

After Recording Return
Original Signed Covenant to:

Erik G. Snyder
Section Manager
Toxics Cleanup Program
Department of Ecology
P.O. Box 47600, Olympia, WA 98504-7600

Environmental Covenant

Grantor: BNSF Railway Company

Grantee: State of Washington, Department of Ecology (hereafter "Ecology")

Brief Legal Description: Those portions of Section 29, Township 29 North, Range 5 East, Willamette Meridian, City of Everett, Snohomish County, Washington, described in Exhibit A and illustrated on Exhibit B attached hereto and hereby made a part hereof which are portions of a larger parcel depicted in Exhibits C and D attached hereto.

Tax Parcel No.: Portions of 00984050103100

Reference: VCP No. NW3190

RECITALS

- a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70A.305 RCW, and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW.
- b. The Property that is the subject of this Covenant is part of a site commonly known as Everett Steel Scrapyard, Facility ID 71351 (hereafter "Site"). The Site is illustrated in Exhibit D. The Property that is the subject of the restrictions in this Covenant are those portions of the Site as shown in Figure C and described more fully in Exhibits A and B attached hereto.

- c. The Site was the subject of remedial action conducted under MTCA. This Covenant is required because residual contamination remains on the Property (on those portions of the Site described above) after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	Lead
Groundwater	None
Vapor	None
Sediment	None
Surface Water	None

- d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and remedial actions conducted are available through Ecology at <https://apps.ecology.wa.gov/cleanupsearch/site/3561#site-documents>. These include the following documents:
- i. Pacific Groundwater Group 2019. Everett Steel Site, Remedial Investigation/Feasibility Study, Everett Washington, 2019.
 - ii. Mott MacDonald 2023. Cleanup Action Completion Report, Everett Steel Site, Everett Washington, 2023.
- e. This Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a Holder of this Covenant under UECA, Ecology has an interest in real property; however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq. The rights of Ecology as an “agency” under UECA, other than its right as a holder, are not an interest in real property.

COVENANT

BNSF Railway Company, as Grantor and owner of the Property, hereby grants to the Washington State Department of Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the Grantor has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

- a. Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection, or monitoring of that remedial action without prior written approval from Ecology.
- b. Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance, and monitoring of remedial actions and continued compliance with this Covenant.
- d. Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.
- e. Preservation of Reference Monuments.** Grantor shall make a good faith effort to preserve any reference monuments and boundary markers used to define the areal extent of coverage of this Covenant. Should a monument or marker be damaged or destroyed, Grantor shall have it replaced by a licensed professional surveyor within 30 days of discovery of the damage or destruction.

Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

a. Land use.

Industrial Land Use: The remedial action Everett Steel designed for the Property is based on a cleanup designed for unrestricted land use. However, two lead soil samples exceeded the MTCA cleanup level for unrestricted land use but did not exceed the cleanup level for

industrial land use. These locations are shown in Exhibit C labeled G30 and F34. As indicated on Exhibit C, the G30 soil restricted area is one foot wide, zero to 3.5 feet deep and 25 feet long. Also indicated on Exhibit C, the F34 soil restricted area is 25 by 25 feet at a depth of 3 feet below ground surface.

As such, unless and until residual contamination in these two areas is reduced to levels allowing for unrestricted use, and this Covenant is amended per Section 5.b. herein, the use of these two areas shall be limited to industrial uses, as that term is defined in the rules promulgated under chapter 70A.305 RCW. Prohibited uses on the Property include but are not limited to residential uses, childcare facilities, K-12 public or private schools, parks, grazing of animals, growing of food crops, and non-industrial commercial uses.

Section 3. Access.

- a. The Grantor shall maintain clear access to all remedial action components, if any, necessary to construct, operate, inspect, monitor, and maintain the remedial action.
- b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice for security and safety purposes and subject to Ecology and its authorized representatives' compliance with railroad safety procedures, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.
- c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

Section 4. Notice Requirements.

- a. **Conveyance of Any Interest.** The Grantor, when conveying any interest in any part of the Property including but not limited to title, easement, leases, and security or other interests, must:
 - i. Provide written notice to Ecology of the intended conveyance at least thirty (30) days in advance of the conveyance.
 - ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON [DATE] AND RECORDED WITH THE SNOHOMISH COUNTY AUDITOR UNDER RECORDING NUMBER [RECORDING NUMBER]. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.
- b. Reporting Violations.** Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.
- c. Emergencies.** For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.
- d. Notification procedure.** Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first-class mail, such as e-mail or other electronic means, may be used for these communications.

BNSF Railway Company
Attn: Corporate Real Estate Department
2500 Lou Menk Dr
Fort Worth TX 76131
environmentalaccess@bnsf.com

Environmental Covenants Coordinator
Washington State Department of Ecology
Toxics Cleanup Program
P.O. Box 47600
Olympia, WA 98504-7600
(360) 407-6000
ToxicsCleanupProgramHQ@ecy.wa.gov

Section 5. Modification or Termination.

- a.** Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the site:
 - i.** Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and
 - ii.** If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.
- b.** If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.

Section 6. Enforcement and Construction.

- a.** This Covenant is being freely and voluntarily granted by the Grantor.
- b.** Within ten (10) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.
- c.** Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.
- d.** The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.

- e.** This Covenant shall be liberally construed to meet the intent of MTCA and UECA.
- f.** The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.
- g.** A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

The undersigned Grantor warrants he/she holds an ownership interest in parcel 00984050103100 and has authority to execute this Covenant.

EXECUTED this 25th day of April, 2025.

BNSF Railway Company, a Delaware corporation

Signature

by: Cary Hutchings

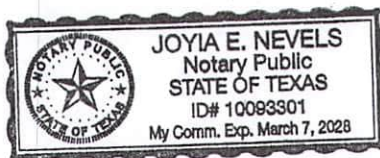
Title: Director, Real Estate

CORPORATE ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF TARRANT

On this 25th day of April, 2025, I certify that Cary Hutchings personally appeared before me, acknowledged that **he/she** is the Director of the corporation 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/she** was authorized to execute said instrument for said corporation.



Joyia E. Nevels
Notary Public in and for the State of ~~Washington~~ TEXAS

Residing at FORT WORTH, TX

My appointment expires 3/7/2028

The Department of Ecology hereby accepts the status as GRANTEE and HOLDER of the above Environmental Covenant.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY


Signature

by: Erik G. Snyder

Title: Section Manager

Dated: 4/29/2025

Exhibit A

Legal Description

Property: Those portions of the Site (as described above) identified as Grid F34 and G30 as more fully illustrated in Exhibits B and C.

EXHIBIT A
RESTRICTED SOIL AREA G30

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, SNOHOMISH COUNTY, WASHINGTON, LYING WITHIN A STRIP OF LAND 1.00 FEET IN WIDTH, HAVING 0.50 FEET OF SUCH WIDTH ON EACH SIDE OF A RESTRICTED SOIL AREA CENTERLINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF 33RD STREET AND A LINE BEING LOCATED 55.00 FEET NORTHEASTERLY AND PARALLEL TO THE CENTERLINE OF THE BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY'S MAIN TRACK;

THENCE SOUTHEASTERLY ALONG SAID PARALLEL LINE, A DISTANCE OF 405.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING SOUTHEASTERLY ALONG SAID PARALLEL LINE, A DISTANCE OF 25.00 FEET TO THE TERMINUS OF SAID RESTRICTED SOIL AREA CENTERLINE.

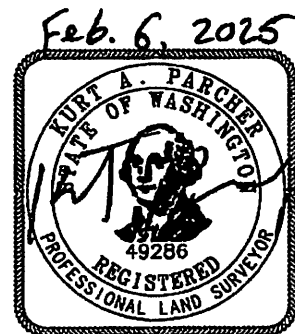


EXHIBIT A
RESTRICTED SOIL AREA F34

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, WILLAMETTE MERIDIAN, SNOHOMISH COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF 33RD STREET AND A LINE BEING LOCATED 55.00 FEET NORTHEASTERLY AND PARALLEL TO THE CENTERLINE OF THE BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY'S MAIN TRACK;

THENCE EASTERLY ALONG SAID SOUTH LINE OF 33RD STREET, A DISTANCE OF 55.00 FEET;

THENCE SOUTHEASTERLY ALONG A LINE PARALLEL TO SAID MAIN TRACK CENTERLINE, A DISTANCE OF 588.50 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING SOUTHEASTERLY PARALLEL TO SAID MAIN TRACK CENTERLINE, A DISTANCE OF 25.00 FEET;

THENCE NORTHEASTERLY, AT A RIGHT ANGLE TO THE PREVIOUSLY DESCRIBED LINE, A DISTANCE OF 25.00 FEET;

THENCE NORTHWESTERLY, AT A RIGHT ANGLE TO THE PREVIOUSLY DESCRIBED LINE, A DISTANCE OF 25.00 FEET;

THENCE SOUTHWESTERLY, AT A RIGHT ANGLE TO THE PREVIOUSLY DESCRIBED LINE, A DISTANCE OF 25.00 FEET TO THE TRUE POINT OF BEGINNING.

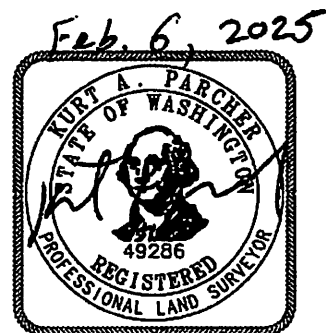
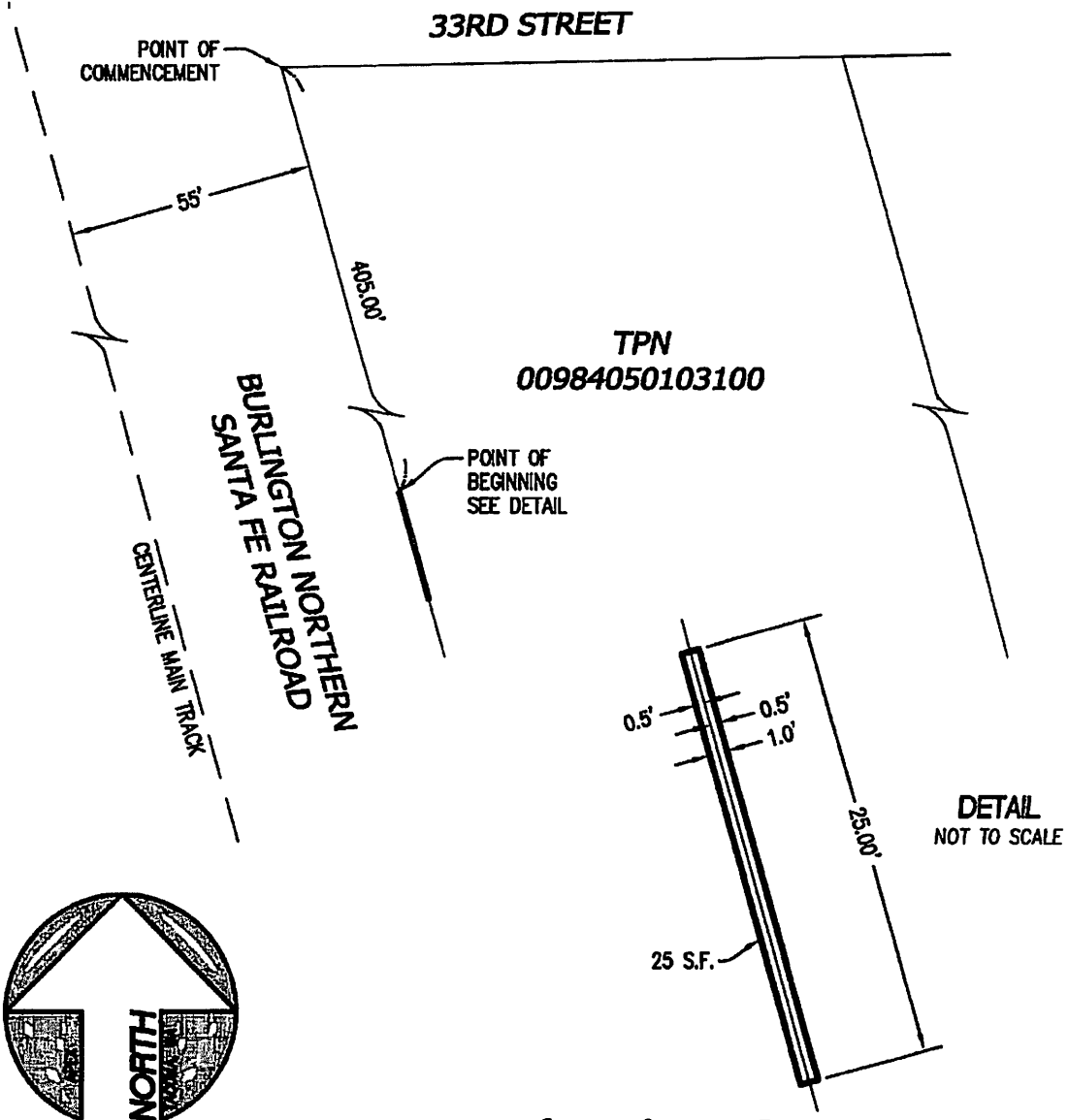


Exhibit B

Map Illustrating Location of Restrictions

EXHIBIT B

RESTRICTED SOIL AREA G30



Feb. 6, 2025

EXHIBIT B

RESTRICTED SOIL AREA G30

APEX JOB NO: 37927	DATE: 2/6/2025
DRAWN BY: BPM	CHECKED BY: KAP
SHEET 2 OF 2	SCALE: 1"=40'

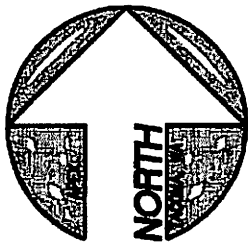
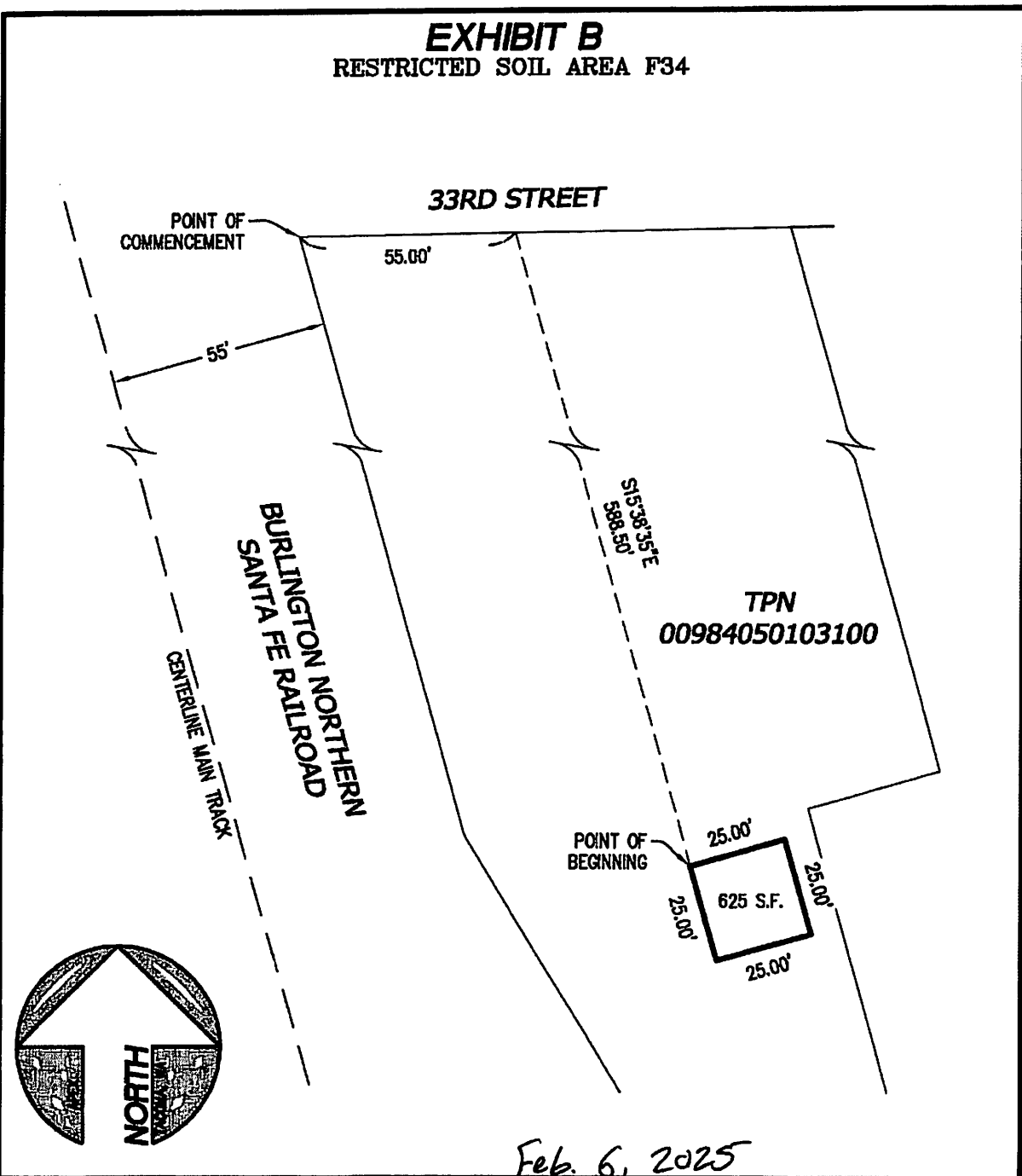


Apex

Engineering

2801 South 35th Street, Suite 200
Tacoma, Washington 98409-7479
(253) 473-4484 FAX: (253) 473-0599
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EXHIBIT B
RESTRICTED SOIL AREA F34



Feb. 6, 2025

EXHIBIT B
RESTRICTED SOIL AREA F34

APEX JOB NO: 37927	DATE: 2/6/2025
DRAWN BY: BPM	CHECKED BY: KAP
SHEET 1 OF 2	SCALE: 1"=40'



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Engineering

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Tacoma, Washington 98409-7479
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Exhibit C

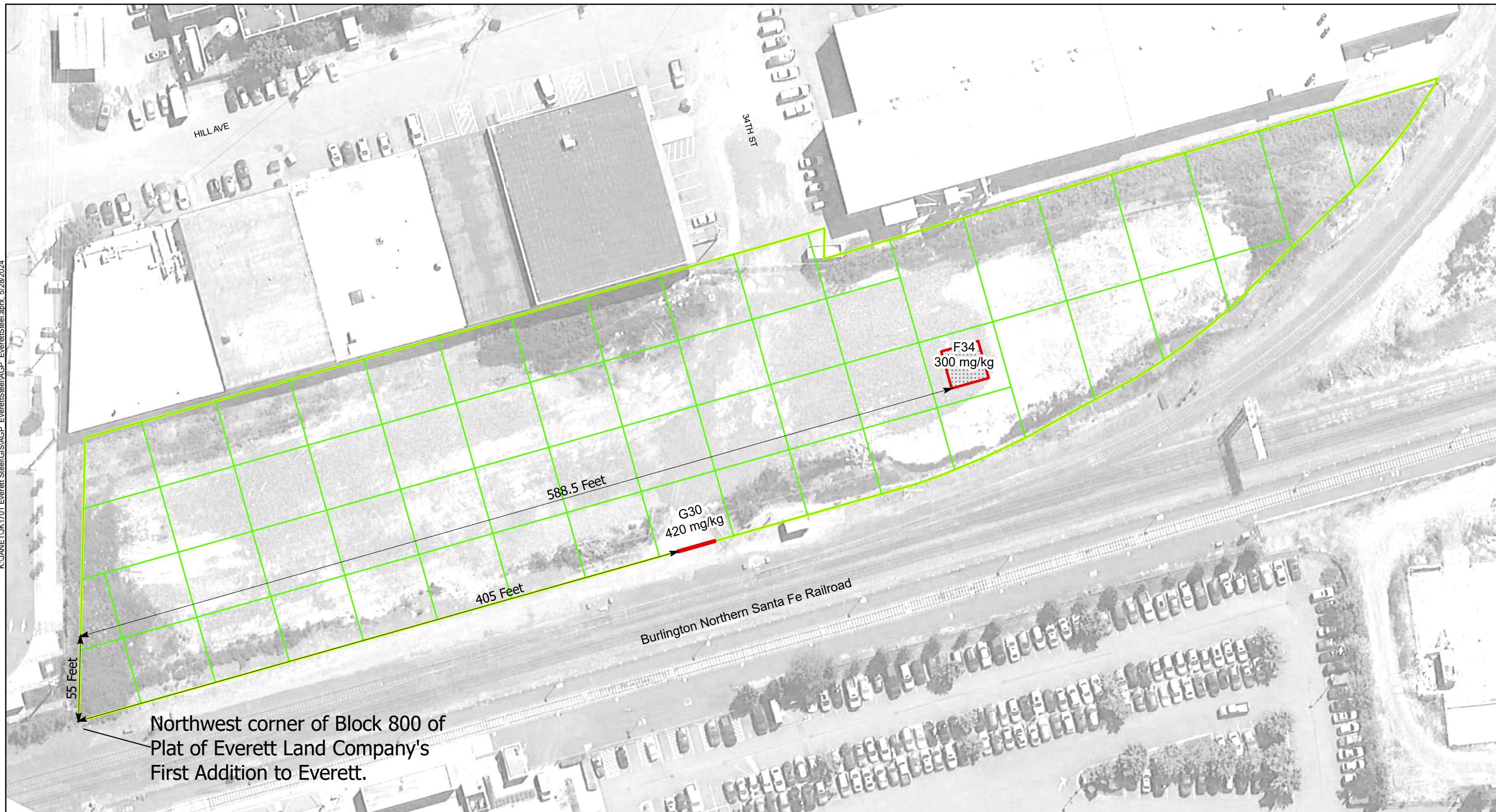
Map Illustrating Restricted Soil Area

Exhibit D

Site Parcels

See Full Document.

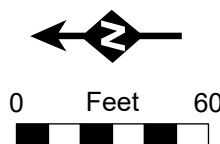
<https://apps.ecology.wa.gov/cleanupsearch/site/3561#site-documents>



- Sample Grid
- Everett Steel Site
- Areas where one soil sample exceeds MTCA Method A Unrestricted Cleanup Level for Lead (250 mg/kg) but not Method A Restricted Cleanup Level (1,000 mg/kg)

G30 restricted soil area: an area that is 1 foot wide, 0 to 3.5 feet deep, and 25 feet long centered along the outer boundary of G30. This area is greater than 25 feet from the rail line.

F34 restricted soil area: an area that is 25 by 25 feet at a depth of 3 feet bgs, centered in the middle of F34 and is buried at 3 feet below ground surface (0 to 3 feet below ground surface exceeds no cleanup levels.)



2017 Aerial Photo (Google Earth)

Exhibit C Restricted Soil Area

Everett Steel



 Everett Steel Site



2017 Aerial Photo
0 Feet 200


Exhibit D Site Parcels

Everett Steel

M
M
MOTT
MACDONALD