



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

February 12, 2014

Ms. Ellen Walkowiak
Business Development Manager
City of Tacoma Community & Economic Development Department
747 Market Street, Room 900
Tacoma, WA 98402-3793

Re: No Further Action at the following Site:

- **Site Name:** Jefferson Avenue Site (aka City Properties Cleanup)
- **Site Address:** 2112-2122 Jefferson Ave, Tacoma
- **Facility/Site No.:** 1277004
- **Cleanup Site ID No.:** 7037
- **VCP Project No.:** SW1315

Dear Ms. Walkowiak:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Jefferson Avenue Site (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

Is further remedial action necessary to clean up contamination at the Site?

NO. Ecology has determined that no further remedial action is necessary to clean up contamination at the Site.

This opinion is dependent on the continued performance and effectiveness of the post-cleanup controls and monitoring specified below.

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

Description of the Site

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



- Petroleum hydrocarbons and related constituents into the Soil and Groundwater.
- Arsenic into the Groundwater.

Enclosure A includes a detailed description and diagram of the Site, as currently known to Ecology.

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

Basis for the Opinion

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

1. Underground Storage Tank (UST) Removal: Site Closure Determination, 2112 Jefferson Ave, Tacoma, WA, Parcel Number: 2021080011, dated February 14, 2013 by Tacoma-Pierce County Health Department (TPCHD).
2. Jefferson Avenue Site, Targeted Brownfields Assessment, dated January 2013 by Ecology and Environment, Inc. (E&E).
3. Letter to Mr. Rae Bailey (City of Tacoma Public Works Department) from Mr. Scott Rose (Ecology), RE: Further Action Determination, dated May 15, 2006.

Those documents are kept in the Central Files of the Southwest Regional Office of Ecology (SWRO) for review by appointment only. You can make an appointment by calling the SWRO resource contact at (360) 407-6365.

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

Analysis of the Cleanup

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

1. Characterization of the Site.

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards and select a cleanup action. The Site is described above and in **Enclosure A**.

The Site is located at 2112-2122 Jefferson Avenue in Tacoma, Pierce County, Washington (WA). Sampling conducted to date noted that contamination was limited to two parcels, designated by the Pierce County Assessor as 2021080011 and 2021090020. Both parcels are vacant as the structures and infrastructure have been removed.

The parcel at 2112 Jefferson Avenue was residential until approximately 1945 when Harmon's gasoline station appeared. The building continued to serve as a motor vehicle service operation until 2000. The parcel at 2122 Jefferson Avenue was vacant land until the Ostby's Used Cars structure appeared in 1930. From that point, the building was enlarged and used for vehicle sales/rentals, vehicle repair, welding shop, and steel fabrication.

As part of former on-Site activities, two underground storage tanks (USTs), one 500-gallon UST and one 1,800-gallon UST, containing gasoline were formerly located on Site. These USTs were removed in August 2002 along with an abandoned hydraulic hoist and other on-Site structures. During these activities, soil and groundwater on Site were found to be contaminated with gasoline-range petroleum hydrocarbons (TPH-G), diesel- and oil-range petroleum hydrocarbons (TPH-D and TPH-O), and/or benzene, toluene, ethylbenzene, and xylene (BTEX) compounds.

Investigations conducted at the Site in March 2003 confirmed the presence of residual contamination in soil and groundwater as follows: TPH-G was detected in soil boring SB9 at 280 milligrams per kilogram (mg/kg), which exceeds the MTCA Method A cleanup level of 30 mg/kg; TPH-D and TPH-O were detected in grab groundwater samples collected from soil borings SB3, SB5, and SB6, the highest concentrations of which were detected in SB6 and showed TPH-D at 5,300 micrograms per liter ($\mu\text{g/L}$) and TPH-O at 3,400 $\mu\text{g/L}$, which exceed the MTCA cleanup level of 500 $\mu\text{g/L}$ (*see attached Figure 2-6*).

Permanent monitoring wells (MW-1 through MW-6) were installed in June 2003 (*see attached Figure 2-7*). These six wells were sampled on four occasions between March 2004 and January 2005, and analyzed for TPH-G, TPH-D, TPH-O, and BTEX. The only exceedance occurred during the 3rd event in October 2004 where TPH-D was detected in MW-6 at 13,000 $\mu\text{g/L}$, which exceeds the MTCA Method A cleanup level of 500 $\mu\text{g/L}$.

In 2012, E&E conducted a Targeted Brownfields Assessment (TBA) of the entire city block that includes this Site in behalf of the Environmental Protection Agency (EPA) and the City of Tacoma to determine whether residual contamination was still present. The details of that investigation are discussed in more detail in Section 4 of this letter.

2. Establishment of cleanup standards.

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

MTCA Method A cleanup levels for unrestricted land use were used at the Site to demonstrate compliance for soil and groundwater.

Standard points of compliance were used for the Site. The point of compliance for protection of groundwater was established in the soils throughout the Site. For soil cleanup levels based on human exposure via direct contact or other exposure pathways where contact with the soil is required to complete the pathway, the point of compliance was established in the soils throughout the Site from the ground surface to 15 feet below ground surface (bgs). In addition, the point of compliance for the groundwater was established throughout the Site from the uppermost level of the saturated zone extending vertically to the lowest most depth that could potentially be affected by the Site.

3. Selection of cleanup action.

Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA.

Cleanup actions conducted to date have included removal of the UST, hoists, and other Site structures; off-Site disposal of petroleum-contaminated soils; and natural attenuation.

4. Cleanup.

Ecology has determined the cleanup you performed meets the cleanup standards established for the Site. This determination is dependent on the continued performance and effectiveness of the post-cleanup controls and monitoring specified below.

In August and September 2002, one 500-gallon UST and one 1,800-gallon UST containing gasoline were removed from the Site, along with an abandoned hydraulic hoist. Following removal of the equipment, approximately 100 cubic yards (~ 147 tons) of gasoline-impacted soil was excavated from the UST excavation, and approximately 220 cubic yards (~ 333 tons) of gasoline-, diesel-, and oil-impacted soil was excavated from the hoist area and disposed of off Site at LRI in Puyallup, WA.

Concentrations of contaminants in confirmatory soil samples collected from the floor and sidewalls of the final UST excavation were either not detected above laboratory detection limits or were present at concentrations below MTCA Method A cleanup levels. However, a grab groundwater sample collected from water within the excavation indicated the presence of TPH-G at 2,800 µg/L and benzene at 19 µg/L.

Concentrations of contaminants in confirmatory soil samples collected from the floor and sidewalls of the final abandoned hoist excavation were either not detected above laboratory detection limits or were present at concentrations below MTCA Method A cleanup levels.

In 2012, in an effort to determine whether impacts were still present at the Site identified during 2002 and 2003 investigations, E&E performed a TBA on behalf of EPA and the City of Tacoma. In addition to the Site, the TBA included an assessment of the entire vacant city block owned by the City of Tacoma. This area included the block bounded by Jefferson

Avenue to the east, South 21st Street to the north, Tacoma Avenue South to the west, and South 23rd Street to the south (hereafter referred to as "city block"). Topographically, this area slopes steeply from west to east. Other historical facilities identified as areas of potential concern within the city block included a former gas station, a former printer, a former car wash, and a former pest control business (see attached Figure 2-2). Samples collected by E&E focused on determining whether these former operations resulted in any impacts to soil and/or groundwater; however, the majority of the focus was on the area of the Site, which is the most downgradient portion of the city block.

Prior to conducting any intrusive activities, a geophysical survey was conducted on the Site in April 2012 to determine whether any unaccounted-for USTs or other anomalies were present. Several anomalies were identified and subsequently investigated via test pits 1 through 9 (see attached Figure 4-1). Aside from some metal scraps and sections of pipe, no USTs were encountered in the test pits. Based on field screening, soil samples were collected from Test Pits 6 and 9, and a water sample from turbid pit water in Test Pit 6, and analyzed for TPH-G, TPH-D, TPH-O, volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs), polychlorinated biphenyls (PCBs), and metals.

In addition to the test pits, nine soil borings (with four completed as monitoring wells [MW-7 through MW-10]) were advanced throughout the Site and the remainder of the city block to determine the presence of contaminants associated with the former city block operations, as well as to determine whether residual contamination is still present on the Site. A total of 24 soil samples were collected from the soil borings (except MW-10) from three depths intervals, and groundwater samples were collected from all 10 monitoring wells. The majority of the soil and groundwater samples were analyzed for TPH-G, TPH-D, TPH-O, VOCs, SVOCs, PCBs, and/or metals. However, the three borings advanced in the area of the former pest control business were only analyzed for pesticides. Sample locations are shown in Figure 4-1.

The only contaminants detected above MTCA cleanup levels in soil and groundwater collected from the borings, wells, and test pits were limited to the area of the original Site along Jefferson Avenue, and included the following:

- The turbid pit water sample from Test Pit 6 detected total lead (812 µg/L), total arsenic (24 µg/L), and carcinogenic polycyclic aromatic hydrocarbons (cPAHs) (0.1296 µg/L), which exceed their respective MTCA cleanup levels of 15 µg/L, 5 µg/L, and 0.1 µg/L. However, it should be noted that Ecology does not consider an excavation pit water sample to be representative of groundwater. MW-9 was installed adjacent to and downgradient of Test Pit 6, and is discussed below.
- The soil sample collected from 0-4 feet bgs in the boring for MW-8 detected cPAHs at 0.1662 mg/kg. Since this concentration is less than twice the cleanup level, and it was detected in less than 10% of the samples analyzed (1 of 12), this sample is statistically in compliance with cleanup standards.

- Total arsenic was detected in groundwater in MW-9 at 48.3 µg/L, which exceeds the MTCA cleanup level of 5 µg/L. The lead and cPAHs noted in the pit water of Test Pit 6 just upgradient of this well were not detected.

No other contaminants were detected in soil or groundwater throughout the Site or remainder of the city block.

In an effort to confirm the seemingly anomalous arsenic detection in MW-9, E&E collected a second round of data from this well and analyzed it for both total and dissolved arsenic. Total arsenic was detected at 41.1 µg/L, and dissolved arsenic was detected at 42.9 µg/L. The source of the arsenic at this location is unknown, and since it was not detected in any other wells, it does not appear to be representative of background conditions. Since shallow groundwater in the area of the Site is typically not used as a potable source, Ecology determined that institutional controls could be used to address the localized presence of arsenic in MW-9 (see next section).

Further, no contaminants were detected in any of the other former operational areas investigated (i.e., former gas station, former printer, former car wash, and former pest control business). It should be noted that a recent (February 2012) Phase II investigation was conducted on the former gas station on the northwest corner of the city block that did not detect any contamination in soil or groundwater. As such, only MW-10 was included in this area to determine any potential downgradient migration of contamination (none was detected). As such, **no further action is warranted with respect to the former operations within the city block, with the exception of the post-cleanup controls noted below for the Site.**

Post-Cleanup Controls and Monitoring

Post-cleanup controls and monitoring are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued performance and effectiveness of the following:

1. Compliance with institutional controls.

Institutional controls prohibit or limit activities that may interfere with the integrity of engineered controls or result in exposure to hazardous substances. The following institutional control is necessary at the Site:

- Restriction on groundwater use.

To implement that control, an Environmental Covenant has been recorded on the following parcel of real property in Pierce County:

- 2021080011

Ecology approved the recorded Covenant. A copy of the Covenant is included in **Enclosure B**.

Periodic Review of Post-Cleanup Conditions

Ecology will conduct periodic reviews of post-cleanup conditions at the Site to ensure that they remain protective of human health and the environment. If Ecology determines, based on a periodic review, that further remedial action is necessary at the Site, then Ecology will withdraw this opinion.

Listing of the Site

Based on this opinion, Ecology will remove the Site from our Confirmed and Suspected Contaminated Sites List.

Limitations of the Opinion

1. Opinion does not settle liability with the state.

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

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

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

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 substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

3. State is immune from liability.

The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

Ms. Ellen Walkowiak
February 12, 2014
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Termination of Agreement

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project (#SW1315).

For more information about the VCP and the cleanup process, please visit our web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion or the termination of the Agreement, please contact me by phone at (360) 407-6347 or via email at sros461@ecy.wa.gov.

Sincerely,



Scott Rose, L.G.
Unit Supervisor
SWRO Toxics Cleanup Program

SIR/ksc:Jefferson Ave Site NFA SW1315

Enclosures (2): A – Description and Diagrams of the Site
 B – Environmental Covenants for Institutional Controls

Chris Montague-Breakwell – Ecology, Water Quality Program
Carol Johnston – Ecology
Panjini Balaraju – Ecology
Dolores Mitchell – Ecology

Enclosure A

Description and Diagrams of the Site

Site Description


The City Properties Cleanup Site is located at 2112-2122 Jefferson Avenue in Tacoma, Pierce County, Washington. The two parcels in question are designated by the Pierce County Assessor as 2021080011 and 2021090020. Both parcels are vacant as the structures and infrastructure have been removed. The Site is bordered to the north and east by equipment/tool warehousing, and property to the south and west are vacant.

Prior to 1910, the Site and the entire area surrounding it was platted into city blocks of downtown Tacoma. Residential occupation dominated land use through the mid-1930s, when commercial occupation began to displace residences. The parcel at 2112 Jefferson Avenue was residential until approximately 1945 when Harmon's gasoline station appeared. The building continued to serve as a motor vehicle service operation until 2000. The parcel at 2122 Jefferson Avenue was vacant land until the Ostby's Used Cars structure appeared in 1930. From that point, the building was enlarged and used for vehicle sales/rentals, vehicle repair, welding shop, and steel fabrication.

As part of former on-Site activities, two underground storage tanks (USTs), one 500-gallon UST and one 1,800-gallon UST, containing gasoline were formerly located on Site. These USTs were removed in August 2002 along with an abandoned hydraulic hoist and other on-Site structures.

Soil beneath the Site (to a depth of 13 feet) consists mainly of gravelly silt and silty sand. Groundwater occurs beneath the Site at 3 to 5 feet below ground surface (bgs), and groundwater flow is to the east and northeast.




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 Global Specialists in the Environment
 Seattle, Washington

JEFFERSON AVENUE SITE
 Tacoma, Washington

Figure 2-1
SITE VICINITY MAP

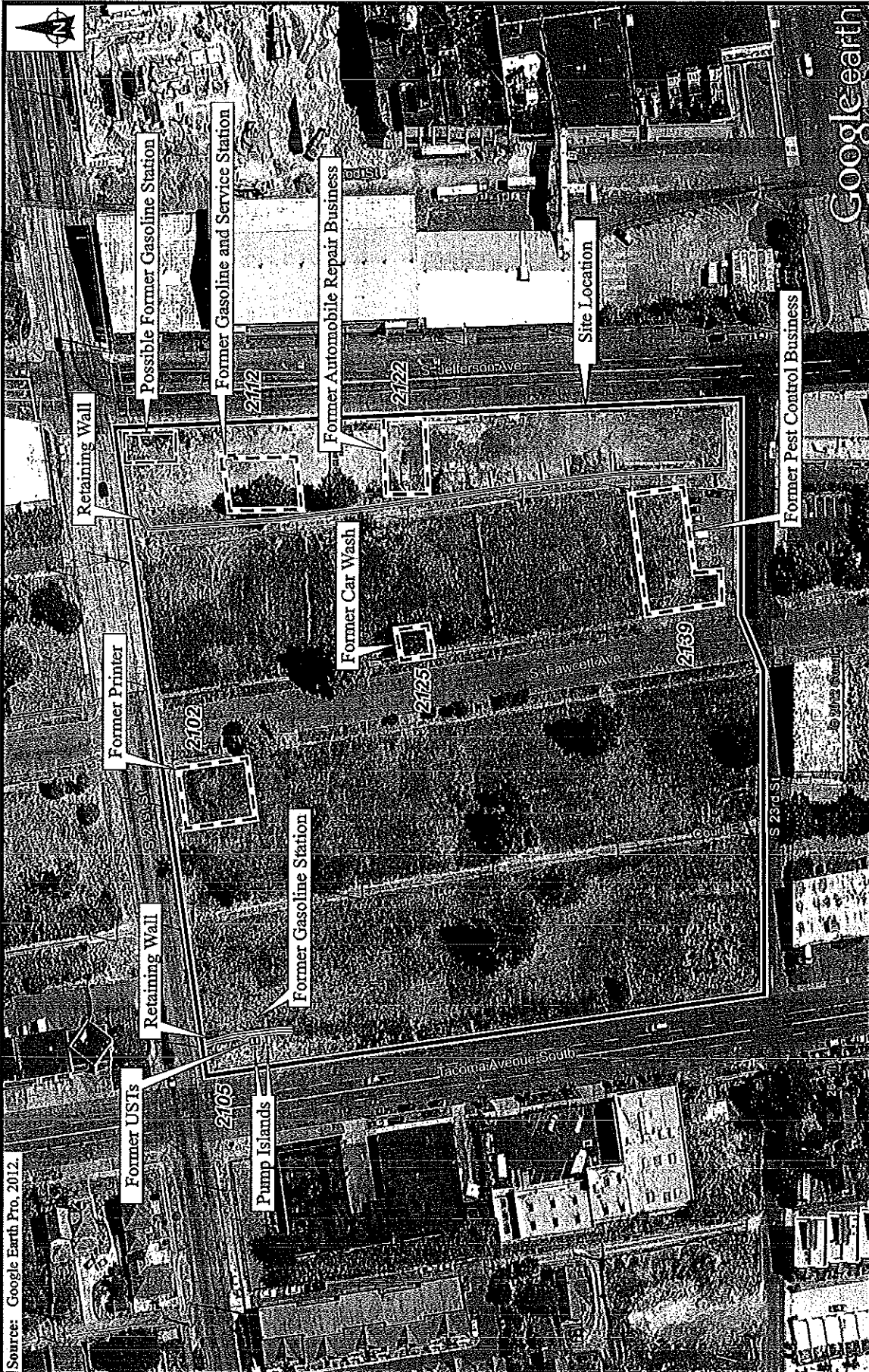
0 1000 2000
 Approximate Scale in Feet

Date:
 12-3-12


Drawn by:
 AES

10:START-3\12010013\fig 2-1

Source: Google Earth Pro, 2012.



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 Seattle, Washington



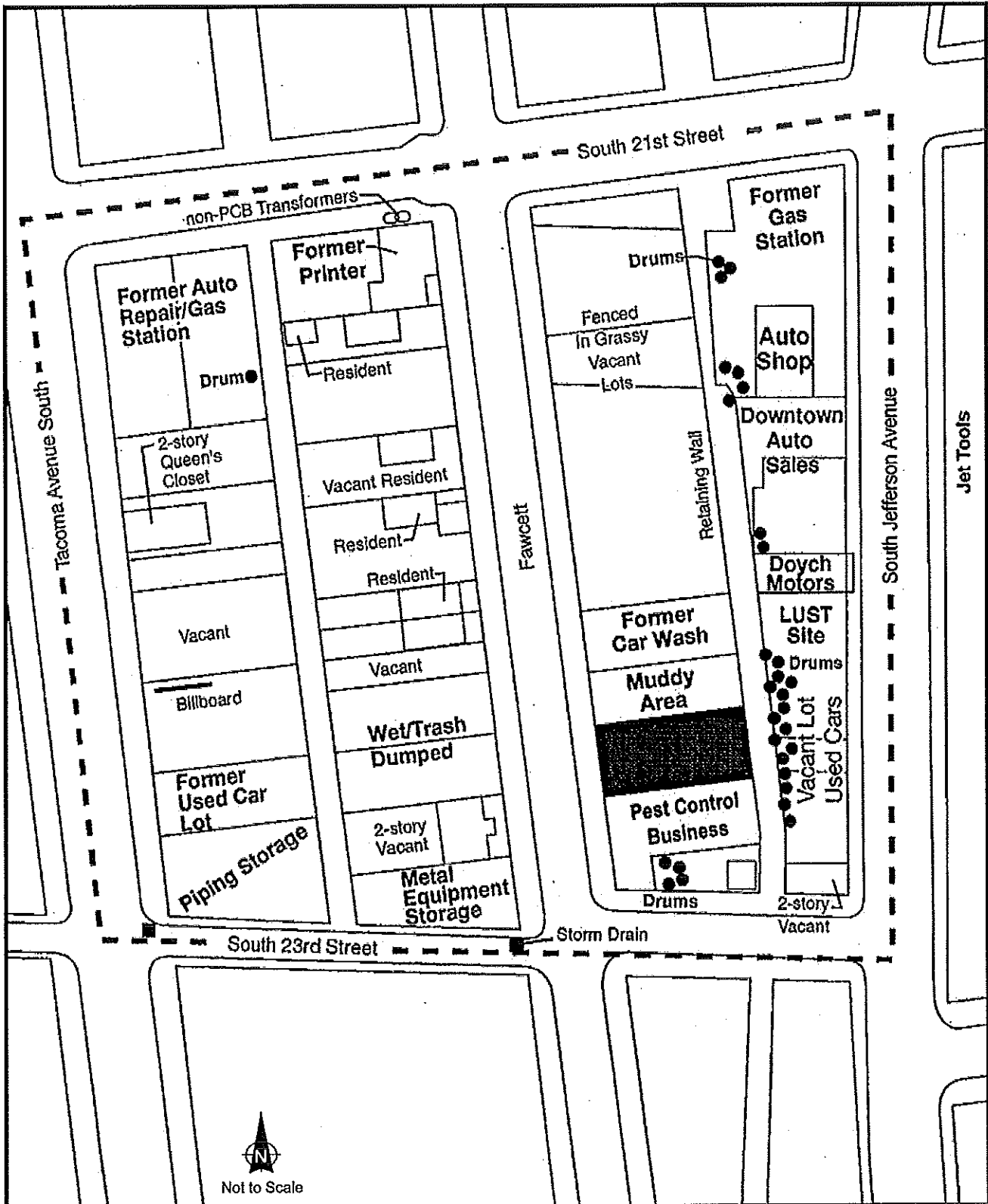
JEFFERSON AVENUE SITE
 Tacoma, Washington

0 66 132
 Approximate Scale in Feet

Date: 12/3/12
 Drawn by: AES

Figure 2-2
 SITE MAP

10:START-31U2010013\fig 2-2



ecology and environment, inc.
 Global Specialists in the Environment
 Seattle, Washington

JEFFERSON AVENUE SITE
 Tacoma, Washington

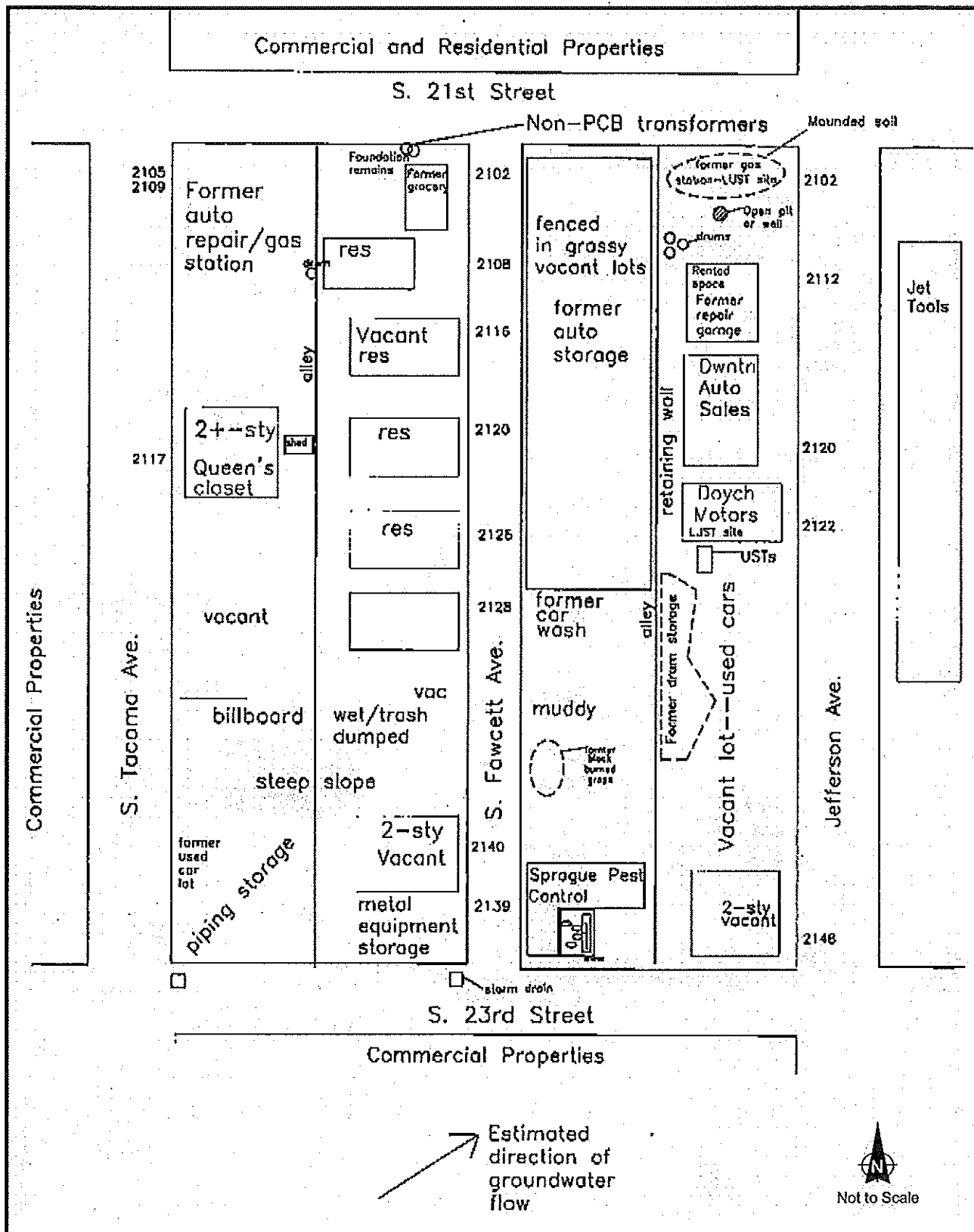
Figure 2-3
 1999 SEPA EIS SITE FEATURES

Source: City of Tacoma 1999.

Date:
 12-3-12

Drawn by:
 AES

10:START-3\12010013\fig 2-3



	JEFFERSON AVENUE SITE Tacoma, Washington	Figure 2-4 1999 PHASE I ESA SITE FEATURES	
	Source: Clayton Environmental Consultants, 1999.	Date: 12-3-12	Drawn by: AES

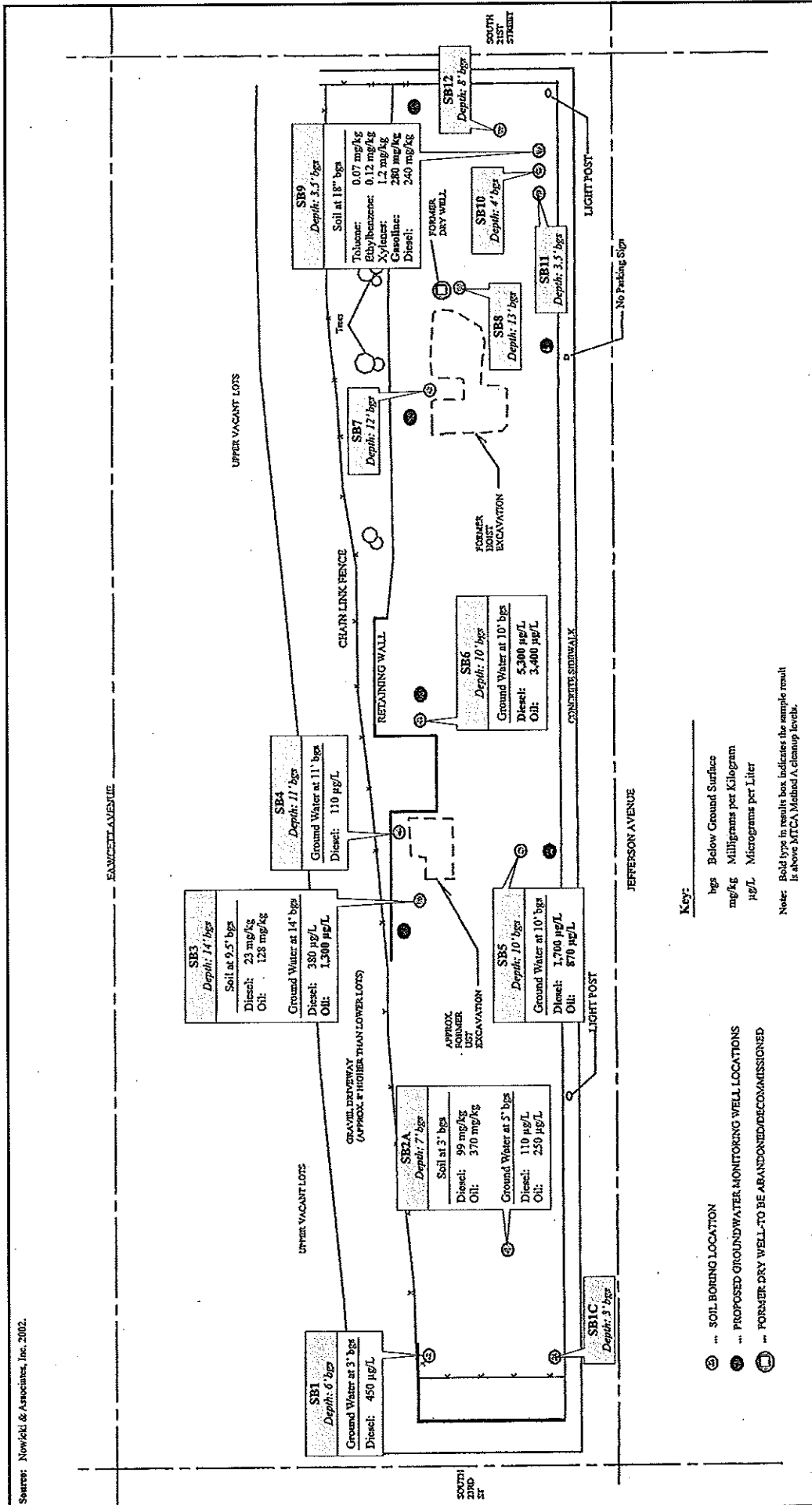
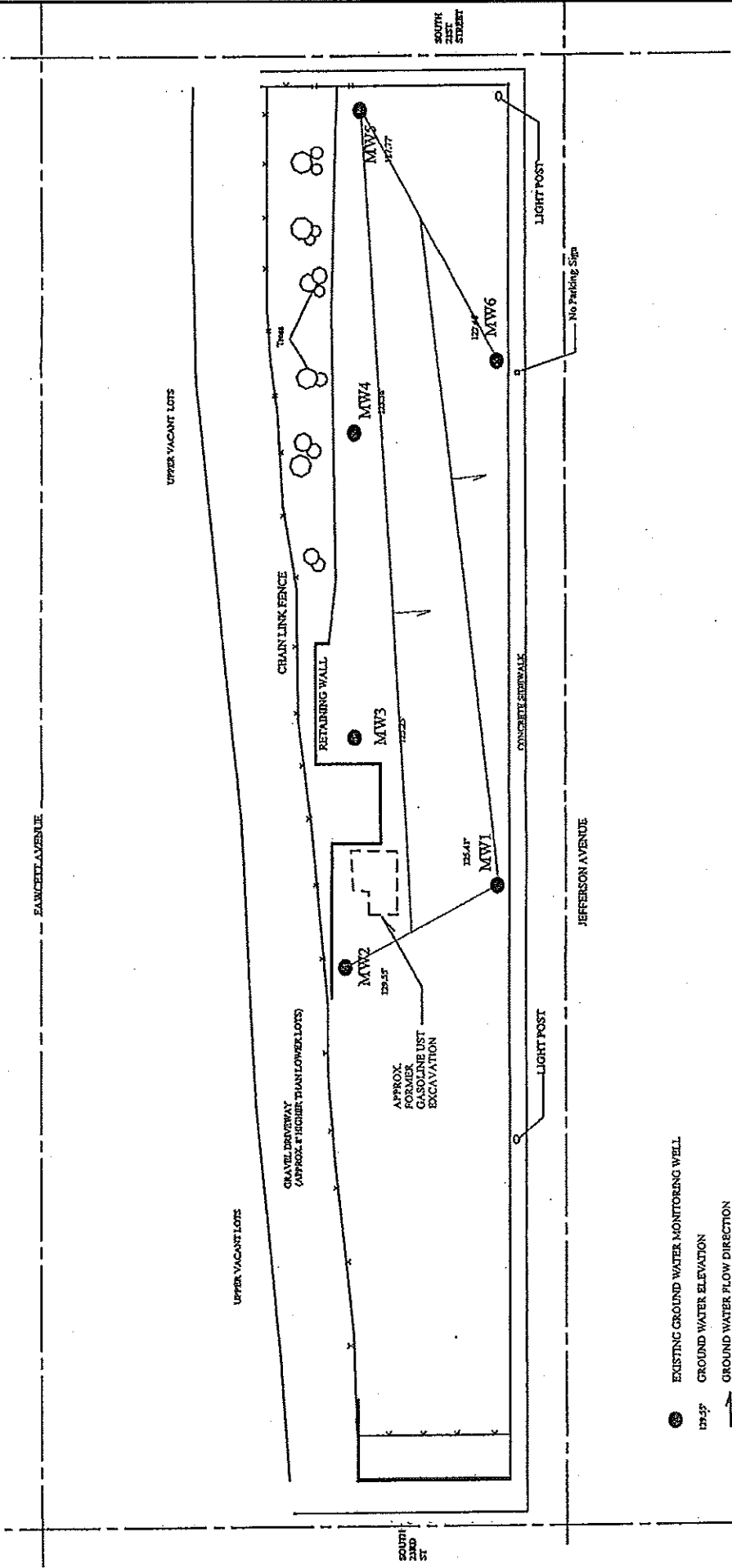


Figure 2-6
 2003 LIMITED SCOPE ENVIRONMENTAL SITE ASSESSMENT
 JEFFERSON AVENUE SITE
 Tacoma, Washington
 Date: 12/3/12
 Drawn by: AES
 10-STAKE-3\12010013\Fig 2-6

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 Global Specialists in the Environment
 Seattle, Washington

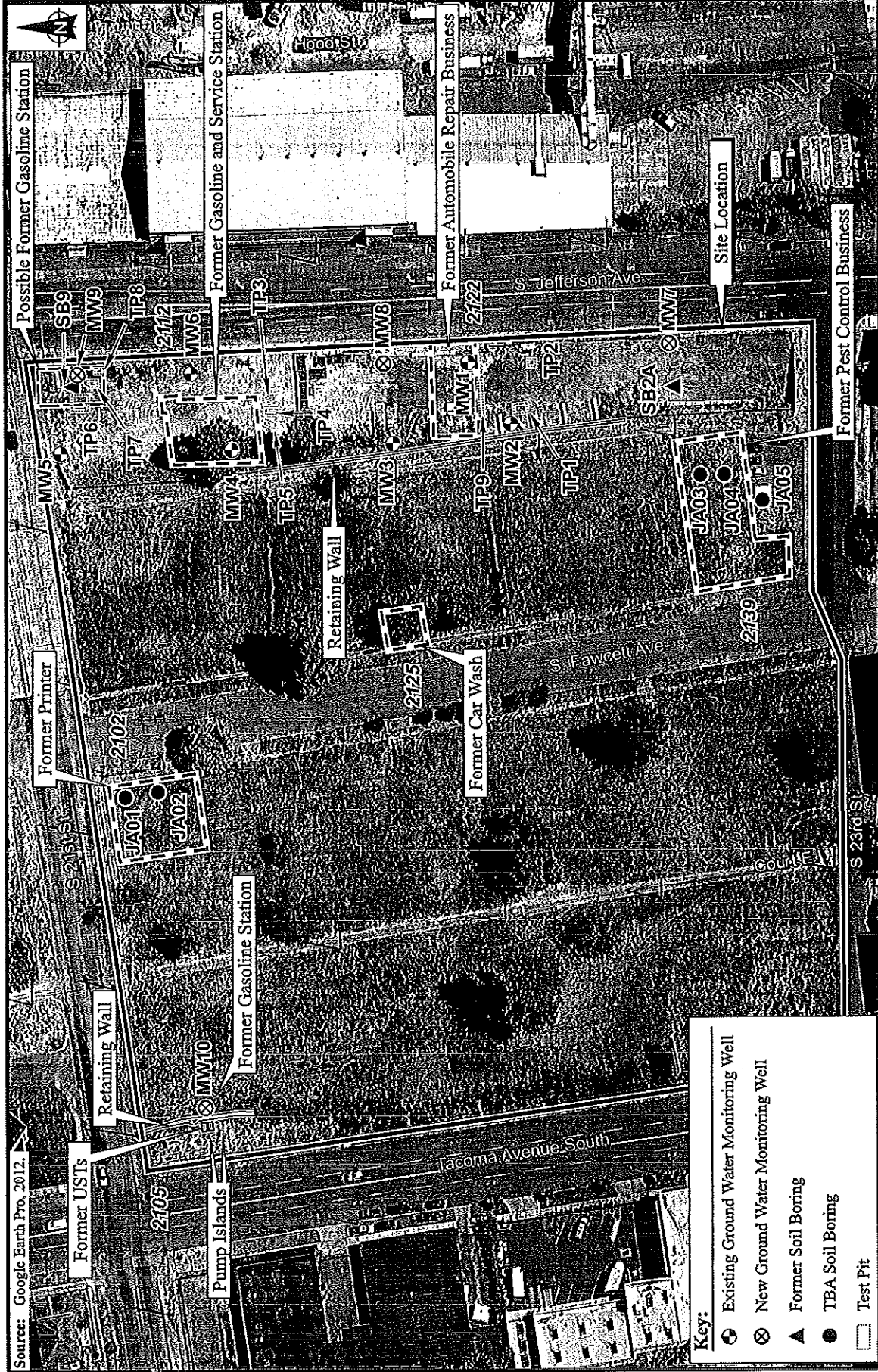
Scale: 0, 20, 40
 Approximate Scale in Feet

Source: Nowicki & Associates, Inc. 2002.



- EXISTING GROUND WATER MONITORING WELL
- 129.5' GROUND WATER ELEVATION
- GROUND WATER FLOW DIRECTION

<p>ecology and environment, inc. Global Specialists in the Environment Seattle, Washington</p>	<p>0 20 40 Approximate Scale in Feet</p>	<p>JEFFERSON AVENUE SITE Tacoma, Washington</p>	<p>Figure 2-7 MONITORING WELL LOCATIONS</p>
			<p>Date: 12/3/12 Drawn by: AES 10:START-31201001315g-2-7</p>

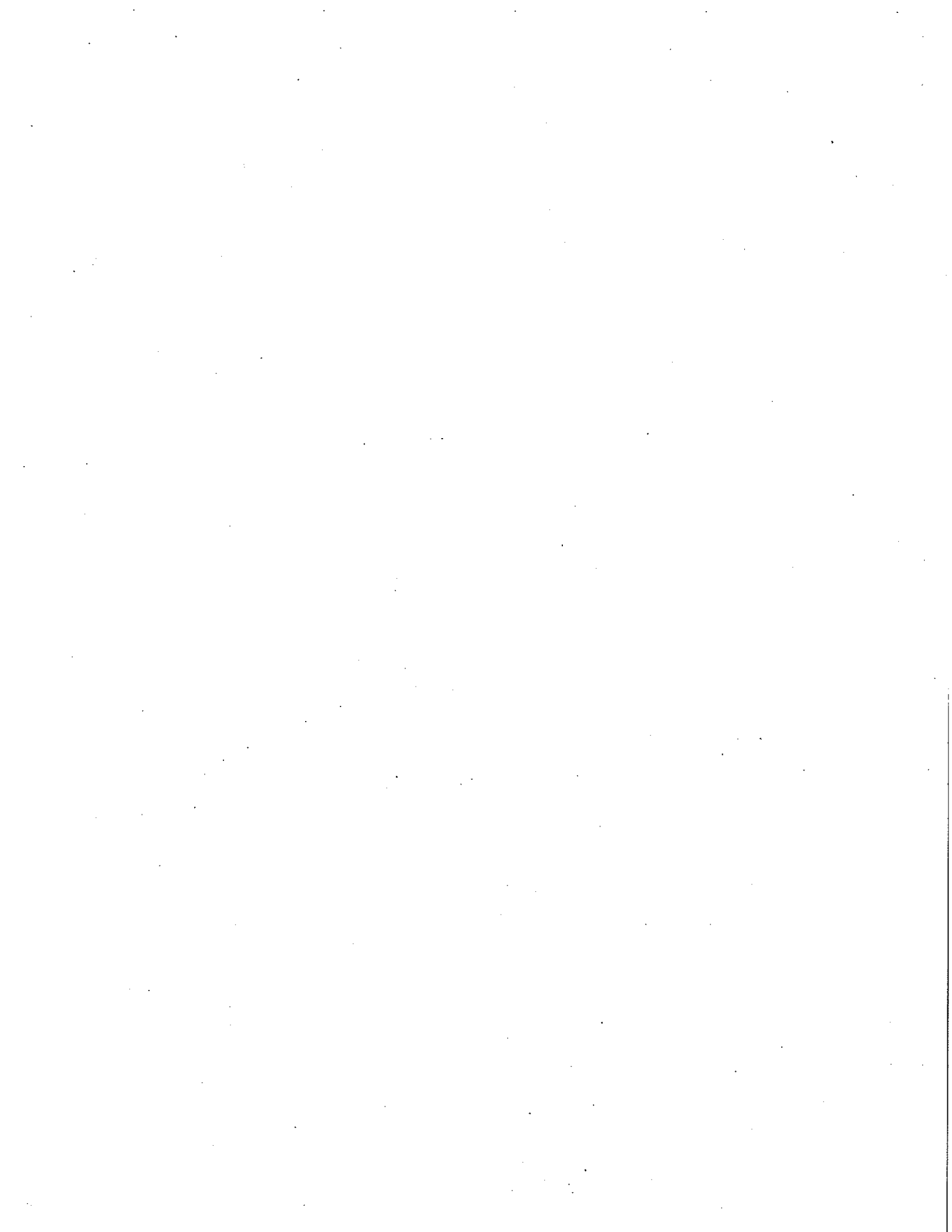


ecology and environment, inc.
Global Specialists in the Environment
Seattle, Washington

0 66 132
Approximate Scale in Feet

Enclosure B

**Environmental Covenants
for Institutional Controls**



CONFORMED COPY

201312260516 RJOHNSO 9 PGS
12/26/2013 03:57:48 PM \$80.00
AUDITOR, Pierce County, WASHINGTON

When Recorded, Return To:

City of Tacoma
Real Property Services
747 Market Street, Room 737
Tacoma, WA 98402

AUDITOR'S NOTE
LEGIBILITY FOR RECORDING AND COPYING UN-
SATISFACTORY IN A PORTION OF THIS INSTRU-
MENT WHEN RECEIVED

DOCUMENT TITLE ENVIRONMENTAL COVENANT No. A-406	COPY
Grantors City of Tacoma	
Grantees State of Washington, Department of Ecology	
Legal Description - Portion of SW1/4 of Section 4 and NW1/4 of Section 9, Township 20 North, Range 3 East, W.M.	
Reference Number	
Assessor's Parcel Number 2021080011	

RECEIVED

DEC 12 2013

WA State Department
of Ecology (SWRO)

After Recording Return
Original Signed Covenant to:
Scott Rose
Toxics Cleanup Program
Department of Ecology
P.O. Box 47775
Olympia, WA 98504-7775

Environmental Covenant

Grantor: City of Tacoma, Washington
Grantee: State of Washington, Department of Ecology
Brief Legal Description: A portion of the SW1/4 of Section 04 and NW1/4 of Section 09,
Township 20 North, Range 03 East, W.M.
Tax Parcel Nos.: a portion of 2021080011

RECITALS

- a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70.105D 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 **Jefferson Avenue Site (aka City Properties Cleanup), Facility Site No. 1277004, VCP Project No. SW1315**. The Property within the Jefferson Avenue Site that is subject to this Covenant is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter "Property"). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.
- c. The Property was the subject of remedial action under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	
Groundwater	Arsenic
Surface Water/Sediment	

- 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 the Washington State Department of Ecology. **This includes the following document: Jefferson Avenue Site Targeted Brownfields Assessment, Technical Direction Document: 12-01-0013 (January 2013) Prepared by Ecology and Environment for the U.S. Environmental Protection Agency.**

e. This Covenant grants the Washington State Department of Ecology, as holder of this Covenant, certain rights specified in this Covenant. The right of the Washington State Department of Ecology as a holder is not an ownership interest under MTCA, Chapter 70.105D RCW or the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") 42 USC Chapter 103.

COVENANT

The City of Tacoma, Washington, as Grantor and fee simple owner of the Property hereby grants to the Washington State Department of Ecology, and its successors and assignees, (hereafter "Ecology") the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall 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 completed results of 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. **Amendment to the Covenant.** Grantor must notify 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. Before approving any proposal, Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal. If Ecology approves the proposal, the Covenant will be amended to reflect the change.

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. **Groundwater Use.** The groundwater beneath the **Property** remains contaminated and shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted **from the Property** for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.

Section 3. Access.

a. The Grantor shall maintain clear access to all remedial action components 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, 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. Notify Ecology 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 PIERCE 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 to Ecology.

c. **Emergencies.** For any emergency or significant change in site conditions due to Acts of Nature (for example, flood, 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 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. Any required written notice, approval, or 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.

Ellen Walkowiak Business Development Manager City of Tacoma – Community & Economic Development Department 747 Market Street, Room 900 Tacoma, WA 98422 (253) 591-5209	Environmental Covenants Coordinator Washington State Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000
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As an alternative to providing written notice and change in contact information by mail, these documents may be provided electronically in an agreed upon format at the time of submittal.

Section 5. Modification or Termination.

a. 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 Chapter 64.70 RCW and Chapter 70.105D RCW and any rules promulgated under these chapters.

b. By signing this agreement, per RCW 64.70.100, the original signatories to this agreement, other than Ecology, agree to waive all rights to sign amendments to and termination of this Covenant.

Section 6. Enforcement and Construction.

a. This Covenant is being freely and voluntarily granted by the Grantor.

b. Grantor shall provide Ecology with an original signed Covenant and proof of recording within ten (10) days of execution of this Covenant.

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 Chapter 70.105D RCW and Chapter 64.70 RCW. 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, 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 the Model Toxics Control Act, chapter 70.105D RCW and Uniform Environmental Covenants Act, chapter 64.70 RCW.

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 the title to the Property and has authority to execute this Covenant.

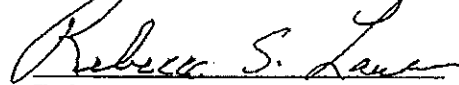
EXECUTED this 6th day of December, 2013.

CITY OF TACOMA, WASHINGTON


T.C. Broadbent
City Manager

Dated: 12/6/2013

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY


Rebecca S. Lawson, P.E., LHG
Section Manager
Toxics Cleanup Program
Southwest Regional Office


Dated: 12/16/2013



GRANTOR CORPORATE ACKNOWLEDGMENT

STATE OF WASHINGTON
COUNTY OF PIERCE

On this 6th day of December, 2013, I certify that T.C. Broadnax
_____ personally appeared before me, acknowledged that he/she is the City Manager
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.



Notary Public in and for the State of
Washington, residing at Puyallup
My appointment expires 5-21-15



Exhibit A -- LEGAL DESCRIPTION

Monitoring Well Area Property Description:

A portion of the Southwest quarter of the Southwest quarter of Section 04 and the Northwest quarter of the Northwest quarter of Section 09, all in Township 20 North, Range 03 East, W.M., more particularly described as follows:

Beginning at the Northeast corner of Block 2108, BURNS AND BLINN MAP OF A PART OF THE CITY OF TACOMA as recorded in Volume 1 of Plats at Page 28, records of Pierce County Auditor, said point being the intersection of the West right of way margin of Jefferson Avenue and the South right of way margin of South 21st Street;

Thence South $0^{\circ}39'37''$ East, along said West margin, a distance of 100.69 feet;

Thence South $82^{\circ}37'47''$ West, parallel with said South margin, a distance of 81.35 feet more or less to the face of a retaining wall;

Thence North $03^{\circ}14'58''$ West, along the face of said wall, a distance of 100.26 feet to the South margin of South 21st Street;

Thence North $82^{\circ}37'47''$ East, along said South margin, a distance of 85.91 feet to the Point of Beginning.

Containing 8,363 Square Feet

Situate in the City of Tacoma, County of Pierce, State of Washington

Exhibit B -- PROPERTY MAP

