PERIODIC REVIEW

Blackstock Lumber
Facility Site ID#: 2540

601 Elliott Avenue West,
Seattle, Washington

Northwest Region Office

TOXICS CLEANUP PROGRAM

October 2009

1.0 INTRODUCTION

This document is a review by the Washington State Department of Ecology (Ecology) of post-cleanup site conditions and monitoring data to ensure that human health and the environment are being protected at the Blackstock Lumber (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 the Independent Remedial Action Program (IRAP). The cleanup actions resulted in concentrations of petroleum hydrocarbons remaining at the Site which exceed MTCA cleanup levels. 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. WAC 173-340-420 (2) requires that Ecology conduct a periodic review of a site every five years under the following conditions:

(a) Whenever the department conducts a cleanup action
(b) Whenever the department approves a cleanup action under an order, agreed order or consent decree
(c) Or, as resources permit, whenever the department issues a no further action opinion;
(d) and one of the following conditions exists:
    1. Institutional controls or financial assurance are required as part of the cleanup
    2. Where the cleanup level is based on a practical quantitation limit
    3. 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 the department shall consider include [WAC 173-340-420(4)]:

(a) 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;
(b) New scientific information for individual hazardous substances of mixtures present at the site;
(c) New applicable state and federal laws for hazardous substances present at the Site;
(d) Current and projected site use;
(e) Availability and practicability of higher preference technologies; and
(f) The availability of improved analytical techniques to evaluate compliance with cleanup levels.

The Department 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 Description and History

The subject property is located at 545 to 631 Elliott Avenue West, in Seattle, Washington. The property encompasses approximately 3 acres, and is bounded by Elliott Avenue to the east, Burlington Northern Railroad tracks to the west, and commercial/light industrial businesses to the north and south. A vacated extension of West Mercer Street cuts across the northern half of the property. The former Blackstock Lumber Company building previously occupied the central portion of the property, with a railroad spur located along the west side of the building footprint. A Hart-Crowser Phase I Environmental Assessment (1989) identified previous occupants of the property including the Seattle Lumber Company (1910's to 1930's), Blackstock Lumber (1930's to 1980's), and the Humane Society (1930's to 1970's). Blackstock Lumber occupied a portion of the south side of the property, (south of West Mercer Street). The Humane Society occupied the area north of West Mercer Street. Blackstock Lumber occupied the area north of West Mercer Street in the 1980's.

The property is currently temporary construction storage with no buildings noticeable, but the property is covered with large concrete structures presumably being stored but obscuring visibility. The subject site is relatively level, sloping gently towards the southwest with a total relief of five to ten feet. Site soils generally consist of loose, wet, brown, gravel with some sand, underlain by loose, saturated, gray, fine to medium sand with some silt and shell fragments. As depth increases the soils become siltier and contain a trace of organic material. The gravel layer extends to depths of 3 to 4 feet below ground surface. The sand and silty sand materials extended to the limits of soil borings advanced by RZA AGRA, Inc., (RZA AGRA) at approximately 16.5 feet below grade.

2.2 Site Investigations and Sample Results

Hart Crowser, Inc., conducted a Phase I Environmental Site Assessment in March 1989 on the subject property, and identified four underground storage tanks (USTs). The tanks on the Humane Society property had never been used by Blackstock Lumber. Blackstock Lumber purchased the property in 1982. Hart Crowser advanced three soil borings in July 1989 to assess the extent of potential contamination from the USTs. Analytical test results for soil samples collected from the borings contained petroleum hydrocarbons ranging from 240 parts per million (ppm) to 545 ppm. Details of the assessment and soil boring activities are contained in the Hart Crowser report titled Phase II Subsurface Soil Sampling and Analysis, July 10, 1989.

Northwest EnviroService, Inc. was retained in July of 1991 to remove the USTs from the subject site. Two of the USTs identified by Hart Crowser, listed as suspected heating oil or gasoline tank on figures, were not found during excavation activities. Three additional USTs, identified as Tanks 3, 4, and 5 were identified on the northern portion of the property, near the former Humane Society building. Soil sampling and site assessment services were provided by Earth Consultants, Inc. (ECI). The tanks ranged in capacity from 300 gallons to 10,000 gallons and

contained various petroleum products including gasoline, diesel, and heating oil. The tanks and products were identified as follows:

Tank 1 - 10,000 Gallon Diesel Fuel;
Tank 2 - 300 Gallon Light Heating Oil;
Tank 3 - 250 Gallon Gasoline;
Tank 4 - 1,000 Gallon Heavy Heating Oil;
Tank 5 - 1,760 Gallon Heavy Heating Oil.

Soil samples obtained from the excavations of Tank 1 and Tank 2 did not contain detectable concentrations of diesel range petroleum hydrocarbons. Groundwater was not encountered in either excavation. Soil samples obtained from the sidewalls of the excavation of Tank 3 did not contain detectable concentrations of gasoline range petroleum hydrocarbons. Concentrations of benzene, toluene, ethylbenzene, and xylenes (BTEX) were detected, but at levels below their respective MTCA Method A guidelines. No evidence of a release from the tank was observed. Groundwater was encountered in the excavation. A groundwater monitoring well (ECI MW-1) was installed approximately 20 feet west of the tank in the apparent downgradient groundwater flow direction. Gasoline range petroleum hydrocarbons and heavy petroleum hydrocarbons (TPH) were not detected in groundwater samples from ECI MW-1. BTEX concentrations were detected, but at levels below their respective MTCA Method A levels. Soils with a solvent like odor were noted by ECI during the excavation of Tank 3 emanating from a broken pipe beneath the concrete slab of the former Humane Society building.

RZA AGRA began work at this site in July of 1992. The objectives were to more fully characterize the stockpiled soil at the site and to provide a cost-effective method of remediating or disposing of the soil, and to further characterize the remaining petroleum hydrocarbon affected soils and groundwater.

The stockpiled soils consisted primarily of sandy gravels and gravelly sands containing scattered cobbles and debris. Areas of discoloration were noted in some of the test pits and soils in certain locations exuded strong petroleum-like odors. Results of analytical testing performed on the soil samples collected from the stockpile indicated that one-third to one-half of the soil contained petroleum hydrocarbons at levels above the MTCA Method A guidelines. The petroleum impacted soil was transported to the Regional Disposal Company Transfer Station on 3rd Avenue in Seattle for transport to Roosevelt Regional Landfill in Klickitat County, Washington. Details of the soil stockpile characterization, including laboratory generated analysis reports are located in the RZA AGRA report titled Disposal of Petroleum Impacted Soil, November 12, 1992. The subsurface exploration program consisted of backfilling the open excavation on site and advancing eight soil borings near the area where petroleum hydrocarbons were discovered during previous studies. Three borings were advanced within the former excavation limits, five outside of the excavation limits. The borings were advanced to depths ranging from 11.5 to 16.5 feet below ground surface, utilizing a truck mounted CME drill rig driving 6 ½-inch diameter hollow-stem augers. Three of the borings were completed as 2-inch diameter groundwater monitoring wells which were utilized to gather data on the physical and chemical parameters of the local groundwater, and were monitored quarterly for one year to monitor changing conditions

in the near surface groundwater aquifer below the site. At the time of drilling, groundwater was encountered at depths ranging from 3 to 3.5 feet below grade. Details of the soil borings and installation of the three monitoring wells is detailed in the RZA AGRA report titled Remedial Environmental Assessment, February 1993. There are no known sensitive species or environments (wetlands, flora, or fauna) that were damaged or threatened by the release. MW-2 tested at 3 ppm from a sample taken September 7, 1994, so did contain petroleum hydrocarbons above MTCA Method A cleanup guidelines.

2.3 Cleanup Actions

The soils from under the concrete slab before the slab was removed (approximately 5 to 10 cubic yards) were excavated and stockpiled for later characterization and disposal. No other evidence of the solvent like odor was noted during ECI's investigation. During excavation of Tank 4 approximately 20 to 25 cubic yards of soils containing heavy heating oil were excavated based on visual observations. Soil samples obtained from the sidewalls of the excavation contained concentrations of total petroleum hydrocarbons ranging from <25 to 170 milligrams per kilogram (mg/kg, equivalent to ppm), which were below the MTCA Method A guideline of 200 mg/kg. Groundwater was encountered in the excavation. No hydrocarbon sheen was observed on the groundwater in the tank excavation. During excavation of Tank 5 approximately 20 cubic yards of soils containing heavy heating oil were excavated based on visual observations, and evidence of releases from below a joint in the product lines near Tank 5 and below the product lines where they entered the west side of the former Humane Society building, approximately 80 feet north of the tank. Only one soil sample obtained from the sidewalls of the excavation contained concentrations of total petroleum hydrocarbons above MTCA Method A guidelines. An additional 5 to 10 cubic yards of soil was excavated from the area. Groundwater was encountered in the excavation. No hydrocarbon sheen was observed on the groundwater in the tank excavation.

A groundwater monitoring well (ECI MW-2) was installed near the southern edge of the Tank 5 excavation approximately 20 feet west of the tank in the apparent downgradient groundwater flow direction. No gasoline range or heavy petroleum hydrocarbons were detected in groundwater samples from ECI MW-2.

The concrete slab of the former Humane Society building was removed on September 20, 1991. The product lines from Tanks ran underneath the concrete slab. ECI excavated approximately 75 to 100 cubic yards of soil down to the groundwater table, approximately 3 to 4 feet below ground surface (bgs). Soils could not be excavated below the groundwater table due to caving and sloughing soils, and the proximity of the active Burlington Northern Railroad spur. The approximate aerial extent of the excavation was 40 feet by 28 feet. ECI stated that the groundwater encountered had a hydrocarbon sheen and a thin product layer in some areas; however, no sheen was noted by RZA AGRA personnel during site reconnaissance activities. ECI also noted that the visibly contaminated soil that was left in place appeared to be limited to a depth of 3 feet to 6 feet bgs. Of the seven soil samples obtained from the sidewalls of the excavation only the sample obtained from the west sidewall (OE-5) contained concentrations of diesel and TPH above MTCA Method A Guidelines of 200 mg/kg, at concentrations of 260

mg/kg and 270 mg/kg respectively. A sample collected from the base of the excavation (OE-8) contained a diesel range petroleum hydrocarbon concentration of 2,500 mg/kg, and was considered to be representative of soils left in place below the water table. Details of the excavation activities are contained in the ECI report titled Underground Storage Tank Closure Observations and Documentation, November 15, 1992.

The soil remaining on site which contains petroleum hydrocarbons at levels above MTCA Method A cleanup guidelines is present in a triangularly-shaped area roughly 40 square feet in size. The thickness of the impacted soil layer is approximately 3 feet to 7 feet. Based on this information it has been estimated that approximately 10 cubic yards of impacted soil remains in the subsurface environment. This soil is located below the groundwater table and could not be excavated due to its proximity to an active Burlington Northern railroad spur.

The local groundwater exhibited evidence of petroleum hydrocarbons in MW-2 which is near the property boundary. A conditional point of compliance for groundwater cannot exceed the property boundary. The groundwater was monitored quarterly over a period of one year and a September 1994 sample showed 3 ppm TPH, and contaminated soil was known to be in contact with groundwater, so it is likely that contaminated groundwater has exceeded the pproperty boundary. The groundwater monitoring conducted quarterly during 1993 provided data which did not support conditional closure. An argument was made supporting closure based upon several factors related to the location of the petroleum hydrocarbon affected soil, the amount of affected material present (estimated at 10 cubic yards or less), and the historical and potential future land use at the site. Specifically, the following factors were presented for closure of the site:

- The site contaminant is Bunker "C", which does not typically migrate significantly within the subsurface matrix;
- Bunker "C" is relatively insoluble in water, significantly limiting the spread of contamination on the groundwater aquifer;
- Quarterly groundwater monitoring data from 1993 suggests that the petroleum hydrocarbons initially detected in groundwater samples were the result of disturbance of the subsurface matrix during installation of monitoring wells, and not the result of contaminant migration. The levels of petroleum hydrocarbons present in groundwater obtained from MW-2 have never exceeded the MTCA cleanup criteria, and have declined each sampling event;
- We estimate that only approximately 10 cubic yards of petroleum-impacted soil remain in the subsurface at this site, and known or potential threats to public health are limited, due to the small amount and location (below the water table) of the residual petroleum hydrocarbon affected soil;
- The petroleum-impacted soil remaining in the study area is located beneath the groundwater table, making removal of the material impracticable. The aquifer is very productive. De-watering would be difficult, if not impossible, and costly;
- The petroleum-impacted soil is in proximity to a heavily utilized Burlington Northern railroad spur, which would need to be removed or substantially shored in order to proceed with excavation of the remaining petroleum-impacted soil;

- Analytical testing performed during site assessment indicates that the Bunker "C" at this site does not contain polyaromatic hydrocarbons, which are potentially carcinogenic compounds often associated with this type of petroleum product; and
- The site is located in an industrial area. Potential threats would involve direct contact with the soil, such as ingestion. Public access to the site, and thus potential human exposure to the petroleum impacted soil, will be extremely limited. In addition, because of its proximity to the railroad spur, this soil is not likely to be disturbed during any excavation procedures performed as a part of site development. Building setbacks will likely eliminate the possibility of excavation in the area where the petroleum-impacted soil remains.

Ecology issued a 'No Further Action' letter in September 1995 after a restrictive covenant was recorded apparently in error since the third bullet above is not true.

2.4 Cleanup Levels

Cleanup standards used for the independent remedial actions were obtained from the Model Toxics Control Act (MTCA) Method A cleanup guidelines. Although the site is located in an industrial area and might qualify for other Method criteria, rules and regulations at the time regarding TPH concentrations in soil and groundwater made Methods A the choice for sites affected by petroleum hydrocarbons. Affected media on the subject site has been identified as soil containing concentrations of diesel-range or heavy petroleum hydrocarbons above Method A cleanup guidelines. Based on quarterly groundwater monitoring activities conducted for a one year period, groundwater on the subject site does not appear to be affected by petroleum hydrocarbons at a conditional point of compliance, although contaminated soils are known to be in contact with groundwater. There is thus a conditional point of compliance for both soil and groundwater.

2.5 Restrictive Covenant

Based on the Site use and cleanup levels, it was determined that the Site was eligible for a 'No Further Action' determination if a Restrictive Covenant was recorded for the property. The Site is largely paved but there are areas which are not paved, and the surface cover was evidently not necessary as part of the remedy. A Restrictive Covenant was recorded for the Site in 1995 which imposed the following limitations:

Section 1. The Site may be used only for commercial or industrial uses as defined in and allowed under the City of Seattle zoning regulations as of the date of this Declaration.
Section 2. Any activity on the Site, other than capping or paving, that interferes with or reduces the effectiveness of the remedial action is prohibited. Any activity on the Site that would result in the release of a hazardous substance that remains on-site is prohibited unless such activity occurs in the course of additional remedial action. It is understood that disturbance of the Site may be required in the future for installation of utilities or other activities associated with future industrial use of the Site. Such activities shall be authorized provided that (1) no release of hazardous substances will occur; (2) all hazardous substances encountered will be handled and

disposed of in accordance with state law; and (3) the integrity of any cover/cap over the residual hazardous substances will be restored to its original condition in a timely manner.
Section 3. The owner of the Site must give written notice to the Department of Ecology, or to a successor agency, of any planned on Site activities that may disturb hazardous substances present on or in the Site. No conveyance of title, easement, lease, or other interest in the Site shall be consummated by the owner without advance written notice to the Department of Ecology.
Section 4. The owner of the Property shall allow an authorized representative of the Department of Ecology, or a successor agency, rights of ingress and egress to the Site at reasonable times, for the purpose of evaluating compliance with this Declaration, to take samples, and to inspect records related to the remedial action.
Section 5. The Harts and the Harts' assigns and successors in interest reserve the right under WAC 173-340-440 to record an instrument which provides that this Declaration shall no longer limit the use of the Site or affect the Property or be of any further force or effect. However such an instrument may be recorded only with the consent of the Department of Ecology or its successor agency, which consent shall not be unreasonably withheld.

The Restrictive Covenant is available as Appendix 6.4.

3.0 PERIODIC REVIEW

3.1 Effectiveness of completed cleanup actions

The Restrictive Covenant for the Site was recorded and is in place. This Restrictive Covenant prohibits activities that will result in the release of contaminants at the Site without Ecology's approval, and prohibits any use of the property that is inconsistent with the Covenant. This Restrictive Covenant serves to ensure the long term integrity of the remedy for the soil.

Based upon the site visit conducted on November 4, 2009, the remedy at the Site continues to eliminate exposure to contaminated soils by ingestion and contact. No repair, maintenance, or contingency actions have been required. The Site is operating as a fenced construction storage facility. A photo log is available as Appendix 6.5.

Soils with TPH concentrations higher than MTCA cleanup levels are still present at the Site. However, the remedy prevents human exposure to this contamination by ingestion and direct contact with soils. The Restrictive Covenant for the property will ensure that the contamination remaining is contained and controlled.

Since groundwater is in contact with contaminated soils, and was affected, a conditional point of compliance for groundwater would need to be established as close as practicable to the source of contamination, not exceeding the property boundary. There is no record that this point has been established.

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

The cleanup at the site was governed by [insert appropriate edition, like: Chapter 173-340 WAC (1996 ed.)]. WAC 173-340-702(12) (c) [2001 ed.] provides 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."

Although cleanup levels changed for petroleum hydrocarbon compounds as a result of modifications to MTCA in 2001, contamination remains at the site above the new MTCA

Method A and B cleanup levels. Even so, the cleanup action is still considered protective of human health and the environment. A table comparing MTCA cleanup levels from 1991 to 2001 is available below.

Analyte	**1991 MTCA Method A Soil Cleanup Level (ppm)**	**2001 MTCA Method A Soil Cleanup Level (ppm)**	**1991 MTCA Method A Groundwater Cleanup level (ppb)**	**2001 MTCA Method A Groundwater Cleanup Level (ppb)**
Cadmium	2	2	5	5
Lead	250	250	5	15
TPH	NL	NL	1000	NL
TPH-Gas	100	100/30	NL	1000/800
TPH-Diesel	200	2000	NL	500
TPH-Oil	200	2000	NL	500
NL = None listed				

3.4 Current and projected site use

The site is currently used for commercial and industrial purposes. There have been no changes recently in current or projected future site or resource uses.

3.5 Availability and practicability of higher preference technologies

The remedy implemented included 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 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 following conclusions have been made as a result of this periodic review:

- The cleanup actions completed at the Site appear to be protective of human health and the environment.

- Soils cleanup levels have not been met at the standard point of compliance for the Site; however, the cleanup action has been determined to comply with cleanup standards since the long-term integrity of the containment system is ensured, and the requirements for containment technologies are being met.

- Groundwater is in contact with contaminated soil and was affected and likely exceeds the property boundary, so would not meet requirements at a conditional point of compliance.

- The Restrictive Covenant for the property is in place and continues to be effective in protecting public health from exposure to hazardous substances and protecting the integrity of the cleanup action.

Based on this periodic review, the Department of Ecology has determined that the requirements of the Restrictive Covenant continue to be met. It is the property owner's responsibility to continue to inspect the site to assure that the integrity of the remedy is maintained. Groundwater should be monitored to show a conditional point of compliance has been met. The existing NFA letter should be rescinded, perhaps replace by a 'partial sufficiency' letter for the soil cleanup.

4.1 Next Review

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

It is recommended that before the next Periodic Review groundwater should be tested to ensure that the contamination has not migrated past the conditional point of compliance.

5.0 REFERENCES

1. Underground Storage Tank Closure Observation and Documentation, prepared by Earth Consultants, Inc., dated November 18, 1992;
2. Remedial Environmental Assessment, prepared by AGRA Earth and Environmental (AGRA), dated February 17, 1993;
3. Quarterly Groundwater Monitoring Status Report, prepared by AGRA, dated April 16, 1993;
4. Quarterly Groundwater Monitoring Status Report, prepared by AGRA, dated July 1, 1993;
5. Quarterly Groundwater Monitoring Status Report, prepared by AGRA, dated September 29, 1993;
6. Independent Remedial Action Report, prepared by AGRA, dated March 25, 1994;
7. Response to Ecology Comments - IRAP Report, prepared by AGRA, dated October 7, 1994;
8. Toxicity Evaluation of an Effluent Sample to Strongylocentrotus purpuratus, prepared by Parametrix, Inc., dated March 1995.

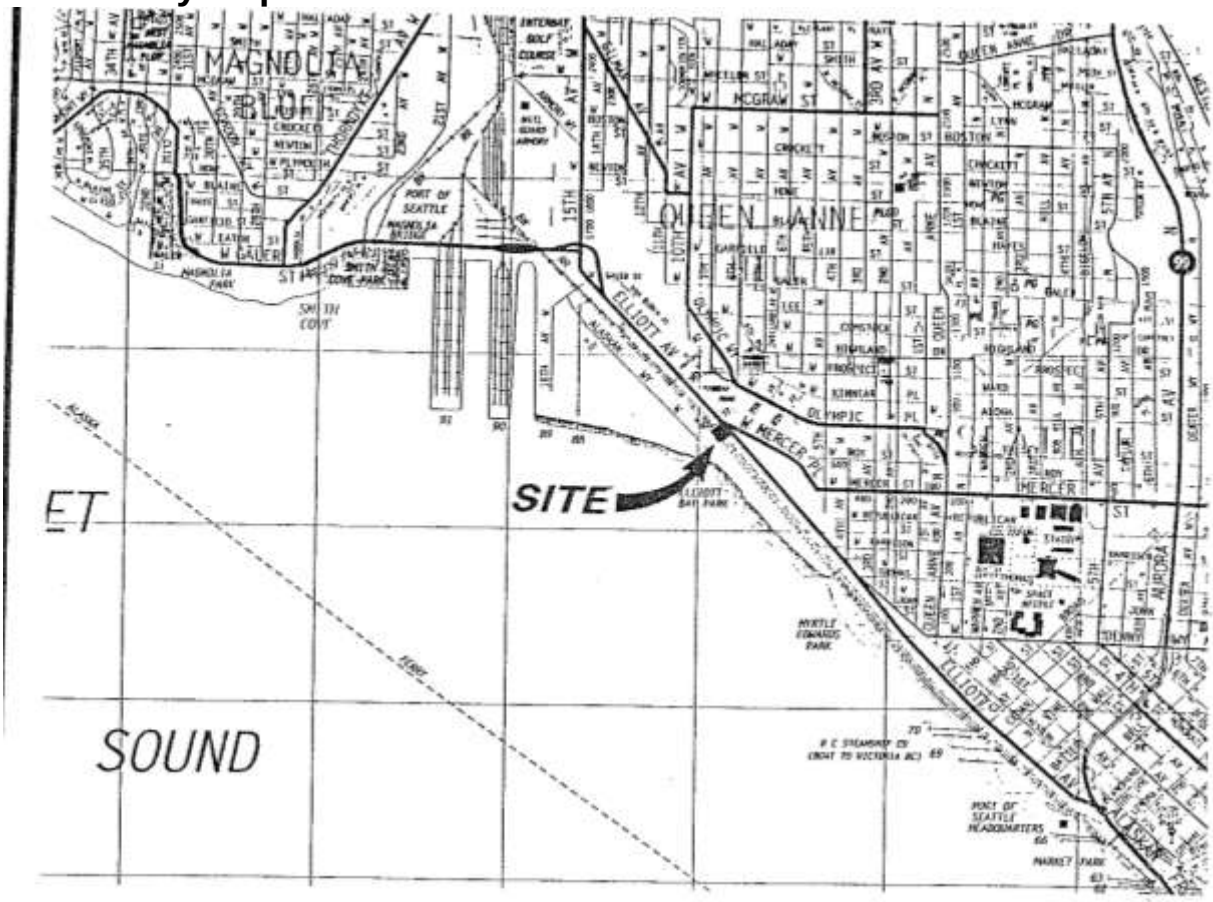
Each of the following reports is also included as noted in the Appendices of the Independent Remedial Action Report, No. 6 above:

Appendix A - Phase II Subsurface Soil Sampling and Analysis, Hart Crowser, Inc., July 10, 1989;
Appendix B - Underground Storage Tank Closure Observations and Documentation, Earth Consultants Inc., November 18, 1992;
Appendix C - Disposal Of Petroleum Impacted Soil, RZA AGRA Inc., 12 November 1992;
Appendix D - Remedial Environmental Assessment, RZA AGRA Inc., February 1993;
Appendix E - Quarterly Groundwater Monitoring Status Report, RZA AGRA Inc., 16 April 1993;
Appendix F - Quarterly Groundwater Monitoring Status Report, RZA AGRA Inc., 1 July 1993;
Appendix G - Quarterly Groundwater Monitoring Status Report, RZA AGRA Inc., 29 September 1993;
Appendix H - Quarterly Groundwater Monitoring Status Report, RZA AGRA Inc., 22 January 1993.

Ecology, 1995, Restrictive Covenant;
Ecology, 2009, Site Visit.

6.0 APPENDICES

6.1 Vicinity Map



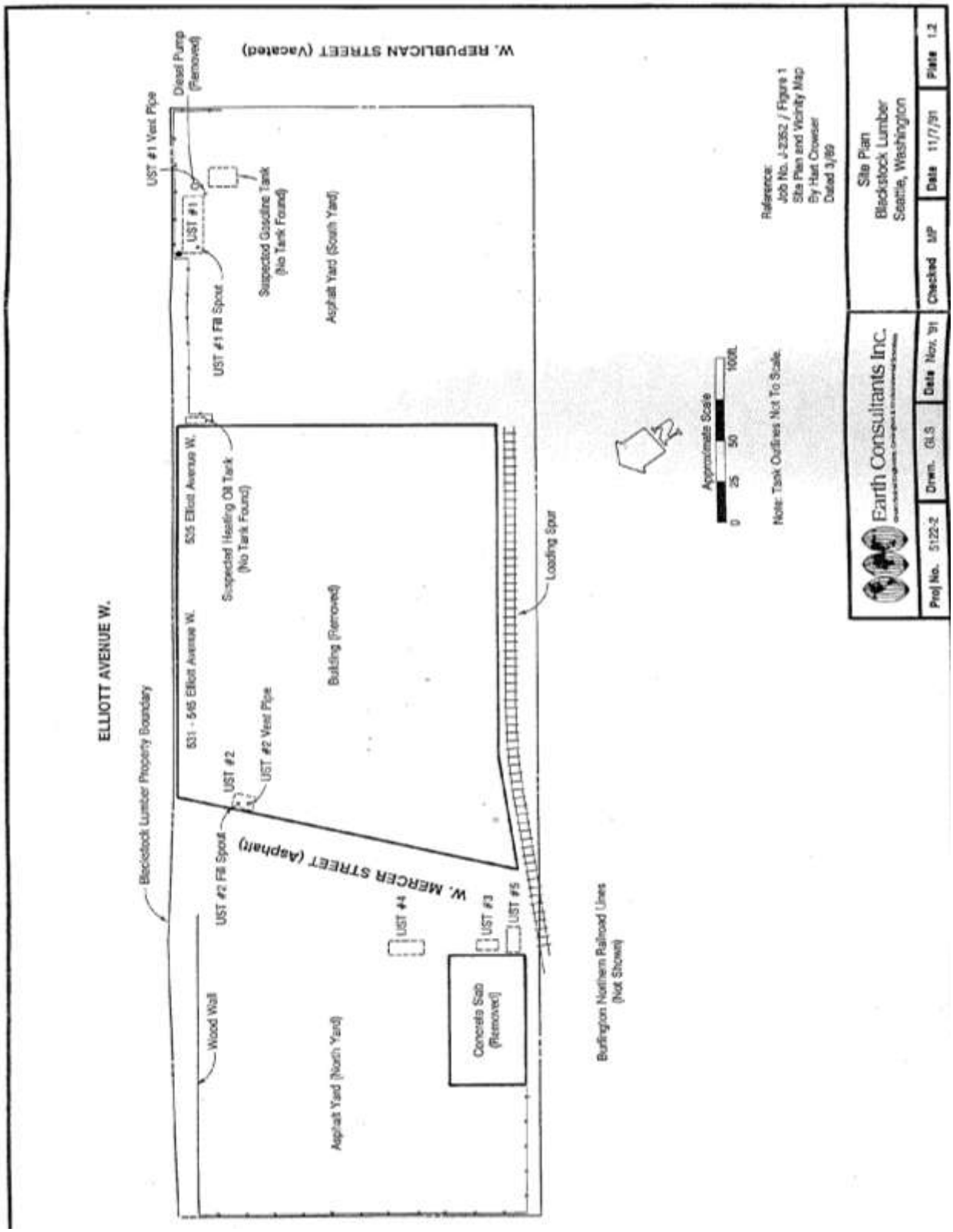
RZA-AGRA
ENGINEERING & ENVIRONMENTAL SERVICES
11335 N.E. 122nd Way
Suite 100
Kirkland, Washington

W.O. W-8424-1
DESIGN CAH
DRAWN MJF
DATE FEB 1993

BLACKSTOCK PROPERTIES LTD.
SEATTLE, WASHINGTON

LOCATION MAP

6.2 Site Plan


W. REPUBLICAN STREET (Vacated)
ELLIOTT AVENUE W.
W. MERCER STREET (Asphalt)
Blackstock Lumber Property Boundary
Diesel Pump (Removed)
UST #1 Vent Pipe
UST #1
UST #1 Fill Spout
Suspected Gasoline Tank (No Tank Found)
Asphalt Yard (South Yard)
531 - 545 Elliot Avenue W.
535 Elliot Avenue W.
Suspected Heating Oil Tank (No Tank Found)
Building (Removed)
Loading Spur
UST #2
UST #2 Vent Pipe
UST #2 Fill Spout
UST #4
UST #3
UST #5
Concrete Slab (Removed)
Wood Wall
Asphalt Yard (North Yard)
Burlington Northern Railroad Lines (Not Shown)
Approximate Scale
0
25
50
100ft.
Note: Tank Outlines Not To Scale.
Reference:
Job No. J-2352 / Figure 1
Site Plan and Vicinity Map
By Hart Crowser
Dated 3/89
Earth Consultants Inc.
Site Plan
Blackstock Lumber
Seattle, Washington
Proj No. 5122-2
Drwn. GLS
Date Nov. '91
Checked MP
Date 11/7/91
Plate 1.2

6.3 TPH-Dx Concentration Map

(not available)

6.4 Environmental Covenant

9509221167 9509221167 12:28:00 PM KING COUNTY RECORDS 006 PAL 18.00

After Recording Return To:

Kinne F. Hawes
701 5th Avenue, Suite 3200
Seattle, WA 98104-7026

DECLARATION OF RESTRICTIVE COVENANT AND RIGHTS OF INGRESS AND EGRESS

The property that is the subject of this Declaration of Restrictive Covenant and Rights of Ingress and Egress ("Declaration"), is commonly known as 535-601 Elliott Avenue West, Seattle, Washington, and legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

The provisions of this Declaration concerning the restrictive covenant apply to that approximate 100 square foot (10' by 10') area of the Property adjacent to the west line of the Property, as described on Exhibit B and depicted on Exhibit B-1, attached hereto and incorporated herein by this reference (the "Site").

Patrick A. Hart and Doris Jean Hart, husband and wife ("Harts"), are the fee owners of the Property. The Property has been the subject of remedial action under Chapter 70.105D RCW. As a result of the remedial action completed at the Property, the Site will retain concentrations of hazardous substances in soils and perched non-potable groundwater which, if left undisturbed, other than capping or paving, will be in conformance with industrial soil cleanup standards per WAC 173-340-745 and -720. This Declaration is required by WAC 173-340-440 because the remedial action at the Property will result in residual concentrations of petroleum product within soils and perched non-potable groundwater in that portion of the Property described above as the Site.

The Harts make the following declaration as to limitations, restrictions, uses, and rights to which the Property and Site may be put and are subject, and specify that the 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 and the Site.

Section 1: The Site may be used only for commercial or industrial uses as defined in and allowed under the City of Seattle zoning regulations as of the date of this Declaration.

Section 2: Any activity on the Site, other than capping or paving, that interferes with or reduces the effectiveness of the remedial action is prohibited. Any activity on the Site that would

1

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File # 436082-6

result in the release of a hazardous substance that remains on-Site is prohibited unless such activity occurs in the course of additional remedial action. It is understood that disturbance of the Site may be required in the future for installation of utilities or other activities associated with future industrial use of the Site. Such activities shall be authorized provided that (1) no release of hazardous substances will occur; (2) all hazardous substances encountered will be handled and disposed of in accordance with state law; and (3) the integrity of any cover/cap over the residual hazardous substances will be restored to its original condition in a timely manner.

Section 3: The owner of the Site must give written notice to the Department of Ecology, or to a successor agency, of any planned on-Site activities that may disturb hazardous substances present on or in the Site. No conveyance of title, easement, lease or other interest in the Site shall be consummated by the owner without advance written notice to the Department of Ecology.

Section 4: The owner of the Property shall allow an authorized representative of the Department of Ecology, or a successor agency, rights of ingress and egress to the Site at reasonable times, for the purpose of evaluating compliance with this Declaration, to take samples, and to inspect records related to the remedial action.

9509221167

Section 5: The Harts and the Harts' assigns and successors in interest reserve the right under WAC 173-340-440 to record an instrument which provides that this Declaration shall no longer limit the use of the Site or affect the Property or be of any further force or effect. However, such an instrument may be recorded only with the consent of the Department of Ecology or its successor agency, which consent shall not be unreasonably withheld.

The Harts agree to file this Declaration with the King County Recorder and to provide the Department of Ecology with a filed copy.

DATED this 21st day of September, 1995.

Patrick A. Hart by Glenn D. Hart,
his attorney-in-fact

Doris Jean Hart
Doris Jean Hart

2

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Glenn P. Hart is the person who appeared before me, and said person acknowledged that he signed this instrument and on oath stated that he was authorized to execute the instrument and, as the Attorney in Fact for Patrick A. Hart, acknowledged it, insofar as he was acting as Attorney in Fact, to be the free and voluntary act of Patrick A. Hart for the uses and purposes mentioned in the instrument and on oath stated that the Power of Attorney authorizing the execution of this instrument has not been revoked and that said principal is now living and is not insane.

DATED: September 21, 1995

Gwenda Taylor
(Signature)

GWENDA TAYLOR
(Please print name legibly)

NOTARY PUBLIC in and for the State of Washington, residing at Issaquah
My commission expires: 12-14-98.

9509221167

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Doris Jean Hart is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: September 21, 1995

Gwenda Taylor
(Signature)

GWENDA TAYLOR
(Please print name legibly)

NOTARY PUBLIC in and for the State of Washington, residing at Issaquah
My commission expires: 12-14-98.

i:\kfh\declrest.921

3

EXHIBIT A
LEGAL DESCRIPTION

PARCEL A:

Lots 1 through 7, inclusive, Block 155, map of Seattle Tidelands, according to the official plat and supplemental plat thereof on file in the office of the Commissioner of Public Lands at Olympia, Washington; except Railroad Right of Way as shown on said supplemental plat.

PARCEL B:

The southeasterly half of Lot 9 and all of Lots 10, 11, and 12, Block 32, supplemental plat of G. Kinnear's Addition to the City of Seattle, according to the plat thereof, recorded in Volume 2 of Plats, page 62, in King County, Washington.

PARCEL C:

That portion of Lots 15, 16 and 17, and the southeasterly half of Lot 14, Block 151, map of Seattle Tidelands, according to the official plat and supplemental plat thereof on file in the office of the Commissioner of Public Lands at Olympia, Washington, lying Northeasterly of the Northern Pacific Railroad Right of Way.

Situate in King County, Washington.

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LEGAL DESCRIPTION

That parcel of land situated in Lot 16, Block 151, Map of Seattle Tidelands according to the official plat and supplemental plat thereof on file in the office of the Commissioner of Public Lands at Olympia, Washington said parcel being more particularly described as follows:

Commencing at the intersection of the northerly line of West Mercer Street and easterly right-of-way line as deeded to Seattle Lake Shore and Eastern Railway Company by document recorded under King County Recording No. 3777400, records of King County, Washington, said intersection being as shown on the Record of Survey drawing prepared by Symonds Consulting Engineers for King County Department of Metropolitan Services recorded in Book 105 of Surveys at page 31 records of said county; thence North 40° 56' 16" West along said easterly right-of-way line through Lot 17 and a portion of the above described Lot 16, a distance of 51.55 feet to the southwesterly corner of herein described easement parcel; thence continuing North 40° 56' 16" West, west along said easterly right-of-way line 10.00 feet; thence North 49° 03' 44" East 10.00 feet; thence South 40° 56' 16" East 10.00 feet; thence South 49° 03' 44" West 10.00 feet to the True Point of Beginning.

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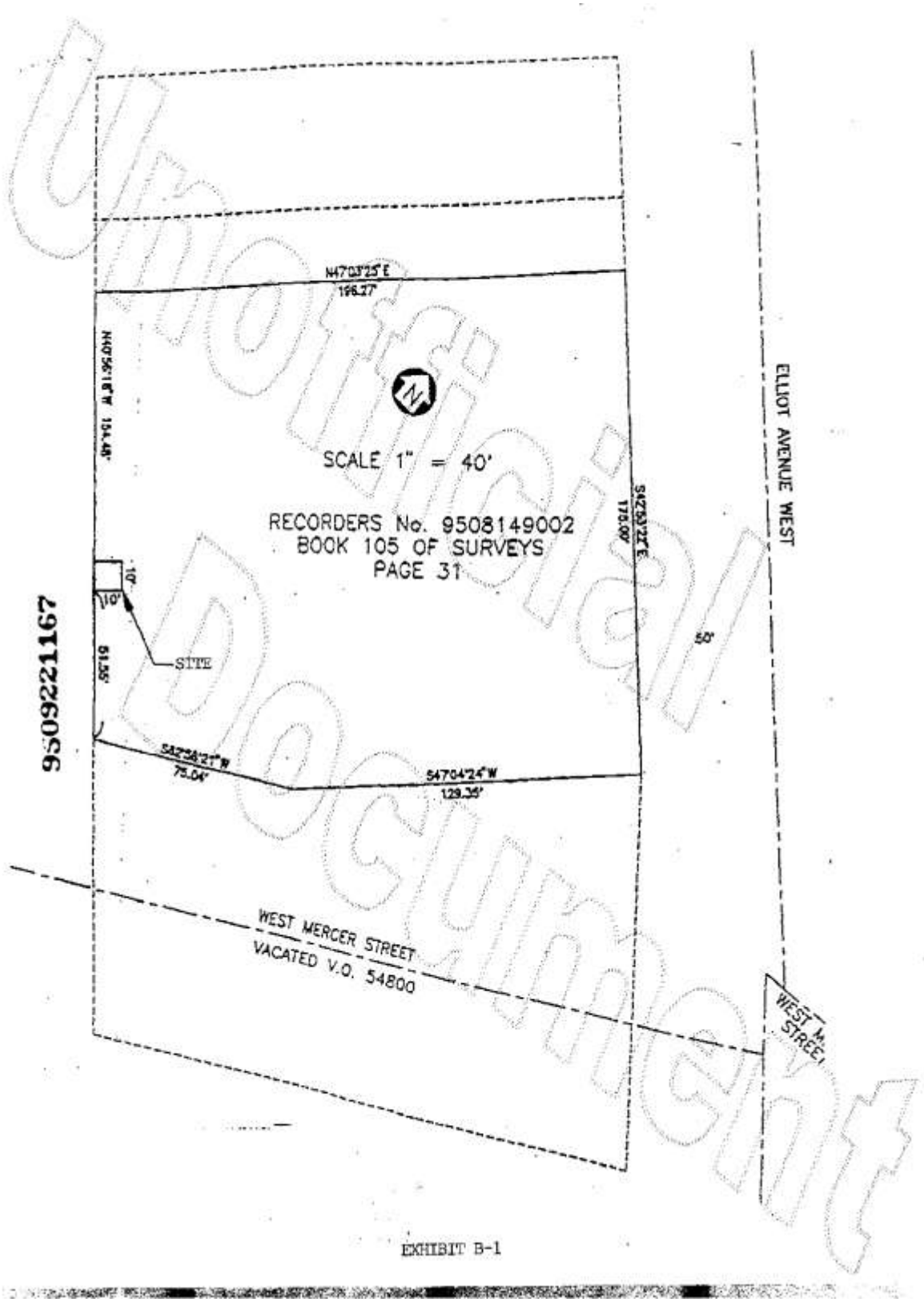
EXHIBIT B



6.5 Photo log

Photo 1: Entry Gate off Elliott - from the east

Photo 2: Stored items visible - from the Entry Gate off Elliott

Photo 3: Unpaved Area (example) not near contamination – south end of property

Photo 4: Deteriorating pavement (example) not near contamination – from the entry