

After Recording Return  
Original Signed Release to:  
Jing Liu  
P.O. Box 330316  
Shoreline, WA 98133

#### **TERMINATION AND RELEASE OF ENVIRONMENTAL COVENANT**

**Grantor:** State of Washington, Department of Ecology  
**Grantee:** Kitsap County Public Works  
**Brief Legal Description:** Section 11, Township 26 North, Range 1 East, W.M. SW ¼ SW ¼  
Kitsap County, Washington  
**Cleanup Site ID:** 6465  
**Facility/Site ID:** 65471731  
**Tax Parcel No.:** 112601-3-009-2007  
**Cross-Reference:** Kitsap County Record No. 3230789 (Exhibit A); Property Legal  
Description (Exhibit B); No Further Action letter (Exhibit C)

Pursuant to the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW; the Uniform Environmental Covenants Act, RCW 64.70.100; and WAC 173-340-440, the Washington State Department of Ecology (Ecology) has determined that the Restrictive Covenant (hereafter "Covenant") filed of record in Kitsap County under Auditor File Number 3230789 on January 7, 2000 between Kitsap County Roads, its successors and assigns, and Ecology, its successors and assigns, over the property legally described in Exhibit B is no longer necessary under MTCA and its implementing regulations, Chapter 173-340 WAC, to protect human health and the environment and the integrity of the remedial action.

Specifically, the Pollution Liability Insurance Agency (PLIA) issued a No Further Action letter on January 21, 2025 (Exhibit C), applicable to the Site. In the NFA letter, PLIA concluded that based on its analysis of the cleanup of the Site, no further remedial action is necessary to clean up petroleum contamination at the Site. Therefore, Ecology believes that the Covenant filed in 2000 is no longer necessary to protect human health, the environment, and the integrity of the remedial actions at the Site.

Ecology hereby consents to termination and release of the Covenant and relinquishes and quitclaims to Kitsap County Public Works any and all rights it may have that were created by the Covenant.

This document is not a settlement under MTCA. Ecology's signature below does not constitute a covenant not to sue or a compromise of Ecology's authority or rights other than those rights created by the Covenant itself.

The legal description of the property subject to the Covenant is described in Exhibit B.

Dated this 7th day of May, 2025.

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

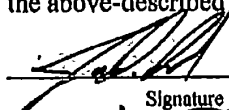

Kimberly Wooten

by: Kimberly Wooten

Title: Section Manager – Northwest Regional Office, Toxics Cleanup Program

**CONSENT TO TERMINATION AND RELEASE OF ENVIRONMENTAL COVENANT****Kitsap County Public Works**

The undersigned, Joe Rutan, P.E., hereby consents to the release and termination of the above-described Restrictive Covenant.

  
 Signature  
  
 Printed

Title: COUNTY ENGINEER

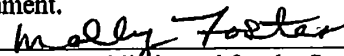
Dated: 5/7/25

**REPRESENTATIVE ACKNOWLEDGEMENT**

STATE OF WASHINGTON  
 COUNTY OF KITSAP

On this 7<sup>th</sup> day of MAY, 2025, I certify that JOSEPH P. RUTAN personally appeared before me, acknowledged that ~~he~~<sup>she</sup> signed this instrument, on oath stated that ~~he~~<sup>she</sup> was authorized to execute this instrument, and acknowledged it as the COUNTY ENGINEER of KITSAP COUNTY, WASHINGTON, to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.



  
 Notary Public in and for the State of Washington  
 Residing at PORT ORCHARD  
 My appointment expires 3-5-29

# **Exhibit A**

## **Original Restrictive Covenant**

PUBLIC WORKS DEPARTMENT (MS-26)



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Kitsap Co, WA

### DECLARATION OF RESTRICTIVE COVENANT

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

An independent remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the property is described in the following document(s):

1. Summary of results for Kitsap County North Road Shop Investigation, Bainbridge, Washington, letter prepared by Golder Associates, Inc., dated July 17, 1996
2. Final report and Laboratory results for Kitsap County North Road Shop Investigation, Bainbridge, Washington, letter prepared by Golder Associates, Inc., dated January 6, 1997.
3. Soil Excavation and Disposal Activities to Support Closure of the Kitsap County North Road Shop Investigation, Bainbridge, Washington, report prepared by Golder Associates, Inc., dated April 16, 1998.
4. Transmittal of Ablation Till Contour Detail at the Kitsap County North Road Shop Maintenance Facility, Poulsbo, Washington, letter prepared by Golder Associates, Inc., dated March 5, 1999.
5. First Quarter, 1999 Monitoring Results for Area Surface Waters near the North Road Shop, Poulsbo, Washington, letter prepared by Golder Associates, Inc., dated July 1, 1999.

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

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of diesel, heavy oil and gasoline which exceed the Model Toxics Control Act Method A Residential Cleanup Levels for soil established under WAC 173-340-740. There may also be residual petroleum contamination in perched shallow groundwater at the site; however water quality monitoring in the down-gradient drainage ditch (along the Southwest property boundary) and nearby stream, where shallow groundwater from the site would be expected to drain, does not indicate that any contamination is migrating off-site.

The undersigned, Kitsap County Roads, is the free owner of real property (hereafter "Property") in the County of Kitsap, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described in Attachment "A" of this Restrictive Covenant and made a part hereof by reference.

(112601-3-009-2007 - Section 11, Township 26 North, Range 1 East, W.M.  
SW 1/4 SW 1/4 Kitsap County, Washington)

Kitsap County Roads makes the following declaration as to limitations, restrictions and uses to which the Property may be put and specifies that such declaration 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**

1. The Property shall be used only for traditional industrial uses, as described in RCW 70.105D.020(23) and defined in and allowed under the COUNTY of Kitsap zoning regulations codified in the Kitsap County Zoning Ordinance 2-16-1998, and Title 17 of the Kitsap County Code, as of the date of this Restrictive Covenant.
2. No groundwater may be taken for any use from the Property.
3. (a) A portion of the Property contains petroleum contaminated soil located below the storm drain/water main routes that service the facility, below the Western fence boundary, within the fenced Water District Compound, and extending under the foundations of Building 2. The Owner shall not alter, modify, or remove the existing structures in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology.  
(b) 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 without prior written approval from Ecology. 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.

#### **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.



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**Section 5**

The Owner must restrict leases to uses and activities consistent with the Restrictive 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 Restrictive 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, and to inspect records that are related to 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 Restrictive 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.

BOARD OF KITSAP COUNTY  
COMMISSIONERS



Tim Botkin, Chair

Date: 1-7-00

GIVEN under my hand and official seal this 1<sup>st</sup> day of January, 2000



Molly Foster

Notary Public in and for the State of  
Washington, residing at Poe's Orchard

My Commission expires: 3-5-01



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## Attachment A

ATS/C2330

RP LEGAL DESCRIPTION FOR 112601-3-009-2007

08/17/99

SECTION 11 TOWNSHIP 26 RANGE 1E  
 1 PAR (1) BAAP 10FT W OF SE COR OF SW1/4 SW1/4 TH N 250FT TO  
 2 CO RD TH FOLG E BDRY OF CO RD IN SWLY DIR 400FT TO PT DUE W  
 3 OF BEG TH E 360FT TO BEG EXC TO HWY 21 A PAR (2) THE W 495FT  
 4 OF SE1/4 SW1/4 EXC S 15FT EXC PT PER VOL 726/145 PAR (3) TH  
 5 PTN OF SEC 14-26-1E DAF, PT OF NW1/4 NW1/4 BAAP 15FT S OF NE  
 6 COR OF NW1/4 NW1/4 TH W 208FT TH S 104FT TH E 208FT TH N  
 7 104FT TO BEG ALSO BEG 119FT S0\*0' 41E FR NE COR OF NW1/4  
 8 NW1/4 TH S0\*0'41 E ALG E LN OF SD NW1/4 NW1/4 208FT TH  
 9 N89\*43'32W FLT N LN OF NW1/4 NW1/4 DIST OF 208FT TH  
 10 NO\*00'41W 208FT TH S89\*43' 32E 208FT TO POB ALSO A STRIP OF  
 11 LAND 25FT WIDE BEING TH PT OF S 25FT OF N 40 FT OF NW1/4  
 12 NW1/4 LY BTW CO RD BOND PROJ NO 15 & A PT 208FT W OF E LN OF  
 13 NW1/4 NW1/4 EXC TO HWY NO 21A ALSO THE N 165FT OF W1/2 W1/2  
 14 NE1/4 NW1/4 EXC N 30FT THOF & EXC W 30FT OF S 90FT OF N  
 15 120FT THOF



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# Exhibit B

## Property Legal Description

ATS/C2330

RP LEGAL DESCRIPTION FOR 112601-3-009-2007

08/17/99

SECTION 11 TOWNSHIP 26 RANGE 1E  
 1 PAR (1) BAAP 10FT W OF SE COR OF SW1/4 SW1/4 TH N 250FT TO  
 2 CO RD TH FOLG E BDRY OF CO RD IN SWLY DIR 400FT TO PT DUE W  
 3 OF BEG TH E 360FT TO BEG EXC TO HWY 21 A PAR (2) THE W 495FT  
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 12 NW1/4 LY BTW CO RD BOND PROJ NO 15 & A PT 208FT W OF E LN OF  
 13 NW1/4 NW1/4 EXC TO HWY NO 21A ALSO THE N 165FT OF W1/2 W1/2  
 14 NE1/4 NW1/4 EXC N 30FT THOF & EXC W 30FT OF S 90FT OF N  
 15 120FT THOF

EXCEPT that portion conveyed to the STATE OF WASHINGTON for SR307 under Auditor's File  
 No. 200605040222

## **Exhibit C**

### **Site NFA Opinion Letter**

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State of Washington  
POLLUTION LIABILITY INSURANCE AGENCY  
PO Box 40930 • Olympia, Washington 98504-0930  
(360) 407-0520 • (800) 822-3905  
[www.pha.wa.gov](http://www.pha.wa.gov)

January 21, 2025

Jacques Dean  
614 Division Street  
Port Orchard, WA 98366

**Re: No Further Action at the Following Site:**

- **Facility/Site Name:** Kitsap County-North Road Shop
- **Facility/Site Address:** 301 NE Bernt Road, Poulsbo, WA 98370
- **Facility Site ID:** 65471731
- **Technical Assistance Program No.:** P-NW2503

Dear Jacques Dean:

The Washington State Pollution Liability Insurance Agency (PLIA) received your request for an opinion on the independent cleanup located at 301 NE Bernt Road, Poulsbo, WA 98370 (Site). This letter provides PLIA's opinion made under the authority of Chapter 70A.330 RCW and Chapter 374-80 WAC. PLIA appreciates your initiative in pursuing this administrative option for cleaning up a contaminated site under the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW.

**Opinion on Cleanup**

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PLIA has determined that **no further remedial action is necessary** to clean up petroleum contamination at the Site and the institutional controls detailed in the Restrictive Covenant No. 3230789 dated January 7, 2000, with Kitsap County are no longer necessary for the protection of human health and the environment.

This opinion is based on the remedial action meeting the substantive requirements of MTCA, Chapter 70A.305 RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). Our analysis is provided below.

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### **Description of the Site**

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This opinion applies only to the identified petroleum release at the Site located at 301 NE Bernt Road, Poulsbo, WA 98370 and includes Kitsap County tax parcel 112601-3-009-2007. This opinion does not apply to any other hazardous substance release(s) that may affect the Property (parcel).

The Site is defined by the nature and extent of contamination associated with the following release(s):

- Total petroleum hydrocarbons (TPH) as gasoline-range organics (GRO), diesel-range organics (DRO), and/or oil-range organics (ORO) into the soil and groundwater.

### **Basis of the Opinion**

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This opinion is based on the information contained in the following documents:

1. *Ecology Letter Regarding Periodic Review, Kitsap County North Road Shop Site*. Prepared by the Washington State Department of Ecology. September 20, 2022.
2. *Groundwater Investigation Report, Kitsap County North Road Shop Site*. Prepared by Landau Associates, Inc. May 18, 2022.
3. *Final Soil and Groundwater Characterization Report, North Road Shop-Kitsap County Site*. Prepared by Landau Associates, Inc. June 15, 2020.
4. *Kitsap County North Road Shop Site Periodic Review*. the Washington State Department of Ecology. November 11, 2018.

These reports are available for download at: **Kitsap County North Road Shop Site Public Files**

Documents submitted to PLIA are subject to the Public Records Act (Chapter 42.56 RCW). To make a request for public records, please email [pliamail@plia.wa.gov](mailto:pliamail@plia.wa.gov).

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

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### **Establishment of Cleanup Standards and Points of Compliance**

The cleanup levels (CULs) for the Site will be established in accordance with WAC 173-340-700(5) and WAC 173-340-700(6).

The points of compliance (POCs) for the Site will be established in accordance with WAC 173-340-720(8) for groundwater, WAC 173-340-740(6) for soil, and WAC 173-340-750(6) for air.

### **Analysis of the Cleanup**

PLIA has concluded that **no further remedial action** is necessary at the Site and institutional controls are no longer necessary for the protection of human health and the environment. Our conclusion is based on the following analysis:

#### **Cleanup of the Site:**

Site data demonstrate that petroleum contamination from a petroleum underground storage tank (UST) system release exceeded the levels allowable under MTCA. This opinion only addresses the contaminants of concern (COCs) as detailed in the *Description of the Site* section of this letter. The Site history is detailed in the documents cited above.

PLIA has determined that the cleanup actions performed meet cleanup standards established for the Site. The following cleanup actions have been performed at the Site:

#### **i. Soil:**

Five USTs were reportedly removed from the Site near Building 2 in 1988. No documentation of the decommissioning or removal is available.

In 1997, approximately 5,513 tons of petroleum contaminated soil (PCS) were excavated and transported off-Site for disposal at a permitted facility. The excavation was limited due to Site infrastructure and PCS exceeding Method A CULs was left beneath the storm drain and water main, the western fence line, the former Water District area, and Building 2.

The Washington State Department of Transportation acquired the property along the Site's northwestern and southwestern fence lines

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in 2004 for constructing bio-infiltration swales to treat stormwater. Soil samples were collected during a preliminary Site investigation and concentrations of GRO, ORO, benzene, and ethylbenzene exceeded CULs in shallow soil samples.

A Site soil investigation was conducted in 2020 to determine the extent of residual Site PCS in the areas previously identified in 1997. Seventeen soil borings were advanced at the Site and a soil sample was collected from each boring. Eleven samples were collected from below existing utilities and the western fence line; four samples were collected from the former Water District area, and two samples were collected from beneath Building 2. At locations adjacent to infrastructure, angled borings were completed to collect representative samples from the target areas. The GRO concentration exceeded the Method A CUL in a sample collected from SB-4 in the former Water District area. However, the reported concentration was less than the generic Method B TPH CUL for direct contact. The remaining sample results were less than Method A CULs for GRO, DRO, ORO, and BTEX.

It has been empirically demonstrated (see discussion below under the *Groundwater* heading) that the soil leaching to groundwater pathway is incomplete. PLIA agrees that the vapor intrusion pathway (see discussion under the *Air [Soil or Groundwater to Vapor]* heading below) is incomplete. Therefore, the Method B CULs for soil direct contact are applicable at the Site.

**Result: The data indicate the soil direct contact and soil leaching to groundwater exposure pathways are incomplete at the Site.** The remedial action(s) removed the potential for PCS with concentrations of COCs exceeding CULs to come into contact with human or ecological receptors or leach into groundwater.

## ii. **Groundwater:**

During the 2020 investigation, three monitoring wells were installed and three reconnaissance groundwater samples were collected from temporary wells to determine if petroleum contaminated groundwater (PCGW) was migrating off-Site. Depth to groundwater recorded at the Site ranged from 1.49' (MW-3) to 3.23' (MW-1) below top of casing. Groundwater flow direction beneath the Site is predominantly to the northwest, with fluctuations to the west.

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Concentrations of GRO, DRO, ORO, and BTEX were less than Method A CULs in the groundwater samples collected in 2020 with one exception: the DRO reporting limit for one of the reconnaissance groundwater samples was elevated due to detection of DRO in the associated method blank.

At Ecology's request, two additional groundwater monitoring wells were installed to further define the Site's hydrogeologic conditions and determine if PGCW was migrating off-Site. The concentrations of GRO, DRO, ORO, and BTEX were less than MTCA Method A CULs in the groundwater samples.

Groundwater sampling results have adequately demonstrated that the groundwater exposure pathway is no longer complete at the Site.

**Result: The data indicate that the groundwater exposure pathway is incomplete at this Site.** The remedial action(s) removed the potential for groundwater with concentrations of COCs exceeding CULs to come into contact with humans or ecological receptors.

PLIA recommends decommissioning all Site monitoring wells no longer required for groundwater monitoring, as determined by PLIA. Please note monitoring wells must be decommissioned by a Washington State licensed drilling contractor, pursuant to WAC 173-160-460. PLIA requests that you provide monitoring well decommissioning documentation to PLIA for the project file. Additionally, the property owner should keep all supporting documentation of compliance (e.g. well logs, completed forms, and well tags) to provide documentation of proper decommissioning to the Washington State Department of Ecology upon request.

### iii. **Air (Soil or Groundwater to Vapor):**

According to the 2018 Ecology Periodic Review, "vapor intrusion is not considered to be a significant risk to human health or the environment."

PCS and/or PCGW within the lateral inclusion zone and/or vertical separation distance of Site buildings was successfully remediated to concentrations of COCs less than the MTCA Method A CUL.

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**Result: The data indicate the vapor intrusion pathway is incomplete at this Site.** The remedial action removed the potential for vapors from PCS or PCGW to enter nearby commercial or residential structures.

#### **iv. Surface Water:**

Dogfish Creek is located approximately 430' north-northwest of the Site. Quarterly surface water sampling of Dogfish Creek was conducted from 1997 to 2000 to determine if PCGW was migrating offsite into stormwater systems or the creek. With Ecology approval surface water sampling was discontinued in 2000.

The first Ecology periodic review completed in 2007 recommended another surface water sampling event. One sample exceeded the Method A surface water CUL for benzene. However, the sample location potentially had multiple contaminant source contributions including roadway runoff and might not be representative of the groundwater to surface water exposure pathway.

**Result: The surface water exposure pathway is incomplete at this Site.** This means that, based on current data, PCGW has not spread to surface water.

PLIA recommends that Ecology terminate and release Restrictive Covenant No. 3230789 dated January 7, 2000, with Kitsap County.

#### **Limitations of the Opinion**

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##### **1. Opinion does not settle liability with the state.**

Under MTCA, liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release(s) of hazardous substances at the Site. This opinion **does not:**

- Change the boundaries of the Site.
- 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 the Office of the Attorney General and the Department of Ecology under RCW 70A.305.040(4).



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**2. 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 whether the action you performed is equivalent. Courts make that determination (RCW 70A.305.080 and WAC 173-340-545).

**3. State is immune from liability.**

The state, PLIA, 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.

**Termination of Agreement**

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This opinion terminates the Technical Assistance Program (TAP) agreement for Project No. P-NW2503.

**Contact Information**

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Thank you for choosing to clean up your Site under PLIA's TAP. If you have any questions about this opinion, please contact me by phone at 1-800-822-3905, or by email at [pliamail@plia.wa.gov](mailto:pliamail@plia.wa.gov).

Sincerely,

Signed by  
  
6A78B0062624F7

William J. Fees, P.E.  
Environmental Engineer

Enclosure A:      Figure 1: Site Vicinity Map  
                         Figure 2: Site Sampling Location Map

cc: Stephanie Renando, Landau Associates, Inc. (by email)

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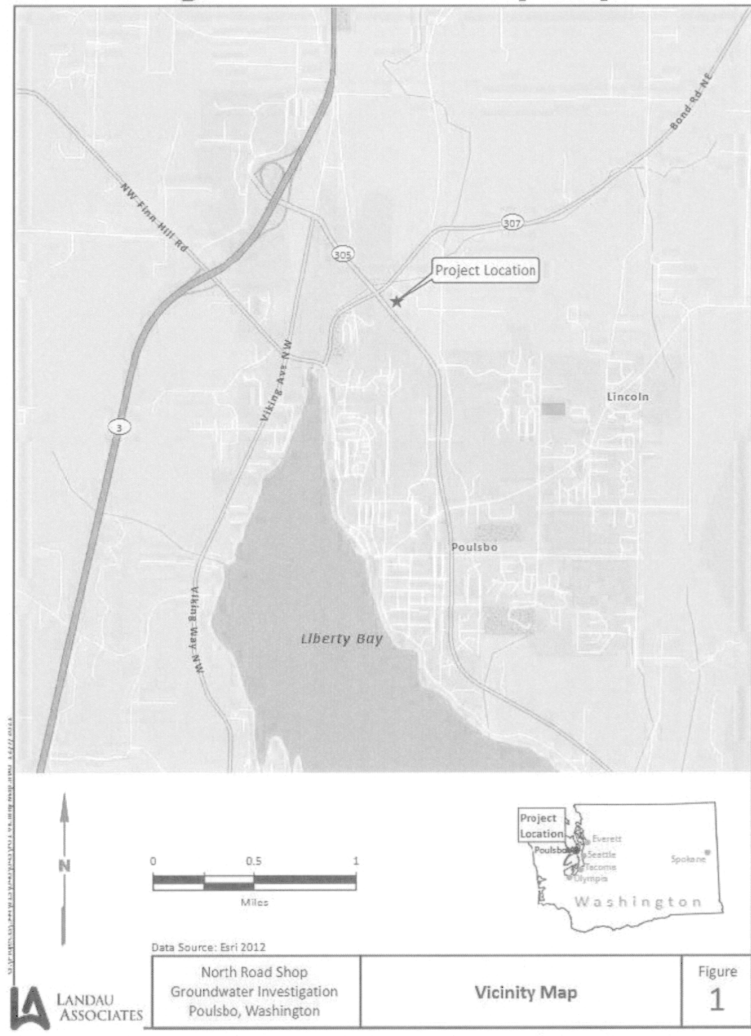
Jacques Dean  
January 21, 2025  
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**Enclosure A:**  
**TAP Project No. P-NW2503**  
**301 NE Bernt Road,**  
**Poulsbo, WA 98366**

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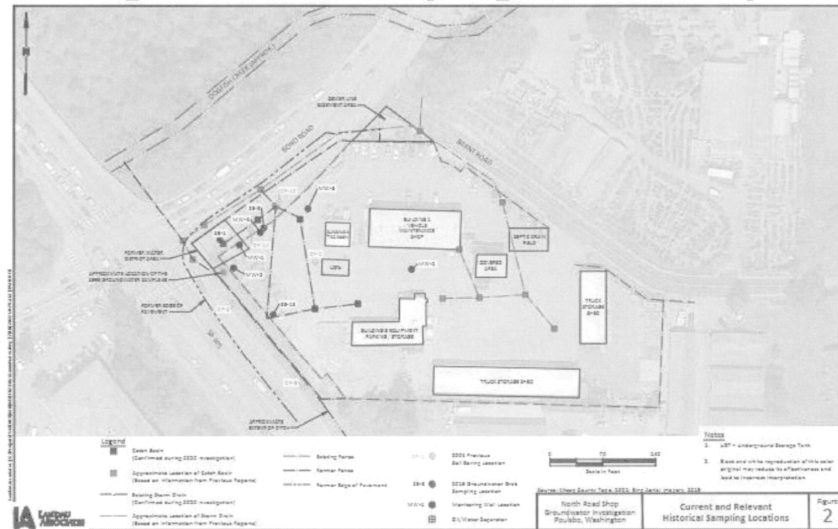
**Figure 1: Site Vicinity Map**



Source: Groundwater Investigation Report, Landau Associates, Inc., May 18, 2022.

Jacques Dean  
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### Figure 2: Site Sampling Location Map



**Source:** *Groundwater Investigation Report*, Landau Associates, Inc., May 18, 2022.