties LLC, its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the following documents:

- Consent Decree entered in the *State of Washington Department of Ecology v. Port of Anacortes and Kimberly-Clark Corporation,* Skagit County Superior Court No. 09-2-01247-7.
- Cleanup Action Plan (CAP) attached to the Consent Decree (May 8, 2009).
- Engineering Design Report (EDR) prepared by GeoEngineers, Inc. and Anchor Environmental, L.L.C. (March 11, 2010) for the Former Scott Paper Company Mill Site, Anacortes, WA.
- MJB North Area As-Built Construction Completion Report, Former Scott Paper Mill Site, Anacortes, WA prepared by Anchor QEA, LLC (February 2012).

These documents are on file at Ecology's Northwest Regional Office.

The undersigned, MJB Properties LLC, is the fee owner of the "Property" in the County of Skagit, State of Washington, that is subject to this Covenant. The Property is legally described in Exhibit A and Exhibit B to this Covenant, both of which are made a part hereof by reference.

This Environmental Covenant is required because a conditional point of compliance has been established for soil. Within the property are located three areas where residual concentrations of lead, copper, and other metals remain on-site at or below six feet below ground surface (bgs) at levels above Model Toxics Control Act (MTCA) Method B Cleanup Levels for soil. Also within the property is one area where residual concentrations of lead remain onsite at or below ten feet bgs at levels above MTCA Method B Cleanup levels for soil. These four areas, known as Restricted Areas 1 through 4 (hereinafter "Property"), are more particularly described in Exhibit B attached to this Covenant and made a part hereof.

MJB Properties LLC makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in the capped areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork. Provided, however, construction or maintenance activities may be performed at the Property so long as applicable health and safety procedures are implemented, and all media is managed in compliance with applicable Ecology regulations. Prior to performing such work, Owner shall prepare a Health and Safety Plan that describes the applicable requirements and shall notify and obtain approval from Ecology prior to any activity being conducted on the Property. In the event soil will be disposed of off-site, soil shall be characterized and disposed of at a facility legally permitted to accept such soil.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the Property must give thirty (30) days advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action. A pledge of the Property, whether all or in part, as collateral for any financing shall not be construed as a conveyance of an interest in the Property.

Section 5. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action. Except in the event of an emergency, Ecology shall provide at least 24 hours' notice prior to entering the Property to Manager, MJB Properties, LLC, at 206.762.9125.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

MJB PROPERTIES LLC

By: _____

Its: MANAGER

Dated: Nov 5, 2013

STATE OF Washington
COUNTY OF King

On this 5th day of November, 2013, I certify that Gary Merlino personally appeared before me, acknowledged that he is a Member of the Limited Liability Company that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument for said corporation.

V. C. TROFIN NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 2-19-14

_____
Notary Public in and for the State of Washington, residing at Sammamish.
My appointment expires 2.19.2014.

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11/20/2013 Page 5 of 8 10:17AM $79.00

Environmental Covenant for MJB Properties LLC, Anacortes, WA – Page 5

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Barry Rogowski
[Name of Person Acknowledging Receipt]

Section Manager, Ecology HQ
[Title]

Dated: 11/14/13

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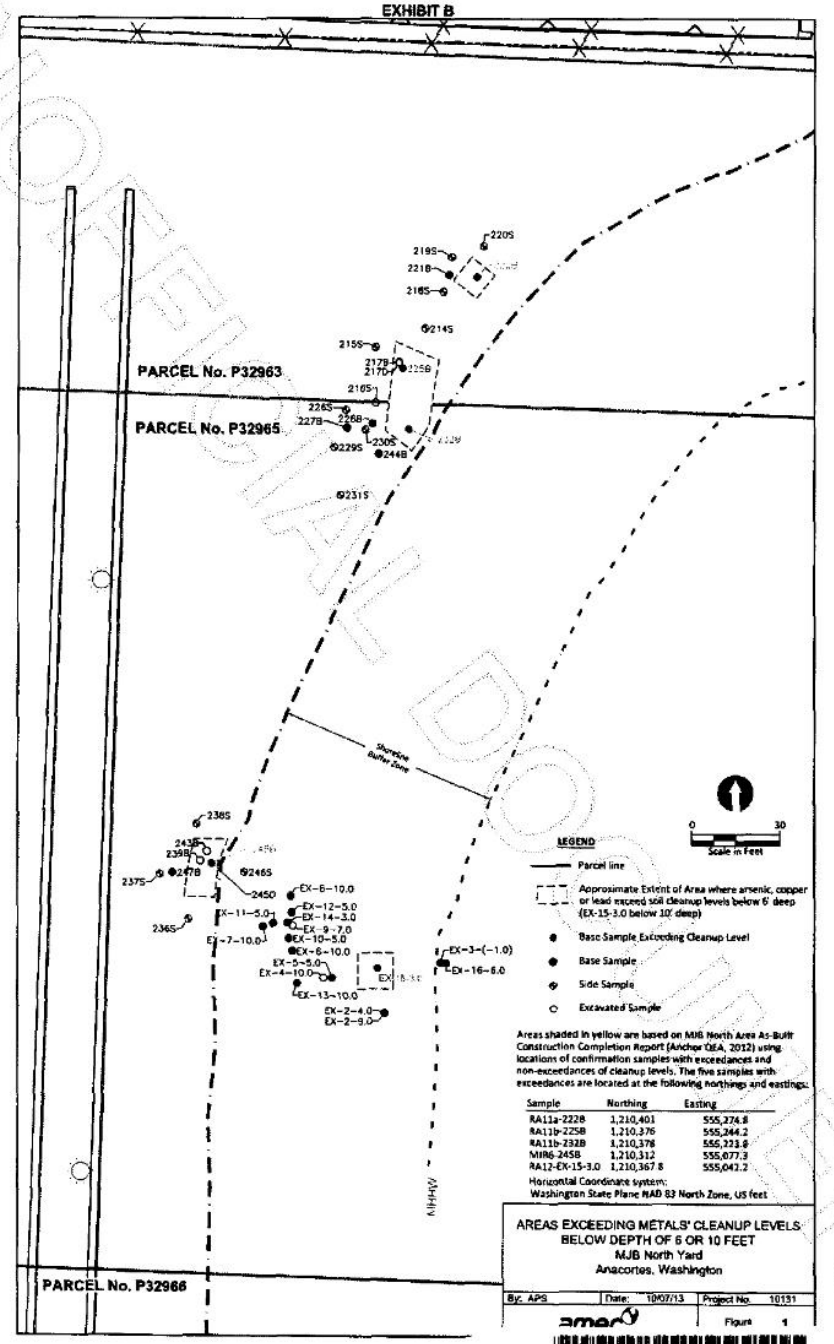
Environmental Covenant for MJB Properties LLC, Anacortes, WA – Page 6

Exhibit A
Legal Description

The Property is legally described as follows:

The parcels on which the Restricted Areas are located are legally described as follows. The Restricted Areas are shown with more specificity in Exhibit B.

- Parcel No. P32963: ANACORTES TDLDS- S 152FT OF TR 17 PL 10 LESS RT 0-053-02
- Parcel No. P32965: ANACORTES TIDE LANDS TR 18 PL 10



6.11 Photo Log

Photo 1: Typical eelgrass coverage within the Transplant Plots within the northern portion of the Site (June 24, 2021)

Photo 2: Volunteer eelgrass colonization between the attenuators (June 24, 2021)

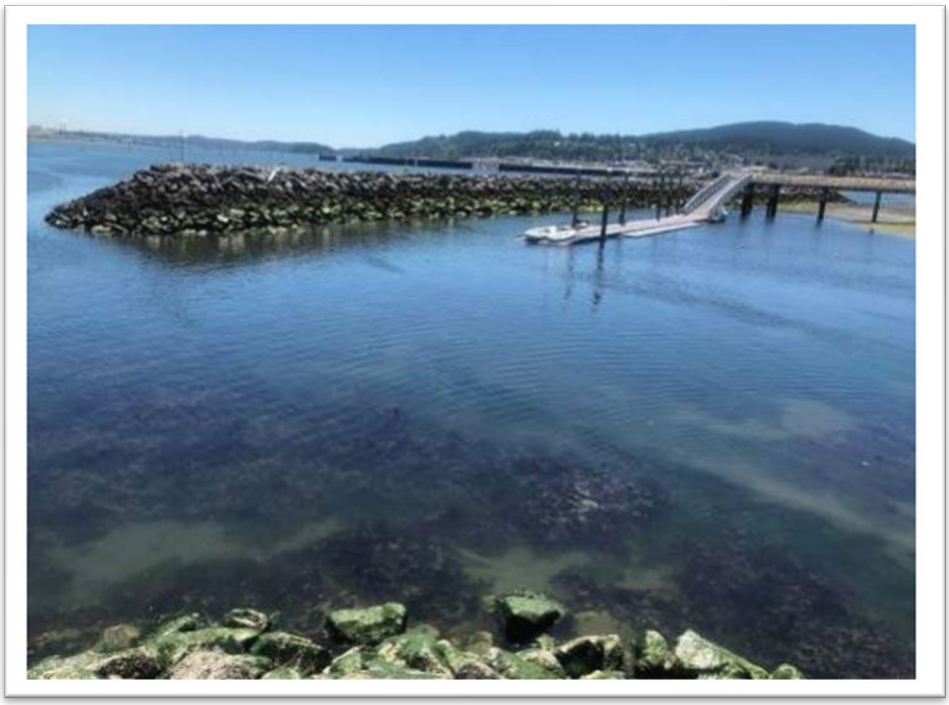


Photo 3: Marine Area sediment cap and riparian vegetation coverage (June 24, 2021)

Photo 4: Riparian vegetation coverage and Upland Area public access (June 24, 2021)

Photo 5: Site Overview (May 2021)