STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. BLOCK AT BALLARD II, LLC, Defendants.	NO. SUMMONS

TO: BLOCK AT BALLARD II, LLC

A lawsuit has been started against you in the above-entitled court by the State of Washington, Department of Ecology. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

The parties have agreed to resolve this matter by entry of the Consent Decree, authorized by the Model Toxics Control Act, RCW 70.105D. A copy of the decree is also

//

//

//

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

attached. Accordingly, this Summons shall not require the filing of an Answer. Further, all disputes arising under this cause shall be resolved under the terms of the Consent Decree.

DATED this 11th day of June 2010.

ROBERT M. MCKENNA
Attorney General

MICHAEL L. DUNNING, WSBA # 29452
Assistant Attorney General

Attorneys for Plaintiff
State of Washington
Department of Ecology
(360) 586-6741

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. BLOCK AT BALLARD II, LLC, Defendants.	NO. COMPLAINT

Plaintiff, State of Washington, Department of Ecology, as represented by Robert M. McKenna, Attorney General, and Michael L. Dunning, Assistant Attorney General, bring this matter against Defendant Block at Ballard II, LLC, pursuant to the Model Toxics Control Act, RCW 70.105D.

I. DESCRIPTION OF ACTION

1.1 This action is brought pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D on behalf of the State of Washington, Department of Ecology (Ecology), to enter into an agreement to settle this action for remedial actions at a facility where there have been releases and/or threatened releases of hazardous substances. The Consent Decree settling this action is submitted to the Court along with this Complaint.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

1.2 The Complaint and settlement are limited to the scope and to the terms and conditions of the Consent Decree. The facility, or Site, is known as the Wesmar Company, Inc. Site. The Site is generally located at 1401 and 1451 Northwest 46th Street, Seattle, Washington.

II. PARTIES

2.1 Plaintiff State of Washington, Department of Ecology (Ecology) is an agency of the State of Washington. RCW 43.21A. Ecology is the state agency charged with the implementation of MTCA. RCW 70.105D.030.

2.2 Defendant Block at Ballard II, LLC is a Potentially Liable Party for the Wesmar Company, Inc. Site pursuant to RCW 70.105D.040(1). Defendant has agreed to enter into a Consent Decree with the State of Washington, Department of Ecology under MTCA to remedy the release of hazardous substances on the property.

III. JURISDICTION AND VENUE

3.1 This Court has jurisdiction over the parties and over the subject matter under MTCA, RCW 70.105D.

3.2 Venue is proper in King County Superior Court pursuant to the venue provision in MTCA, RCW 70.105D.050(5)(b).

IV. FACTUAL ALLEGATIONS

4.1 The Site is generally located at 1401 and 1451 Northwest 46th Street, in Seattle, Washington.

4.2 Ecology has determined that there have been releases or threatened releases of hazardous substances at the Site. Ecology has further determined that these releases or threatened releases require remedial actions to protect human health and the environment.

4.3 The Consent Decree has been the subject of public notice and comment under RCW 70.105D.040(4)(a).

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

4.4 Further facts regarding the Site and the remedial actions to be completed are described in the Consent Decree and its attachments, submitted to the Court with this Complaint.

V. CAUSE OF ACTION

5.1 Ecology realleges all preceding paragraphs.

5.2 Ecology alleges the Defendant is responsible for remedial action at the Site pursuant to MTCA, its implementing regulations, WAC 173-340, and the terms and conditions of the Consent Decree.

VI. PRAYER FOR RELIEF

6.1 Ecology and Defendant request that the Court, pursuant to RCW 70.105D.040(4), approve and order the entry of the Consent Decree.

6.2 Ecology and Defendant further request that the Court retain jurisdiction to enforce the terms of the Consent Decree.

RESPECTFULLY SUBMITTED this 11th day of JUNE 2010.

ROBERT M. MCKENNA
Attorney General

MICHAEL L. DUNNING, WSBA # 29452
Assistant Attorney General

Attorneys for Plaintiff
State of Washington
Department of Ecology
(360) 586-6741

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. BLOCK AT BALLARD II, LLC, Defendants.	NO. JOINT MOTION FOR ENTRY OF CONSENT DECREE

COMES NOW the Plaintiff, State of Washington, Department of Ecology, by and through its attorneys, Robert M. McKenna, Attorney General, and Michael L. Dunning, Assistant Attorney General, and the Defendant, Block at Ballard II, LLC, by and through its attorney, Charles R. Wolfe, and jointly move for entry of the Consent Decree in the above-captioned matter. The Consent Decree has been signed by the parties to this action and has

//

//

//

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

been the subject of public notice and comment as required by RCW 70.105D.040(4)(a).

DATED this 11th day of JUNE 2010.

ROBERT M. MCKENNA
Attorney General

MICHAEL L. DUNNING, WSBA # 29452
Assistant Attorney General
Attorneys for Plaintiff
State of Washington
Department of Ecology
(360) 586-6741

CHARLES R. WOLFE, ATTORNEY AT LAW

CHARLES R. WOLFE, WSBA # 14585
Attorney for Defendant
Block at Ballard II, LLC
(206) 274-5145

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. BLOCK AT BALLARD II, LLC, Defendants.	NO. DECLARATION OF SUNNY BECKER RE: WESMAR COMPANY, INC. SITE, SEATTLE, WASHINGTON

I, SUNNY BECKER, declare as follows:

1. I am over 21 years of age and am competent to testify herein. The facts set forth in this declaration are from my personal knowledge.

2. I am employed as an Environmental Engineer at the State of Washington Department of Ecology (Ecology), Toxics Cleanup Program, Northwest Regional Office. I serve as Ecology's site manager for the Wesmar Company Site. I have been employed by Ecology for 17 years and have managed numerous cleanups under the Model Toxics Control Act (MTCA), RCW 70.105D.

3. On behalf of Ecology, I took part in the negotiations which led to the Consent Decree that is being presented to the Court.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

4. The Consent Decree was the subject of public notice and public comment as required by RCW 70.105D.040(4)(a).

5. Ecology has determined that releases and/or threatened releases of hazardous substances have occurred at the Site, and that these releases and/or threatened releases require remedial actions to protect human health and the environment.

6. Ecology has determined that the proposed remedial actions will lead to a more expeditious cleanup of hazardous substances in compliance with cleanup standards under RCW 70.105D.030(2)(e).

I declare under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

DATED this 25th day of May 2010, in Bellevue, Washington.

SUNNY BECKER

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. BLOCK AT BALLARD II, LLC, Defendants.	NO. DECLARATION OF SUNNY BECKER RE: WESMAR COMPANY, INC. SITE, SEATTLE, WASHINGTON

I, SUNNY BECKER, declare as follows:

1. I am over twenty-one (21) years of age and am competent to testify herein. The facts set forth in this declaration are from my personal knowledge.

2. I am employed as an environmental engineer, at the State of Washington Department of Ecology (Ecology), Toxics Cleanup Program, Northwest Regional Office. I serve as Ecology's site manager for the Wesmar Company Site. I have been employed by Ecology for seventeen years and have managed numerous cleanups under the Model Toxics Control Act (MTCA), RCW 70.105D.

3. On behalf of Ecology, I took part in the negotiations which led to the Consent Decree that is being presented to the Court.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

EXP07

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

BLOCK AT BALLARD II, LLC,

Defendants.

NO. 10-2-21304-0 SEA

ORDER ENTERING CONSENT DECREE [PROPOSED]

Having reviewed the Joint Motion for Entry of Consent Decree, the Consent Decree signed by the parties to this matter, the supporting Declaration of Sunny Becker, the file herein, and being fully advised on the matter, it is hereby

ORDERED AND ADJUDGED that the Consent Decree in this matter is entered and that the Court shall retain jurisdiction over the Consent Decree to enforce its terms.

SIGNED this _____ day of 6-16 2010.

Superior Court Judge/Commissioner

//

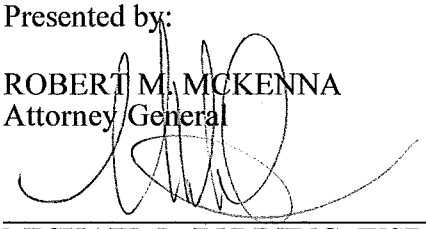
//

//

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

Presented by:

ROBERT M. MCKENNA
Attorney General



MICHAEL L. DUNNING, WSBA # 29452
Assistant Attorney General
Attorneys for Plaintiff
State of Washington
Department of Ecology
(360) 586-6741

Dated: 6/11/10

CHARLES R. WOLFE, ATTORNEY AT LAW

CHARLES R. WOLFE, WSBA # 14585
Attorney for Defendant
Block at Ballard II, LLC
(206) 274-5145

Dated: 2/18/10

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. BLOCK AT BALLARD II, LLC, Defendant.	No. CONSENT DECREE RE: WESMAR COMPANY, INC. SITE, SEATTLE, WASHINGTON

TABLE OF CONTENTS

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

I. INTRODUCTION

A. The mutual objective of the State of Washington, Department of Ecology (Ecology) and Block at Ballard II, LLC (hereinafter Defendant or Block at Ballard II) under this Decree is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances and to resolve the liability of Defendant for contamination at the Site. This Decree requires Defendant to conduct a cleanup of the Site, consistent with the Cleanup Action Plan (CAP) attached as Exhibit A, that includes the excavation and disposal of polycyclic aromatic hydrocarbon- and metal-contaminated soil; dewatering, treatment, and disposal of arsenic contaminated groundwater; compliance sampling of soil and groundwater; and implementation of an institutional control on the Site, according to the schedule and other requirements identified in this Decree and all exhibits thereto. Ecology has determined that these actions are necessary to protect human health and the environment.

B. The Complaint in this action is being filed simultaneously with this Decree. An Answer has not been filed, and there has not been a trial on any issue of fact or law in this case. However, the Parties wish to resolve the issues raised by Ecology's Complaint. In addition, the Parties agree that settlement of these matters without litigation is reasonable and in the public interest, and that entry of this Decree is the most appropriate means of resolving these matters.

C. By signing this Decree, the Parties agree to its entry and agree to be bound by its terms.

D. By entering into this Decree, the Parties do not intend to discharge non-settling parties from any liability they may have with respect to matters alleged in the Complaint. The Parties retain the right to seek reimbursement, in whole or in part, from any liable persons for sums expended under this Decree.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

E. This Decree shall not be construed as proof of liability or responsibility for any releases of hazardous substances or cost for remedial action nor an admission of any facts; provided, however, that Defendant shall not challenge the authority of the Attorney General and Ecology to enforce this Decree.

F. Successors in Interest and Assigns may become parties to this Decree as provided in Section XV.

G. The Court is fully advised of the reasons for entry of this Decree, and good cause having been shown:

Now, therefore, it is HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

II. JURISDICTION

A. This Court has jurisdiction over the subject matter and over the Parties pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D RCW. Venue is proper in King County pursuant to RCW 70.105D.050(5)(b).

B. Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if, after public notice and any required hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a consent decree issued by a court of competent jurisdiction.

C. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site that is the subject of this Decree.

D. Ecology has given notice to Defendant of Ecology's determination that Defendant is a PLP for the Site, as required by RCW 70.105D.020(21) and WAC 173-340-500.

E. The actions to be taken pursuant to this Decree are necessary to protect public health and the environment.

F. This Decree has been subject to public notice and comment.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

G. Ecology finds that this Decree will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with the cleanup standards established under RCW 70.105D.030(2)(e) and Chapter 173-340 WAC.

H. Defendant has agreed to undertake the actions specified in this Decree and consents to the entry of this Decree under MTCA.

III. PARTIES BOUND

This Decree shall apply to and be binding upon the Parties to this Decree, their Successors in Interest and Assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Decree and to execute and legally bind such party to comply with this Decree. Defendant agrees to undertake all actions required by the terms and conditions of this Decree. No change in ownership or corporate status shall alter Defendant's responsibility under this Decree. Defendant shall provide a copy of this Decree to all agents, contractors, and subcontractors retained to perform work required by this Decree, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Decree.

IV. DEFINITIONS

Unless otherwise specified herein, all definitions in RCW 70.105D.020 and WAC 173-340-200 shall control the meanings of the terms in this Decree.

A. Site: The Site is referred to as Wesmar Company Inc. Site and is generally located at 1401 and 1451 Northwest 46th Street, Seattle, Washington. The Site is more particularly described in the Site Diagram (Exhibit B). The Site constitutes a Facility under RCW 70.105D.020(5).

B. Parties: Refers to the State of Washington, Department of Ecology and Block at Ballard II.

C. Defendant: Refers to Block at Ballard II.

D. Consent Decree or Decree: Refers to this Consent Decree and each of the exhibits to this Decree. All exhibits are integral and enforceable parts of this Consent Decree. The terms "Consent Decree" or "Decree" shall include all exhibits to this Consent Decree.

E. Successors in Interest and Assigns: Refers to any person who acquires an interest in the Properties through purchase, lease, transfer, assignment, or otherwise, including those who become a party to this Decree pursuant to Section XV.

V. FINDINGS OF FACTS

Ecology makes the following findings of fact without any express or implied admissions of such facts by Defendant.

A. Block at Ballard II owns the property Parcel No. 2768303245, listed as 1401 and 1451 Northwest 46th Street, Seattle, Washington, and consisting of approximately 2.34 acres (hereinafter Property). Portions of the Property are located within 200 feet of the shoreline for the Lake Washington Ship Canal, a freshwater surface body.

B. The Site is generally located at 1401 and 1451 Northwest 46th Street, Seattle, Washington. The Site is more particularly described in the Site Diagram (Exhibit B). The Site constitutes a Facility under RCW 70.105D.020(5).

C. The Site is listed on Ecology's Hazardous Sites List as "Wesmar Company, Inc." with the Facility Site ID No. 2194. The Site Hazard Assessment ranking for this Site is 5.

D. The Property was previously operated by Wesmar Company, Inc., a chemical product manufacturer and distributor, and Color Tech, Inc. (aka, Color-Tech, Inc; Colortech, Inc.), a metal coating service. Historically, the Property is also known to have been operated by various other industrial entities including: a wooden pipe manufacturing facility (during which time the wood preservative creosote was used and stored on the Property), a produce cannery, and a plastic products manufacturing facility.

E. Two underground fuel storage tanks are reported to have been removed from the Property in 1991.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

F. Bridge Group II, LLC (Bridge Group II), which owned the property immediately prior to Block at Ballard II, retained Sound Environmental Strategies Corporation, Seattle, Washington (SES) to conduct environmental investigations at the Site and to prepare technical memoranda documenting the results of those investigations. Beginning in October 2006, SES conducted several investigations as independent actions. These independent investigations resulted in technical memoranda identifying polynuclear aromatic hydrocarbons (PAHs) and the metal arsenic as contaminants in soil and groundwater at the Site.

G. In October 2007, Ecology determined that Bridge Group II was a PLP for the Site based on its ownership of the Property.

H. In December 2007, Ecology and Bridge Group II entered into an Agreed Order (Agreed Order No. DE 5242), which required Bridge Group II: (1) to conduct supplemental remedial investigation work at the Site, (2) to prepare and submit to Ecology a draft Remedial Investigation and Feasibility Study (RI/FS) reporting the extent and character of contamination at the Site and proposing the best method of performing an environmental cleanup of the affected areas, and (3) to prepare and submit to Ecology a draft Cleanup Action Plan (dCAP).

I. In accordance with the Agreed Order, Bridge Group II submitted a draft RI/FS and a dCAP, dated September 12, 2008. The RI/FS confirmed the contaminants of PAHs and the metal arsenic in soil and arsenic in groundwater at the Site, in excess of MTCA cleanup levels. Ecology provided comments on the draft, and Bridge Group II responded to the comments with appropriate revisions. Ecology has accepted as final pending public comment the *Remedial Investigation/Feasibility Study and Proposed Cleanup Action* report.

J. On January 27, 2009, Block at Ballard II purchased the Property from Bridge Group II. In February 2009, Ecology notified Block at Ballard II that it was potentially a PLP for the Site based on its ownership of the Property. Block at Ballard II did not contest PLP status and on March 17, 2009, Ecology determined Block at Ballard II to be a PLP for the Site.

K. Based on the information acquired during the RI, SES designated three remedial areas on the Site: those portions of the Property that are located within the proposed shoring system (Area A), those portions of the Property that are located outside the shoring system (Area B), and the portion of the Site located within the Northwest 46th Street ROW (Area C) (Exhibit B). The shoring locations were chosen for cost and logistical reasons associated with the constructability of the planned development and in coordination with the disproportionate cost analyses conducted as part of the FS.

L. The Site is subject to two Master User Permits (MUP) issued by the City of Seattle on September 29, 2008. MUP 3008041 was issued for the west building (Legal Description: LTS 1-6 & 17-22, MLK 173, GILMAN PARK ADDITION LESS PORTION FOR STREET) with a Shoreline Substantial Development Permit component. MUP 3008041 will remain active until September 5, 2013, presuming construction commences by September 5, 2010. MUP 3008040 was issued for the east building (Legal Description: LTS 7-16, BLK 173, GILMAN PARK ADDITION LESS PORTION FOR STREET. SUBJ TO ESMT OVER SELY POR OF LOT 12 FOR SPUR STRACT REC #3761195) and will remain active until August 26, 2011, but could be extended for additional periods upon issuance of a building permit.

M. Pursuant to Section IX of Agreed Order No. DE 5242, Ecology finds that Bridge Group II has completed the actions required by the Agreed Order, and that all of Bridge Group II's obligations under that Agreed Order are hereby deemed satisfied.

VI. WORK TO BE PERFORMED

This Decree contains a program designed to protect human health and the environment from the known release, or threatened release, of hazardous substances or contaminants at, on, or from the Site.

A. Defendant will perform a final cleanup action at the Site by implementing the attached Cleanup Action Plan (CAP) (Exhibit A), which establishes the required remedial

action at the Site, in accordance with the Schedule (Exhibit C) and all other requirements of this Decree.

B. The cleanup action shall include:

1. Excavation and disposal of contaminated soils and fill materials to meet MTCA cleanup standards for Area A, as described in the CAP.

2. Implementation of Institutional Controls for Areas B and C in accordance with WAC 173-340-440, as described in the CAP.

3. Ongoing groundwater monitoring at the standard point of compliance to monitor contaminant concentrations, as described in the CAP.

C. In order to implement the CAP, Defendant will prepare and submit for Ecology's review and approval all documents necessary to conduct the final cleanup action, such as compliance monitoring plan(s), cleanup action reports, compliance monitoring reports, and as-built reports in accordance with the schedule in Exhibit C or any amended schedule pursuant to section XVI. Any such deliverable, once approved by Ecology, becomes an integral and enforceable part of this Decree.

D. Defendant shall prepare a Site Safety and Health Plan in accordance with WAC 173-340-810 that meets all requirements under applicable law, and shall submit this Plan to Ecology for review and comment prior to the commencement of the remedial action.

E. Institutional controls will be recorded on property within the Site as provided for in Exhibit D and in accordance with the requirements specified in Exhibit D.

F. Defendant agrees not to perform any remedial actions outside the scope of this Decree unless the Parties agree to modify the scope of work as identified in the CAP (Exhibit A) and Schedule (Exhibit C) to cover these actions. All work conducted by Defendant under this Decree shall be done in accordance with Chapter 173-340 WAC unless otherwise provided herein.

VII. DESIGNATED PROJECT COORDINATORS

The project coordinator for Ecology is:

Sunny Becker
Washington State Department of Ecology
Northwest Regional Office (NWRO)
Toxics Cleanup Program
3190 160th Avenue SE
Bellevue, Washington 98008
(425) 649-7187

The project coordinator for Defendant is:

Greg Helland, R.G.
Office Director
SCS Engineers
2405 140th Avenue NE, Suite 107
Bellevue, Washington 98005
(425) 289-5446
ghelland@scsenginers.com

Each project coordinator shall be responsible for overseeing the implementation of this Decree. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and Defendant and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Decree shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Decree. Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

VIII. PERFORMANCE

All geologic and hydrogeologic work performed pursuant to this Decree shall be under the supervision and direction of a geologist licensed in the State of Washington or under the direct supervision of an engineer registered in the State of Washington, except as otherwise provided for by Chapters 18.220 and 18.43 RCW.

All engineering work performed pursuant to this Decree shall be under the direct supervision of a professional engineer registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Decree shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic, or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

Defendant shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Decree, in advance of their involvement at the Site.

IX. ACCESS

Ecology or any Ecology authorized representative shall have full authority to enter and freely move about all property at the Site that Defendant either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Decree; reviewing Defendant's progress in carrying out the terms of this Decree; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Decree; and verifying the data submitted to Ecology by Defendant. Defendant shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by Defendant where remedial activities or investigations will be performed pursuant to this Decree. Ecology or any Ecology authorized representative shall give Defendant reasonable notice before entering any Site property owned or controlled by Defendant unless an emergency prevents

such notice. All Parties who access the Site pursuant to this Section shall comply with any applicable Health and Safety Plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

X. SAMPLING, DATA SUBMITTAL, AND AVAILABILITY

With respect to the implementation of this Decree, Defendant shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section XI (Progress Reports), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, Defendant shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by Defendant pursuant to the implementation of this Decree. Defendant shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow Defendant and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Decree, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section IX (Access), Ecology shall notify Defendant at least five (5) working days prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

XI. PROGRESS REPORTS

Defendant shall submit to Ecology written Progress Reports that describe the actions taken to implement the requirements of this Decree. Prior to commencement of the Remedial Action, Defendant shall submit brief, quarterly Progress Reports providing the anticipated

schedule for commencing the Remedial Action. After commencement of the Remedial Action, Defendant shall submit monthly Progress Reports that include the following:

A. A written list of on-site activities that have taken place during the previous month;

B. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests;

C. Description of all deviations from the scope of work identified in the CAP (Exhibit A) and Schedule (Exhibit C) during the current month and any planned deviations in the upcoming month;

D. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule;

E. All raw data (including laboratory analyses) received by Defendant during the past month and an identification of the source of the sample; and

F. A list of deliverables for the upcoming month if different from the schedule.

All Progress Reports shall be submitted by the tenth (10th) day of the month in which they are due after the effective date of this Decree. Unless otherwise specified, Progress Reports and any other documents submitted pursuant to this Decree shall be sent by certified mail, return receipt requested, to Ecology's project coordinator.

XII. RETENTION OF RECORDS

During the pendency of this Decree, and for ten (10) years from the date this Decree is no longer in effect as provided in Section XXVIII (Duration of Decree), Defendant shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Decree and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, Defendant shall make all records available to Ecology and allow access for review within a reasonable time.

XIII. TRANSFER OF INTEREST IN PROPERTY

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Defendant without provision for continued operation and maintenance of any containment system, treatment system, and/or monitoring system installed or implemented pursuant to this Decree.

Prior to Defendant's transfer of any interest in all or any portion of the Site, and during the effective period of this Decree, Defendant shall provide a copy of this Decree to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, Defendant shall notify Ecology of said transfer. Upon transfer of any interest, Defendant shall restrict uses and activities to those consistent with this Consent Decree and notify all transferees of the restrictions on the use of the property.

Successors in Interest and Assigns may request to become parties to this Decree by following the amendment procedures set forth in Section XV. In the event Defendant assigns all of its fee interest to a Successor in Interest or Assign, and that Successor in Interest or Assign becomes a party to this Decree, Ecology **may** elect, at its sole discretion, to thereafter look first to such successor for performance of the requirements of this Decree, including, but not limited to, performance of the work as described in Section VIII, and payments of Ecology costs described in Section XIII. However, all signatory PLPs remain jointly and severally liable for performance under this Decree.

XIV. RESOLUTION OF DISPUTES

A. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement under Section XXIV (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

1. Upon receipt of Ecology's project coordinator's written decision, or the itemized billing statement, Defendant has fourteen (14) days within which to notify Ecology's project coordinator in writing of its objection to the decision or itemized statement.

2. The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

3. Defendant may then request regional management review of the decision. This request shall be submitted in writing to the Northwest Region Toxics Cleanup Program Section Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

4. Ecology's Regional Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of Defendant's request for review.

5. If Defendant finds Ecology's Regional Section Manager's decision unacceptable, Defendant may then request final management review of the decision. This request shall be submitted in writing to the Toxics Cleanup Program Manager within seven (7) days of receipt of the Regional Section Manager's decision.

6. Ecology's Toxics Cleanup Program Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of Defendant's request for review of the Regional Section Manager's decision. The Toxics Cleanup Program Manager's decision shall be Ecology's final decision on the disputed matter.

B. If Ecology's final written decision is unacceptable to Defendant, Defendant has the right to submit the dispute to the Court for resolution. The Parties agree that one judge should retain jurisdiction over this case and shall, as necessary, resolve any dispute arising

under this Decree. In the event Defendant presents an issue to the Court for review, the Court shall review the action or decision of Ecology on the basis of whether such action or decision was arbitrary and capricious and render a decision based on such standard of review.

C. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used. Where either party utilizes the dispute resolution process in bad faith or for purposes of delay, the other party may seek sanctions.

D. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Decree, unless Ecology agrees in writing to a schedule extension or the Court so orders.

XV. AMENDMENT OF DECREE

The project coordinators may agree to minor changes to the work to be performed without formally amending this Decree. Minor changes will be documented in writing by Ecology with a copy to the Defendant.

Substantial changes to the work to be performed shall require formal amendment of this Decree. This Decree may only be formally amended by a written stipulation among the Parties that is entered by the Court, or by order of the Court. Such amendment shall become effective upon entry by the Court. If material changes to the planned property use occur that would require substantial changes to the cleanup, any amendment to the scope of the Decree will be handled under this section. Agreement to amend the Decree shall not be unreasonably withheld by any party.

Defendant shall submit a written request for amendment to Ecology for approval. In the event of material changes to the planned property use requiring substantial changes to the cleanup, such as may be occasioned by the expiration of the Master Use Permits referenced in Section V.L, Defendant shall submit a revised scope of work consisting of a MTCA-compliant cleanup action and schedule consistent with WAC 173-340-360. The existing FS and CAP

will be revised in accordance with WAC 173-340-350 and 173-340-380, respectively, and resubmitted to Ecology. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to the Decree is a substantial change, Ecology will provide public notice and opportunity for comment. Reasons for the disapproval of a proposed amendment to the Decree shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section XIV (Resolution of Disputes).

A Successor in Interest or Assign may request, in writing directed to Ecology, to become a party to the Decree, which may occur upon or after conveyance of the Property interest to it. Ecology and the Attorney General's office, at their sole discretion, may agree to amend the Decree to incorporate a Successor in Interest or Assign as a party. The amendment to the Decree shall be in the form of Exhibit G, "Agreement of Successors in Interests and Assigns." If the amendment merely adds the party as a signatory, and no substantial changes are made to the terms of the Decree, then no public notice and comment will be required. Successors in Interest and Assigns who do not become parties to this Decree will be entitled to the protections, if any, afforded by RCW 70.105D.040(4)(e) and (f).

XVI. EXTENSION OF SCHEDULE

A. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

1. The deadline that is sought to be extended;
2. The length of the extension sought;
3. The reason(s) for the extension; and

4. Any related deadline or schedule that would be affected if the extension were granted.

B. The burden shall be on Defendant to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

1. Circumstances beyond the reasonable control and despite the due diligence of Defendant including delays caused by unrelated third parties or Ecology, such as, but not limited to, delays by Ecology in reviewing, approving, or modifying documents submitted by Defendant;

2. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or

3. Endangerment as described in Section XVII (Endangerment).

However, neither increased costs of performance of the terms of this Decree nor changed economic circumstances shall be considered circumstances beyond the reasonable control of Defendant.

C. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give Defendant written notification of any extensions granted pursuant to this Decree. A requested extension shall not be effective until approved by Ecology or, if required, by the Court. Unless the extension is a substantial change, it shall not be necessary to amend this Decree pursuant to Section XV (Amendment of Decree) when a schedule extension is granted.

D. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

1. Delays in the issuance of a necessary permit or permit extension which was applied for in a timely manner;

2. Other circumstances deemed exceptional or extraordinary by Ecology; or

3. Endangerment as described in Section XVII (Endangerment).

XVII. ENDANGERMENT

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, Ecology may direct Defendant to cease such activities for such period of time as it deems necessary to abate the danger. Defendant shall immediately comply with such direction.

In the event Defendant determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, Defendant may cease such activities. Defendant shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction, Defendant shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with Defendant's cessation of activities, it may direct Defendant to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this Section, Defendant's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended, in accordance with Section XVI (Extension of Schedule), for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Decree shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

XVIII. COVENANT NOT TO SUE

A. Covenant Not to Sue: In consideration of Defendant's compliance with the terms and conditions of this Decree, Ecology covenants not to institute legal or administrative actions against Defendant regarding the release or threatened release of hazardous substances covered by this Decree.

This Decree covers only the Site specifically identified in the Site Diagram (Exhibit B) and those hazardous substances that Ecology knows are located at the Site as of the date of entry of this Decree. This Decree does not cover any other hazardous substance or area. Ecology retains all of its authority relative to any substance or area not covered by this Decree.

This Covenant Not to Sue shall have no applicability whatsoever to:

1. Criminal liability;

2. Liability for damages to natural resources; and

3. Any Ecology action, including cost recovery, against PLPs not a party to this Decree.

If factors not known at the time of entry of the settlement agreement are discovered and present a previously unknown threat to human health or the environment, the Court shall amend this Covenant Not to Sue.

B. Reopeners: Ecology specifically reserves the right to institute legal or administrative action against Defendant to require it to perform additional remedial actions at the Site and to pursue appropriate cost recovery, pursuant to RCW 70.105D.050 under the following circumstances:

1. Upon Defendant's failure to meet the requirements of this Decree, including, but not limited to, failure of the remedial action to meet the cleanup standards identified in the CAP (Exhibit A);

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

2. Upon Ecology's determination that remedial action beyond the terms of this Decree is necessary to abate an imminent and substantial endangerment to human health or the environment;

3. Upon the availability of new information regarding factors previously unknown to Ecology, including the nature or quantity of hazardous substances at the Site, and Ecology's determination, in light of this information, that further remedial action is necessary at the Site to protect human health or the environment; or

4. Upon Ecology's determination that additional remedial actions are necessary to achieve cleanup standards within the reasonable restoration time frame set forth in the CAP.

C. Except in the case of an emergency, prior to instituting legal or administrative action against Defendant pursuant to this Section, Ecology shall provide Defendant with fifteen (15) calendar days notice of such action.

XIX. CONTRIBUTION PROTECTION

With regard to claims for contribution against Defendant, the Parties agree that Defendant is entitled to protection against claims for contribution for matters addressed in this Decree as provided by RCW 70.105D.040(4)(d).

XX. LAND USE RESTRICTIONS

Defendant shall record an Environmental Covenant (Exhibit D) with the office of the King County Auditor within ten (10) days of the completion of the remedial action. The Restrictive Covenant shall restrict future uses of the Site, as specified in the CAP (Exhibit A). Defendant shall provide Ecology with a copy of the recorded Environmental Covenant within thirty (30) days of the recording date.

XXI. INDEMNIFICATION

Defendant agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or

injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of Defendant, its officers, employees, agents, or contractors in entering into and implementing this Decree. However, Defendant shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Decree.

XXII. COMPLIANCE WITH APPLICABLE LAWS

A. All actions carried out by Defendant pursuant to this Decree shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. The permits or other federal, state or local requirements that the agency has determined are applicable and that are known at the time of entry of this Decree have been identified in the CAP (Exhibit A).

B. Pursuant to RCW 70.105D.090(1), Defendant is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, Defendant shall comply with the substantive requirements of such permits or approvals. The exempt permits or approvals and the applicable substantive requirements of those permits or approvals, as they are known at the time of entry of this Decree, have been identified in the CAP (Exhibit A).

Defendant has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Decree. In the event either Ecology or Defendant determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Decree, it shall promptly notify the other party of this determination. Ecology shall determine whether Ecology or Defendant shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Defendant shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written

documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by Defendant and on how Defendant must meet those requirements. Ecology shall inform Defendant in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Decree. Defendant shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

C. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for the State to administer any federal law, the exemption shall not apply and Defendant shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

XXIII. REMEDIAL ACTION COSTS

Defendant shall pay to Ecology costs incurred by Ecology pursuant to this Decree and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW, including remedial actions and Decree preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the entry of this Decree. Ecology has accumulated $4,713.76 in remedial action costs related to this facility as of September 10, 2009. Payment for this amount shall be submitted within thirty (30) days of the date this Decree is entered by the Court. For all costs incurred subsequent to September 10, 2009, defendant shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall

be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 70.105D.055, Ecology has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial actions.

XXIV. IMPLEMENTATION OF REMEDIAL ACTION

If Ecology determines that Defendant has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to Defendant, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of Defendant's failure to comply with its obligations under this Decree, Defendant shall reimburse Ecology for the costs of doing such work in accordance with Section XXIV (Remedial Action Costs), provided that Defendant is not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Decree.

Except where necessary to abate an emergency situation, Defendant shall not perform any remedial actions at the Site outside those remedial actions required by this Decree, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section XV (Amendment of Decree).

XXV. PERIODIC REVIEW

As remedial action, including groundwater monitoring, continues at the Site, the Parties agree to review the progress of remedial action at the Site, and to review the data accumulated as a result of monitoring the Site as often as is necessary and appropriate under the circumstances. At least every five (5) years after the initiation of cleanup action at the Site the Parties shall meet to discuss the status of the Site and the need, if any, for further remedial action at the Site. At least ninety (90) days prior to each periodic review, Defendant shall

submit a report to Ecology that documents whether human health and the environment are being protected based on the factors set forth in WAC 173-340-420(4). Ecology reserves the right to require further remedial action at the Site under appropriate circumstances. This provision shall remain in effect for the duration of this Decree.

XXVI. PUBLIC PARTICIPATION

A Public Participation Plan (Exhibit E) is required for this Site. Ecology shall review the existing Public Participation Plan to determine its continued appropriateness and whether it requires amendment.

Ecology shall maintain the responsibility for public participation at the Site. However, Defendant shall cooperate with Ecology, and shall:

A. If agreed to by Ecology, develop appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

B. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify Defendant prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by Defendant that do not receive prior Ecology approval, Defendant shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

C. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions, or as a presenter.

D. When requested by Ecology, arrange and/or continue information repositories at the following locations:

1. Ballard Branch Public Library
5614 22nd Avenue NW
Seattle, Washington 98107
(206) 684-4089

2. Ecology's Northwest Regional Office
3190 160th Avenue SE
Bellevue, Washington 98008
(425) 649-7190

At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial actions plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Decree shall be promptly placed in these repositories.

XXVII. DURATION OF DECREE AND CERTIFICATIONS BY ECOLOGY

The remedial program required pursuant to this Decree shall be maintained and continued until Defendant has received written notification from Ecology, in a Certificate of Completion, that the requirements of this Decree have been satisfactorily completed. Defendant may then request to have the Site removed from the Hazard Sites List, pursuant to WAC 173-340-330(7). This Decree shall remain in effect until dismissed by the Court. When dismissed, Section XVIII (Covenant Not to Sue) and Section XIX (Contribution Protection) shall survive.

XXVIII. CLAIMS AGAINST THE STATE

Defendant hereby agrees that it will not seek to recover any costs accrued in implementing the remedial action required by this Decree from the State of Washington or any of its agencies; and further, that Defendant will make no claim against the State Toxics Control Account or any local Toxics Control Account for any costs incurred in implementing this Decree. Except as provided above, however, Defendant expressly reserves its right to seek to

recover any costs incurred in implementing this Decree from any other PLP. This Section does not limit or address funding that may be provided under Chapter 173-322 WAC.

XXIX. EFFECTIVE DATE

This Decree is effective upon the date it is entered by the Court.

XXX. WITHDRAWAL OF CONSENT

If the Court withholds or withdraws its consent to this Decree, it shall be null and void at the option of any party and the accompanying Complaint shall be dismissed without costs and without prejudice. In such an event, no party shall be bound by the requirements of this Decree.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY

Jim Pendowski
Toxics Cleanup Program Manager
(360) 407-7177

Date: 6/11/10

ROBERT M. MCKENNA
Attorney General

Michael L. Dunning, WSBA # 29452
Assistant Attorney General
(360) 586-6741

Date: 6/11/10

BLOCK AT BALLARD II, LLC

Jay Fisher
Investment Director
(515) 248-3076

Date: 6/7/10

ENTERED this _____ day of _____ 2010

JUDGE
King County Superior Court

Exhibit A

Cleanup Action Plan

CLEANUP ACTION PLAN

FORMER WESMAR PROPERTY
SEATTLE, WASHINGTON

Issued by:

Washington State Department of Ecology
Toxics Cleanup Program
Northwest Regional Office
Bellevue, Washington

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

DECLARATIVE STATEMENT

Consistent with the Model Toxics Control Act, Chapter 70.105D RCW, as implemented by the Model Toxics Control Act Cleanup Regulation, Chapter 173-340 WAC, it is determined that the selected cleanup actions are protective of human health and the environment, attain federal and state requirements that are applicable or relevant and appropriate, comply with cleanup standards, provide for compliance monitoring, use permanent solutions to the maximum extent practicable, provide for a reasonable restoration time-frame, and consider public concerns raised during public comment.

5/20/2010

Sunny Becker
Site Manager
Toxics Cleanup Program
Northwest Regional Office

Date

5/24/2010

Robert W. Warren, P.Hg., MBA
Regional Section Manager
Toxics Cleanup Program
Northwest Regional Office

Date

1 INTRODUCTION

This *Cleanup Action Plan* (CAP) describes the cleanup action proposed by the Washington State Department of Ecology (Ecology) for the cleanup of contamination at the Wesmar Company, Inc., Site (Site) in Seattle, Washington. The plan was developed using information presented in the *Final Remedial Investigation Report, Feasibility Study, and Proposed Cleanup Action* (SES 2009) (hereinafter *RI/FS and PCA*) submitted by Bridge Group II, LLC (Bridge Group), the Potentially Liable Party (PLP) for the Site. This document has been prepared to satisfy the requirements of the Model Toxics Control Act (MTCA), Chapter 70.105D of the Revised Code of Washington (RCW), administered by Ecology under the MTCA Cleanup Regulation, Chapter 173-340 of the Washington Administrative Code (WAC).

1.1 Site Background

The Site is situated at and around the former Wesmar Company Inc. Property, located at 1401 and 1451 Northwest 46th Street in Seattle, Washington (herein referred to as the Property) (Figure 1).

The Property is currently vacant. Wesmar Company, Inc., a chemical distributor specializing in cleaners, sanitizers, and water treatment compounds, was the most recent occupant of the western portion of the Property. In addition, the eastern portion of the Property was recently occupied by Colortech®, Inc., a company that provided coating services for metals and metal-formed products. The Property currently is occupied by two single-story, slab-on-grade buildings that were constructed in 1905 and 1957, respectively. Prior to the most recent tenants, the Property operated as a pipe-treatment facility that utilized creosote. The floor grade of the buildings lies approximately 8 to 10 feet below the surrounding street grade, and a wastewater sump is located on the southern portion of the former Wesmar Company, Inc. building. The Property is scheduled to undergo redevelopment to a multi-story, mixed-use commercial/retail complex. Redevelopment plans include construction of a subsurface parking lot to an approximate depth of 20 feet below the surrounding street surface grade.

The results of preliminary subsurface investigations conducted on the Property indicated that polycyclic aromatic hydrocarbon (PAH)-contaminated soil and arsenic-contaminated soil and groundwater are present beneath the Property. In January 2008, Bridge Group entered into an Agreed Order with Ecology. The Agreed Order required that Bridge Group complete a Remedial Investigation and Feasibility Study of the Site and submit a proposed draft cleanup action plan.

On January 27, 2009, Block at Ballard II purchased the Property from Bridge Group II. In February 2009, Ecology notified Block at Ballard II that it was potentially a PLP for the Site based on its ownership of the Property. Block at Ballard II did not contest PLP status and on March 17, 2009, Ecology determined Block at Ballard II to be a PLP for the Site.

1.2 Site Definition

The Site has been defined to include the areas identified in the Site Boundary Definition (Figure 2). Based on the findings from the investigations conducted and historical research presented by Sound Environmental Strategies Corporation (SES) between September 2005 and August 2008, the Site has been defined to include the following criteria:

- Extent of PAH-contaminated soil both on and off of the Property associated with the historical use of the Property as a wood pipe treatment facility. The off-Property extent of PAH contamination is limited to Area C, identified in Figure 2.
- Arsenic-contaminated soil beneath the Property.
- Arsenic-contaminated groundwater beneath the Property. Ecology has determined that the groundwater contamination associated with the historical use of the Property is limited to Area A, identified in Figure 2.

Based on the location of the Property within the Ballard Interbay Northend Manufacturing and Industrial Center (BINMIC) area, the heavy railroad use in the rights-of-way adjacent to the Property, and the absence of historical uses on Property that would have contributed to the local and regional arsenic soil and groundwater contamination, the following criteria have been excluded from the Site definition.

- Arsenic in soil beyond the Property boundary.
- Arsenic in groundwater beyond the Property boundary.

1.3 Purpose and Scope

The main state law that governs the cleanup of contaminated sites is MTCA. MTCA regulations define the process for the investigation and cleanup of contaminated sites. MTCA regulations specify criteria for the evaluation and conduct of a cleanup action. The cleanup must protect human health and the environment, meet state environmental standards and standards in other laws that apply, and provide for monitoring to confirm compliance with site cleanup standards.

This CAP was developed using information presented in the *RI/FS and PCA*. Public comment on the *RI/FS and PCA* was combined with public comment on this CAP, as permitted by Chapter 173-340-600(13)(c) WAC.

The purpose of this CAP is to describe Ecology's proposed cleanup action for the Site, consistent with MTCA requirements. Consistent with the requirements of Chapter 173-340-380 WAC, this document provides the following information:

- Cleanup standards for each hazardous substance and medium of concern at the Site (Section 2)
- Applicable state and federal laws (Section 2)
- Brief summary of other cleanup action alternatives evaluated in *RI/FS and PCA* (Section 3)

- Summary of rationale for selecting the proposed alternative (Section 3)
- General description of proposed cleanup action (Section 4)
- Institutional controls required as part of the cleanup action (Section 4)
- Containment measures addressing hazardous substances remaining on Site (Section 6)

2 CLEANUP REQUIREMENTS

2.1 Site Contaminants

The results of subsurface investigations conducted at the Site between September 2005 and August 2008 indicate that PAH-contaminated soil and arsenic-contaminated soil and groundwater are present at the Site.

PAH-contaminated soil resulting from the former use of the Property as a wooden pipe treatment and storage facility generally appears to be limited to the Property and a portion of the Northwest 46th Street Right-of-Way (ROW). Soil in the vicinity of the former wood treatment operations contains elevated concentrations of cPAHs. Concentrations of benzo(a)pyrene that exceeded the MTCA Method A cleanup level generally were observed at depths between 2.5 and 11.5 feet bgs and were confined to the fill layer beneath the Property and a portion of the Northwest 46th Street ROW. The equivalent cPAH exceedances at each location were correlative with the detection of benzo(a)pyrene. Groundwater was not impacted by cPAHs.

Concentrations of arsenic detected in soil samples collected from within the ROWs and along the former BNSF railroad are likely a result of regional impacts and do not appear to be associated with activities conducted on the Property. Concentrations of arsenic exceeded the MTCA Method A cleanup level in soil on the eastern portion of the Property and along the northern Property boundary, although soil concentrations generally exceed the MTCA Method A Cleanup Level by less than 5 mg/kg. Two soil samples collected from the southern Property boundary also contained elevated arsenic concentrations.

Concentrations of arsenic in soil and groundwater collected from the North BINMIC area commonly exceed the MTCA Method A cleanup level. This is likely a result of the fill materials beneath the Property and vicinity and the ballast used in the construction of the railroads. Three of the ballast samples contained the highest arsenic concentrations relative to other soil samples collected from the Property and surrounding off-Property areas. In addition, arsenic is a common compound used in herbicides and is regularly used along roads and railways in an effort to reduce the growth of vegetation.

Based on the findings from the investigations conducted by SES and the historical research presented by it, the Site has been defined to include the following criteria:

- Extent of PAH-contaminated soil both on and off of the Property associated with the historical use of the Property as a wood pipe treatment facility. The off-Property extent of PAH contamination is limited to Area C, identified in Figure 2.
- Arsenic-contaminated soil beneath the Property.

- Arsenic-contaminated groundwater beneath the Property. Ecology has determined that the groundwater contamination associated with the historical use of the Property is limited to Area A, identified in Figure 2.

2.2 Cleanup Levels

On-Property soil is compared to MTCA Method A cleanup levels for unrestricted land uses, which are sufficient to address the Property, as much of the subgrade soil will be removed prior to the construction of a belowground parking garage. Preliminary soil cleanup levels for arsenic will be based on unrestricted land use as defined in MTCA. Soil cleanup levels for PAHs will be compared to the cleanup level established for benzo(a)pyrene (0.1 mg/kg). Using the toxicity equivalent methodology in Chapter 173-340-708(8) WAC, equivalent concentrations of the remaining PAHs, including benzo(a)anthracene, chrysene, benzo(b)fluoranthene, benzo(k)fluoranthene, indeno(1,2,3-cd)pyrene, and dibenz(a,h)anthracene, will be calculated and summed to obtain the total toxicity soil concentration for the total cPAH mixture as it compares to the cleanup level for benzo(a)pyrene.

MTCA Method A Cleanup Levels for groundwater are proposed for benzo(a)pyrene and arsenic. The table below presents the cleanup levels proposed for the Site remediation activities. Arsenic in soil and groundwater, and benzo(a)pyrene (and associated TEFs) in soil are the COCs for the Site and will be addressed by the Site remediation.

Table 1: Cleanup Levels Proposed for Site Remediation Activities

COC	**Soil** (mg/kg)	**Groundwater** (µg/L)
Arsenic	20[a]	5[b]
Benzo(a)pyrene	0.1[a]	0.1[b]

[a]MTCA Cleanup Regulation 173-340-900, Table 740-1, Method A Soil Cleanup Levels for Unrestricted Land Uses.
[b]MTCA Cleanup Regulation Chapter 173-340-900 WAC, Table 720-1 Method A Groundwater Cleanup Levels for Unrestricted Land Uses.
COC = chemical of concern
mg/kg = milligrams per kilogram
µg/L = micrograms per liter
WAC = Washington Administrative Code

2.3 Applicable or Relevant and Appropriate Requirements

The cleanup conducted on a site must comply with applicable or relevant and appropriate requirements (ARARs). ARARs were screened in order to assess their applicability to the Site. The following list identifies the ARARs that may be applicable to the Site.

- State Environmental Policy Act (Chapter 43.21C RCW).
- Washington State Shoreline Management Act (Chapter 90.58 RCW; Chapters 173-18, 173-22, and Chapter 173-27 WAC).

- The Clean Water Act (33 United States Code (U.S.C.) 1251 et seq.).
- CERCLA of 1980 (42 U.S.C. 9601 et seq., and Part 300 of Title 40 of the Code of Federal Regulations (40 C.F.R. 300)).
- The Fish and Wildlife Coordination Act.
- Endangered Species Act (16 U.S.C. 1531 et seq.; 50 C.F.R. 17, 225, and 402).
- Native American Graves Protection and Repatriation Act (25 U.S.C. 3001–3013; 43 C.F.R. 10) and Washington's Indian Graves and Records Law (Chapter 27.44 RCW).
- Archaeological Resources Protection Act (16 U.S.C. 470aa et seq.; 43 C.F.R. 7).
- Washington Dangerous Waste Regulations (Chapter 173–303 WAC).
- Solid Waste Management Act (Chapter 70.95 RCW; Chapters 173-304 and 173-351 WAC).
- Water Quality Standards for Surface Waters of the State of Washington (Chapters 90.48 and 90.54 RCW; Chapter 173-201A WAC).
- Department of Transportation Hazardous Materials Regulations (40 C.F.R. Parts 100–185).
- Washington State Water Well Construction Act (Chapter 18.104 RCW; Chapter 173-160 WAC).
- City of Seattle and King County regulations, codes, and standards.

3 REMEDIAL ACTION SELECTION

Based on the information acquired during the RI, SES designated three remedial areas on the Site: those portions of the Property that are located within the proposed shoring system (Area A), those portions of the Property that are located outside the shoring system (Area B), and the portion of the Site located within the Northwest 46th Street ROW (Area C) (Figure 2). The shoring locations were chosen for cost and logistical reasons associated with the constructability of the planned development and in coordination with the disproportionate cost analyses conducted as part of the FS. Technologies reviewed for each of the areas (Area A, B, and C) are summarized below. Technologies are discussed in greater detail in *RI/FS and PCA* Section 5.6.

3.1 Summary of Alternatives

Cleanup alternatives reviewed for Area A include:

- Cleanup Alternative 1a—Impervious wall shoring (secant or sealed sheet pile) combined with the excavation of the source area and discharge to the storm system of the water captured in the proposed subgrade water intrusion control system.
- Cleanup Alternative 2a—Pervious wall shoring (soldier pile or unsealed sheet pile) combined with excavation of the source area and installing a permeable reactive barrier to pre-treat the water captured in the proposed subgrade water intrusion control system.

- Cleanup Alternative 3a—Pervious wall shoring combined with excavation of the source area and installing a permanent system to treat the water captured in the proposed subgrade water intrusion control system.

Cleanup alternatives reviewed for Area B include:

- Cleanup Alternative 1b—Shored excavation with off-Site disposal.
- Cleanup Alternative 2b—Capping arsenic- and PAH-contaminated soil.

Cleanup alternatives reviewed for Area C include:

- Cleanup Alternative 1c—Shored excavation with off-Site disposal.
- Cleanup Alternative 2c—Capping PAH-contaminated soil.

3.2 Rationale for Selection of Proposed Cleanup Action

Based on the results of the FS, a combination of Cleanup Alternatives 1a, 2b, and 2c, which entail installing an impervious shoring wall, excavating contaminated soil from within Area A, capping contaminated soil within Areas B and C, and monitoring the direct discharge of arsenic-contaminated groundwater within the building subgrade groundwater intrusion control system, will be applied during Site remediation.

Cleanup Alternatives 1a, 2b, and 2c meet the requirements set forth in Chapters 173-340-360(3) and 173-340-370 WAC. These cleanup alternatives received "favorable" scores for the evaluation criteria of protectiveness, permanence, cost, long-term effectiveness, implementability, and consideration of public concern. The rating of "average" was assigned for short-term risk management, as a result of possible dust issues associated with the excavation. The rating of "favorable" was assigned for implementation because the secant wall creates a physical barrier that reduces the likelihood that the regional arsenic groundwater plume will migrate beyond the boundary of the shoring barrier on the Property while the other two alternatives rely on treatment systems. Cleanup Alternatives 1a, 2b, and 2c received "very favorable" overall scores for the evaluation criteria of cost due to the significant cost savings over Alternatives 2a, 1b, and 1c. (Additional information available in *RI/FS and PCA* Tables 9a–9g; Charts 1–3.)

The selected cleanup alternative must comply with MTCA cleanup regulations specified in Chapter 173-340 WAC and with applicable state and federal laws. Under Chapters 173-340-350 and 173-340-710 WAC, applicable requirements include regulatory cleanup standards, standards of control, and other environmental requirements, criteria, or limitations established under state or federal law that specifically address a contaminant, remedial action, location, or other circumstances at a site.

Alternatives 1a, 2b, and 2c, hereafter referred to as Alternative A, Alternative B, and Alternative C, respectively, were selected as the most effective, feasible, and appropriate remedial options.

In the event that additional contaminants are discovered during the course of the cleanup activities, their concentrations will be compared to the MTCA Method A cleanup levels for soil and groundwater.

4 PROPOSED CLEANUP ACTION

4.1 Cleanup Action for Area A – Excavation Within the Perimeter Shoring

Prior to beginning the excavation, large-diameter augers will be used to install a watertight secant shoring wall within the perimeter of the Property. As the excavation progresses soil tiebacks will be installed approximately eight feet below the street grade into Area B, Area C, and the surrounding ROW. A six inch auger will be used to install the tiebacks. The first 10 to 15 feet of the soil cuttings pulled from the secant pile and the soil tieback augers will be separately stockpiled and characterized for arsenic and PAHs prior to disposal. The location and extent of the shoring system is included on Sheets SS1 through SS7 of the Project Plan Set (Clark Design Group, PLLC 2009 (Appendix H of *RI/FS and PCA*)).

Once the shoring system is in place, excavation of arsenic- and PAH-contaminated soil will be conducted within the limits illustrated in Sheets C1-01 through C1-04 of the Project Plan Set (Clark Design Group, PLLC 2009; *RI/FS and PCA* Appendix H) and to an approximate depth of six feet below the current on-Property grade. Analytical data collected during the RI and previous investigations, as well as profile samples collected during the excavation process, will be used to guide the removal of arsenic- and PAH-contaminated soil. Where possible, visual indications of contamination will be used to direct the excavation. Excavated soil will be placed in temporary stockpiles pending characterization. Soil containing concentrations of PAHs or arsenic above their respective cleanup levels will be disposed of at a permitted facility. An environmental scientist from SES will be on Property during the remedial excavation activities to screen and segregate soil for disposal.

In addition to the extent of arsenic- and PAH-contaminated soil identified during the RI, it is possible that soil with high pH may be identified beneath the former caustic mixing area within the former Wesmar building. A soil pH meter will be used to identify and segregate soil containing elevated pH. Soil exhibiting elevated pH will be stockpiled and profiled prior to disposal at a permitted facility.

Contaminated soil within the shoring boundary (Area A) will be removed until field screening and profile sampling suggest soil with COCs above the respective cleanup levels have been removed or the native soil interface is exposed. Immediately following the presumed removal of the contaminated soil within Area A, confirmation soil samples will be collected in accordance with the procedures described below. Locations characterized by concentrations of COCs above their respective cleanup levels will be overexcavated in six inch to one foot depth intervals and resampled. Once confirmation data show that COCs in soil have been effectively removed from Area A, the remaining soil will be excavated to the planned construction grade elevation per Sheets SS4 through SS7 of the Project Plan Set (Clark Design Group, PLLC 2009; *RI/FS and PCA* Appendix H). Specific details regarding the sampling analysis and quality assurance programs are provided in the Sampling and Analysis Plan (SAP; *RI/FS and PCA* Appendix H) and the Quality Assurance Project Plan (QAPP; *RI/FS and PCA* Appendix I).

Locations within Area A that were identified as containing arsenic concentrations in soil exceeding the cleanup level will be excavated and consolidated into a stockpile for waste characterization and disposed of at an appropriate off-Site facility.

Profile samples will be collected from the remaining construction excavation-generated soils to determine appropriate soil handling methods and disposal options.

4.2 Cleanup Action for Area B – Capping On-Property Arsenic- and PAH-Contaminated Soil Beyond the Perimeter Shoring

The portion of the Property located beyond the shoring system for the proposed building will be capped with a combination of asphalt, landscaping, and concrete sidewalks. Formal deed restrictions will be recorded for the portions of the Property that exhibit concentrations of COCs in excess of cleanup levels.

4.3 Cleanup Action for Area C – Capping PAH-Contaminated Soil Located Within the Right-of-Way

As described in *RI/FS and PCA* Section 5.0, one area beyond the Property boundary—Area C—has been confirmed to contain concentrations of PAHs in excess of the MTCA Method A cleanup level. The PAH contamination in Area C is limited to approximately 18 cubic yards in volume, and it is capped by the ROW improvements and approximately 11 feet of clean soil.

Due to the depth of the contaminated soil, any utility work or ROW improvement projects (street paving or sidewalk improvements) that may be conducted are not likely to extend to the contaminated zone. If a need arises to access the PAH-contaminated soil in the ROW for the installation or maintenance of deep utilities, the preliminary risk assessment included in *RI/FS and PCA* Section 4.7.2 suggests that the PAH concentrations in the ROW soil associated with the Site do not represent a direct exposure hazard to construction/utility workers who may come in contact with it.

An environmental covenant will be placed on the Property and will include the PAH-contaminated soil located within Area C (Figure 3). The covenant will include instructions for regulatory notification, waste handling, and disposal profiling if contaminated soil within Area C is accessed. In reference to the soil contamination within Area C, the covenant will extend from six feet bgs to below the maximum depth of soil contamination encountered (13 feet bgs, Figure 3). The City of Seattle (City) has been notified in writing of the Area C contamination and that a restrictive environmental covenant will be placed on Area C. Ecology has determined that the environmental covenant will be sufficiently protective of human health and the environment without subrogation of the City's ROW interest. If the City conducts any maintenance or repair of street and sidewalk surfaces, or any excavation for utility placement or repair, in Area C, the City is responsible for following appropriate health, safety, and soil management protocols, as described in the restrictive covenant.

4.4 Point of Compliance

While the Area A excavation will likely meet cleanup levels, because some contaminated soil will be left in place and contained by capping in Areas B and C, the conditional point of

compliance for soil at the Site is "containment" per Chapter 173-340-740(6)(f) WAC. A standard point of compliance will be used for the arsenic-contaminated groundwater associated with the Site, per Chapter 173-340-720(8)(b) WAC. The Site is excluded from a terrestrial ecological evaluation because the contaminated soil beneath Areas B and C is currently, and will continue to be, covered by buildings, paved roads, and other physical barriers (Chapter 173-340-7491(b) WAC). Therefore, no point of compliance under the ecological risk assessment needs to be defined for the Site.

4.5 Institutional Controls

Following approval from Ecology, a specific deed restriction, which will include the survey limits for Areas B and C that contain soil exhibiting elevated concentrations of arsenic and PAHs, will be recorded with the King County Tax Assessor and attached to the title of the Property. The remainder of the Property will be covered by a mixed-use commercial/retail building and the surrounding ROWs capped with concrete sidewalks. The extent of the deed-restricted area is depicted in Figures 3a through 3h.

5 WORK ACTIVITY SUMMARY AND SEQUENCE FOR REMEDIATION

This section briefly describes Site preparation for the excavation and removal of the PAH- and arsenic-contaminated soil from within Area A.

5.1 Construction Setup

The excavation contractor will mobilize to the Property and set up operational areas necessary to implement the remedial and construction plans. Subsequent work will proceed generally as described in the following sections.

5.1.1 Property Security and Public Notice

The work will involve securing the Property from trespass and from entry by the unprotected public. The preparations will include installing temporary fencing around the perimeter of the Property, posting suitable warning signs every 50 feet along the temporary fence, posting a notice at Property entrances to convey information of the exposure hazards that are represented by the contamination on the Property, and submitting a written notice to the City of Seattle and regulatory agencies as prescribed in the private rights of action section of MTCA (Chapter 173-340-545 WAC).

5.1.2 Shoring Installation

The secant-pile wall is to be constructed of 24-inch-diameter piles in the first pass, followed by 24-inch-diameter piles in the second pass. The second pass piles are to overlap the first pass by five inches on either side. This will create a wall with a minimum thickness of 14.6 inches throughout. The pile depth will extend to -10 foot Elevation or 15 feet below the planned excavation depth for development. As the excavation progresses soil tiebacks will be installed approximately eight feet below the street grade to anchor the secant piles. A six inch auger will be used to install the tiebacks. The shoring installation will be coordinated by the General Contractor and installed according to Sheets SS1 through SS7 of the Project Plan Set (Clark Design Group, PLLC 2009; *RI/FS and PCA* Appendix H).

The secant-pile wall is to be constructed of fly ash concrete in a relatively lean mix. This is designed to have low permeability (i.e., hydraulic conductivity) and low strength. This enables the material to work well at withholding water and allows the over drilling of the initial piles with the secondary steel reinforced piles to provide the wall strength to withhold the soil and water pressures. The permeability of the constructed secant-pile wall is conservatively estimated at 6.4×10^{-7} centimeters/second or almost equal to the permeability of tight clay. This permeability allows for imperfections at the seams between the individual secant piles (SES 2008b). The estimated aggregate permeability for the secant-pile wall with leaky seams is representative; one of the principal design features of the secant-pile wall is to withhold water from the excavation and subsequently the building and garage dewatering systems.

5.1.3 Stabilized Construction Entrance and Wheel Wash

A 12-inch-thick, rock-stabilized construction access/decontamination pad and wheel wash will be constructed on the southern portion of the Property (Sheets C1-01 and C1-03 of the Project Plan Set; Clark Design Group, PLLC 2009; *RI/FS and PCA* Appendix H). The pad will limit off-Property migration of arsenic- and PAH-contaminated soil from the Property by reducing contact between vehicles and Property soils and by providing an area to remove mud from truck tires. The pad will be constructed by excavating a shallow pit, which will be lined with a heavy-duty plastic liner and sloped toward the excavation interior in order to collect any rain or wash water. The liner will be covered with sand, pea gravel, and/or quarry spalls meeting Washington State Department of Transportation (WSDOT) Specification 9-13.6 (WSDOT 2006). Upon conclusion of the remediation, the access/decontamination pad will be excavated, transported, and disposed.

5.1.4 Construction Dewatering

Water that collects within the excavation will be pumped into a holding tank that will be stored on the Property. Dewatering details can be found on the Temporary Erosion and Sediment Control Sheet (Sheets C1-01 through C1-04 of the Project Plan Set; Clark Design Group, PLLC 2009; *RI/FS and PCA* Appendix H).

Groundwater flow into the excavated interior of the secant-pile shoring wall area (Area A) during construction will be limited. It is estimated that it will occur principally as seepage through the floor of the excavation through the native glacial till. Groundwater flow through the floor of the excavation is estimated to have a maximum value of 12.3 gallons per minute (gpm) with a more probable flow rate of 2.2 gpm for the entire excavated area (SES 2008b). Groundwater flow through the secant-pile sidewalls of the excavation is anticipated to occur as slow seepage through the wall. The anticipated flow rates range from near zero to 1.4 gpm depending on the interpile leakage rate. Interpile leakage in excess of 1.5 gpm should be reduced during construction using concrete surface sealing techniques.

The extracted water from construction is to be permitted and discharged to the King County Metro sewer system via the local sewer system or treated on-Site to Washington State surface water standards and discharged to the City of Seattle storm water system. The quantity and quality of water to be generated are expected to be acceptable for discharge to the Metro sewer system. The public storm drain (PSD) in 14th Avenue Northwest discharges to Lake Union. All discharges to the PSD must meet state water quality requirements for all regulated parameters,

including, but not limited to, turbidity (reported as NTU), pH, and all contaminants (such as those listed above). Maximum levels and thresholds for these parameters are generally regulated by Ecology's Surface Water Quality Standards for Marine Waters (e.g., turbidity, pH, and some metals such as arsenic) under Chapter 173-201A WAC. For contaminants that do not have surface water quality standards, maximum levels in Property discharges shall not exceed Ecology's MTCA Method A Ground Water Cleanup Levels under Chapter 173-340 WAC.

It will be the Contractor's responsibility to understand the soil and groundwater COCs on the Property as well as the treatment methods and cleanup requirements for these COCs. It is also the Contractor's responsibility to sample, perform testing, and monitor all Property discharges to the PSD as needed to assure that state water quality requirements are being met for all construction discharges.

5.1.5 Health and Safety Protocol

A health and safety plan detailing cautionary procedures that will be followed by all personnel on-Site during construction excavation activities will be prepared prior to beginning field work. Daily health and safety meetings will be conducted as part of the protocol, as discussed below.

5.2 ENGINEERING DESIGN DOCUMENT FOR CAP IMPLEMENTATION

The following subsections present an engineering design document that specifies the activities required to implement the CAP.

5.2.1 Excavation of Arsenic- and PAH-Contaminated Soil

The following remedial work activities will be implemented by the excavation and general contractors in accordance with detailed plans and specifications included within the *RI/FS and PCA* Appendix G:

- Install the perimeter shoring system using large-diameter augers.
- Remove arsenic- and PAH-contaminated soil to a depth of 10 to 15 feet bgs from Area A and stockpile excavated soil on-Property pending characterization and disposal.
- Load and transport excavated soil to appropriate disposal facilities and fill sites.
- Collect confirmation samples from excavated portions of Area A.
- Cap Area B with concrete sidewalks, asphalt driveways, and landscaping surrounding the planned building.
- Cap Area C with asphalt as part of the Northwest 46th Street ROW.

5.2.1.1 Excavation Preparation

The excavation phase of the remediation will commence following the completion of the demolition phase. The sequence of excavation is designed to minimize vehicular traffic on impacted soil, thereby reducing the potential for cross-contamination of non-impacted areas of the Property. Prior to commencing excavation, utility locations that were identified during the

demolition phase will be confirmed and remarked, if necessary, and the perimeter shoring system will be installed.

5.2.1.2 Excavation Sequence, Estimated Volume, and Methods

Approximately 27,300 tons of arsenic- and PAH-contaminated soil will be excavated following the installation of the shoring system. Excavation will commence in the eastern portion of Area A and progress westerly toward the stabilized construction entrance and decontamination pad. A track-mounted excavator will excavate soil and place it in a temporary stockpile. A rubber-tired front-end loader will pick up stockpiled contaminated soil and place it in dump trucks staged at the stabilized construction entrance.

Guidance for the final vertical and lateral extent of the arsenic and PAH excavations shall be based upon data obtained during the RI and previous investigations conducted on the Site, field observations and screening, and the results of confirmation sampling and testing. If performance samples indicate that contamination remains after the initial excavation is completed, additional soil will be excavated and additional samples will be collected. This process will continue until confirmation sampling demonstrates that the cleanup levels have been achieved.

Profile samples will be collected from the remaining construction excavation-generated soil to evaluate appropriate soil handling methods and disposal options.

During excavation, the excavator operator will be escorted by at least one person functioning as a Spotter. The Spotter's responsibilities include:

- Enforcing a no-personnel zone within the swing radius of the excavator;
- Observing excavations for subsurface structures, such as unidentified utilities, artifacts, and sidewall stability;
- Abiding by all regulations pertaining to discovery and excavation of archaeological resources, including, but not limited to, Chapters 27.34, 27.53, 27.44, 79.01, and 79.90 RCW and Chapter 24-48 WAC, as applicable;
- Field screening of excavated soil with various techniques (e.g., photoionization detector, sheen test, visual observation) to assess impacts; and
- Notifying the Site Manager when a designated area of excavation has been completed and is ready for sampling.

A safety meeting will be conducted prior to the start of each workday to inform existing and new site personnel of changing work conditions and to reinforce key safety requirements. During the safety meeting, specific instructions will be given to each equipment operator that spillage of excavated soil is to be minimized. In particular, operators will be instructed to carry only 3/4-full buckets and travel at moderate speeds to prevent soil spilling during transport to the stabilized construction entrance or during placement in the dump trucks.

A Soil Loading Technician shall be present at all times during the loading of soil into dump trucks to help identify when each truck is fully loaded. Truck drivers will be specifically instructed that they are to remain in their trucks at all times with the windows closed. The Soil

Loading Technician shall also be responsible for inspecting the truck after loading to confirm that spillage of soil has not occurred onto the outside structures of the trucks (e.g., running boards, tongue, etc.) and that the load is properly covered, if required. If spillage has occurred, the Soil Loading Technician shall collect the spillage and place it back into the truck. If spillage becomes a recurring problem, a wheel/vehicle wash area will be designated as a contingency to help prevent contaminated soils from being inadvertently tracked off-Site.

5.2.1.3 Transportation and Disposal

Truck drivers shall be instructed to keep hazardous waste manifests and bills of lading with them at all times while transporting impacted soil. Drivers will also be instructed that direct routes to the waste facilities are to be used and no overnight layovers are permitted while the trucks are loaded. Drivers will be provided the Site Manager's phone number as well as the 24-hour emergency contact number.

The Site Manager will maintain a log of soils disposed off-Property, including the number of trucks with date and time of departure from the Site, estimated weight and volume, destination, waste manifest numbers, and other appropriate documentation.

All soil waste manifests, weight tickets, and bill of lading shall be signed by the respective disposal facilities and returned to SES. These documents will be included as attachments to the Cleanup Action Report, which will be completed at the end of the project.

5.2.1.4 Previously Unidentified Contaminants

Monitoring of Site remediation activities will be limited to testing for arsenic and cPAHs. Therefore, the detection of unknown contaminants will rely solely on exhibition of field-screenable characteristics, such as odor and color. SES personnel will collect representative samples and submit them for laboratory analysis and identification prior to disposal at a permitted facility.

5.2.2 Capping Area B and Area C

The perimeter of the Property and a portion of Northwest 46th Street (Area C) will be capped per the design specifications on Sheets L3.01 through L3.03 of the Project Plan Set (Clark Design Group, PLLC 2009; *RI/FS and PCA* Appendix H).

5.2.3 Institutional Controls

An institutional control will be applied to the portions of the Property located outside of the shoring walls (Areas B and C), which are depicted on Figures 3a through 3h.

5.2.4 Site Restoration

It is anticipated that Property development work will occur in conjunction with the cleanup action.

6 COMPLIANCE MONITORING

There are three types of compliance monitoring identified for remedial cleanup actions performed under MTCA (Chapter 173-340-410 WAC): Protection, Performance, and Confirmation Monitoring. A paraphrased definition for each is presented below (Chapter 173-340-410(1) WAC). Additional details regarding procedures for sample collection, handling, and quality assurance procedures are included in the Sampling and Analytical Plan and Quality Assurance Project Plan attached to the *RI/FS and PCA* Appendices I and J, respectively.

- **Protection Monitoring**—To determine if human health and the environment are adequately protected during construction and the operation and maintenance period of an interim action or cleanup action as described in the health and safety plan.
- **Performance Monitoring**—To document that the interim action or cleanup action has attained cleanup standards.
- **Confirmation Monitoring**—To evaluate the long-term effectiveness of the interim action or cleanup action once cleanup standards or other performance standards have been attained.

6.1 Protection Monitoring

A separate health and safety plan will be prepared for the remedial action that meets the minimum requirements for such a plan identified in federal (Title 29 C.F.R. Parts 1910.120, and 1926) and state regulations (Title 296 WAC). A complete job hazard analysis will be prepared for the health and safety plan that identifies all known physical, chemical, and biological hazards, hazard monitoring protocols, and administrative and engineering controls to mitigate the identified hazards.

6.2 Performance Monitoring

The objectives for performance monitoring are to document compliance with waste analysis profiles and that cleanup levels are achieved. To demonstrate compliance, the following separate performance monitoring activities are planned for the remedial action:

- Waste profiling for off-Site treatment or disposal.
- Confirming that cleanup levels have been achieved.

The performance monitoring activities are described in the following subsections.

6.2.1 Waste Profiling for Off-site Treatment or Disposal

Wastes generated during the remedial activities will require analytical testing before being offered for off-Site transportation and disposal. Generally, the treatment, storage, or disposal facility (TSDF) receiving the waste specifies the minimum number of samples and analytical tests before accepting wastes from the project. Wastes that will be generated from the remedial action destined for off-Site disposal include:

- Contaminated soil removed by installing the secant wall and through excavation;

- Contaminated groundwater from excavation dewatering;
- Contaminated personnel protective equipment;
- Decontamination solutions; and
- Miscellaneous solid wastes.

Each waste stream will be profiled separately in accordance with the minimum waste analyses requirements of the respective permitted TSDF. Excavated contaminated soil will be subjected to performance monitoring. Ecology guidance for remediation of petroleum-contaminated soils (Ecology 1995) suggests that samples of stockpiled excavated soil be collected from locations where field survey methods indicate that contamination is likely to be present, and to collect samples from a depth of six to 12 inches beneath the surface of the pile. The minimum number of samples for excavated soil is listed in Table 3 of Ecology's 1995 guidance document. The number of samples collected for performance monitoring of soil destined for off-Property disposal will be the number shown in Table 3 (Ecology 1995) or the number required by the TSDF for waste profiling, whichever is greater. The required analytical tests for these samples will be the TSDF waste profiling requirements.

6.2.2 Confirming That Cleanup Levels Have Been Achieved

The excavation will be conducted based on the findings of the RI and previous investigations. Soil will be excavated to a total depth of 10 to 15 feet bgs (*RI/FS and PCA* Figures 12, 13, and 21a–21h). A 50-foot systematic sampling grid will be superimposed over the exposed excavation area being tested (sidewalls and floor). A grid size of 50 feet will result in a statistically valid number of at least 43 soil samples based on the size of Area A (*RI/FS and PCA* Figure 22). Confirmation soil samples will be collected from each grid node following excavation and submitted for analysis of arsenic and PAHs.

To confirm that cleanup levels have been achieved, the mean concentrations of specific cPAHs and arsenic will be compared to their respective cleanup levels in accordance with the statistical guidance provided by Ecology (Ecology 1992). As detailed in the guidance, confirming whether the Site is clean is based on a comparison of the 95th percent upper confidence limit on the mean (UCL_{95}) with the defined cleanup level. Each sample will be analyzed for the constituents of concern at a detection limit low enough to detect compliance with the cleanup level. The resulting data will then be tested for conformance with distributional assumptions (normal versus lognormal) and the UCL_{95} calculated based on the methods described in Ecology's 1992 guidance document.

If the UCL_{95} for a specific constituent does not exceed the cleanup level, then the Site is considered clean; otherwise, it is still considered contaminated. The Site is considered clean when the UCL_{95} for each COC is less than its respective cleanup level. This statistical approach allows for post-sampling excavation to remove individual sample hot spots that cause exceedance of the cleanup levels and retesting to assess if the recalculated UCL_{95} exceeds the cleanup level. In the event that utilities or other improvements are installed outside of the perimeter shoring system, soil samples will be collected from the floor and sidewalls of the excavations and submitted for analyses of arsenic and PAHs. Soil exhibiting elevated concentrations of COCs will be overexcavated and resampled.

6.3 Confirmation Monitoring

It is anticipated that on-Property groundwater quality will be substantially restored by virtue of installing the shoring barrier wall, dewatering the excavation, and removing the contaminated soil as implemented under the remedial action. Water accumulated during the construction process and captured in the permanent building dewatering system will require discharge as described below.

6.4 Groundwater Monitoring Requirements

6.4.1 Permanent Dewatering System Monitoring

The proposed alternative consists of installing a watertight shoring wall that extends approximately 30 to 40 feet below the street surface grade and approximately 20 feet below the soil/groundwater interface. These controls make it unlikely that the regional arsenic groundwater plume would infiltrate into the permanent subgrade water control system that is proposed to be installed beneath the building (Sheet C1-04; Clark Design Group, PLLC 2009; *RI/FS and PCA* Appendix H). Water collected in the subgrade water control system will be discharged to the storm system. The discharge from the building subgrade water control system will be monitored to confirm that arsenic- and PAH-contaminated groundwater is not migrating into the building area and that discharge water complies with surface water discharge standards, as described above.

Upon initial operation of the permanent building dewatering system discharge sampling will be conducted weekly for three weeks to monitor arsenic concentrations. Concentrations of arsenic detected in the discharge water over the three week sampling program will determine the following action items:

1. If arsenic concentrations in the discharge water in all three weekly sampling events contain concentrations between 0 and 5 µg/L, then weekly sampling will be discontinued and quarterly monitoring as described below in Section 8.4.2 will be implemented.
2. If arsenic concentrations in the discharge water in any one of the three weekly sampling events contain concentrations greater than 5 µg/L, then weekly sampling will be extended for an additional three weeks.
3. If arsenic concentrations in the discharge water in the six weekly sampling events contain an average concentration of less than 5 µg/L, then weekly sampling will be discontinued and quarterly monitoring, as described below in Section 6.4.2, will be implemented.

If arsenic concentrations in the discharge water in the six weekly sampling events contain an average concentration greater than 5 µg/L, then a treatment system, as described above in Section 5.6.1.1, will be added to the permanent dewatering system. Alternatively, the permanent dewatering system can be modified to discharge water to the sanitary sewer system. All required federal, state, and municipal permits and authorizations would be acquired prior to discharge. Discharge water would continue to be monitored per the requirements of the applicable permit. The weekly sampling program will be repeated upon installation of the treatment system.

6.4.2 Long Term Groundwater Monitoring

Per Chapter 173-340-410 WAC, compliance monitoring is required for any site that utilizes containment as a part of the cleanup action plan. Consequently, a groundwater monitoring program will be in place to evaluate whether the cleanup action proposed herein is sufficient for the protection of human health and the environment. Water discharged from the subgrade water control system will be sampled for total arsenic quarterly during the first year, semiannually during the second and third years, and annually during the fourth and fifth years. If arsenic is not detected above the applicable cleanup level in the groundwater after five years, then monitoring may be discontinued. If arsenic concentrations above 5 µg/L are detected in any of the scheduled monitoring events beyond the initial three to six week monitoring program, the weekly program described above will be reinstated to evaluate the need for treatment.

Sampling for arsenic in the subgrade water control system will be initiated upon startup of the permanent dewatering system after construction of the building foundation. The results of the monitoring events will be submitted to Ecology.

7 BIBLIOGRAPHY

Sound Environmental Strategies Corporation (SES). 2009. *Final Remedial Investigation Report, Feasibility Study, and Proposed Cleanup Action, Former Wesmar Property, 1401 & 1451 Northwest 46th Street, Seattle, Washington.* Prepared for Bridge Group II, LLC, and Block at Ballard II. December 28.

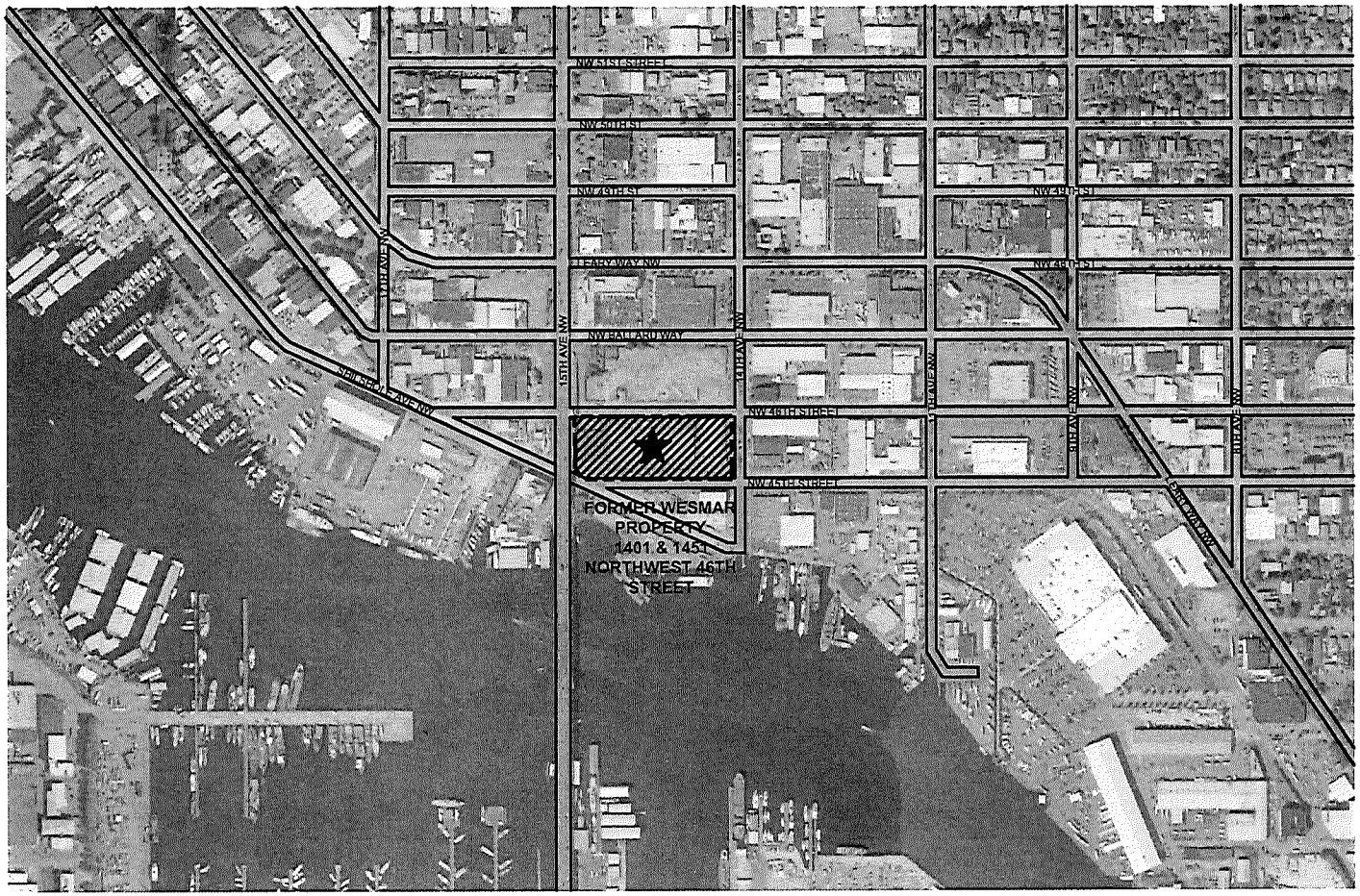
_____. 2008b. *Revised Hydrogeologic Report. Ballard Blocks 2. 1451 Northwest 46th Street, Seattle, Washington.* Prepared for Clark Design Group, PLLC. June 30.

Washington State Department of Transportation. 2006. *Standard Specifications for Road, Bridge, and Municipal Construction.* M41-10.

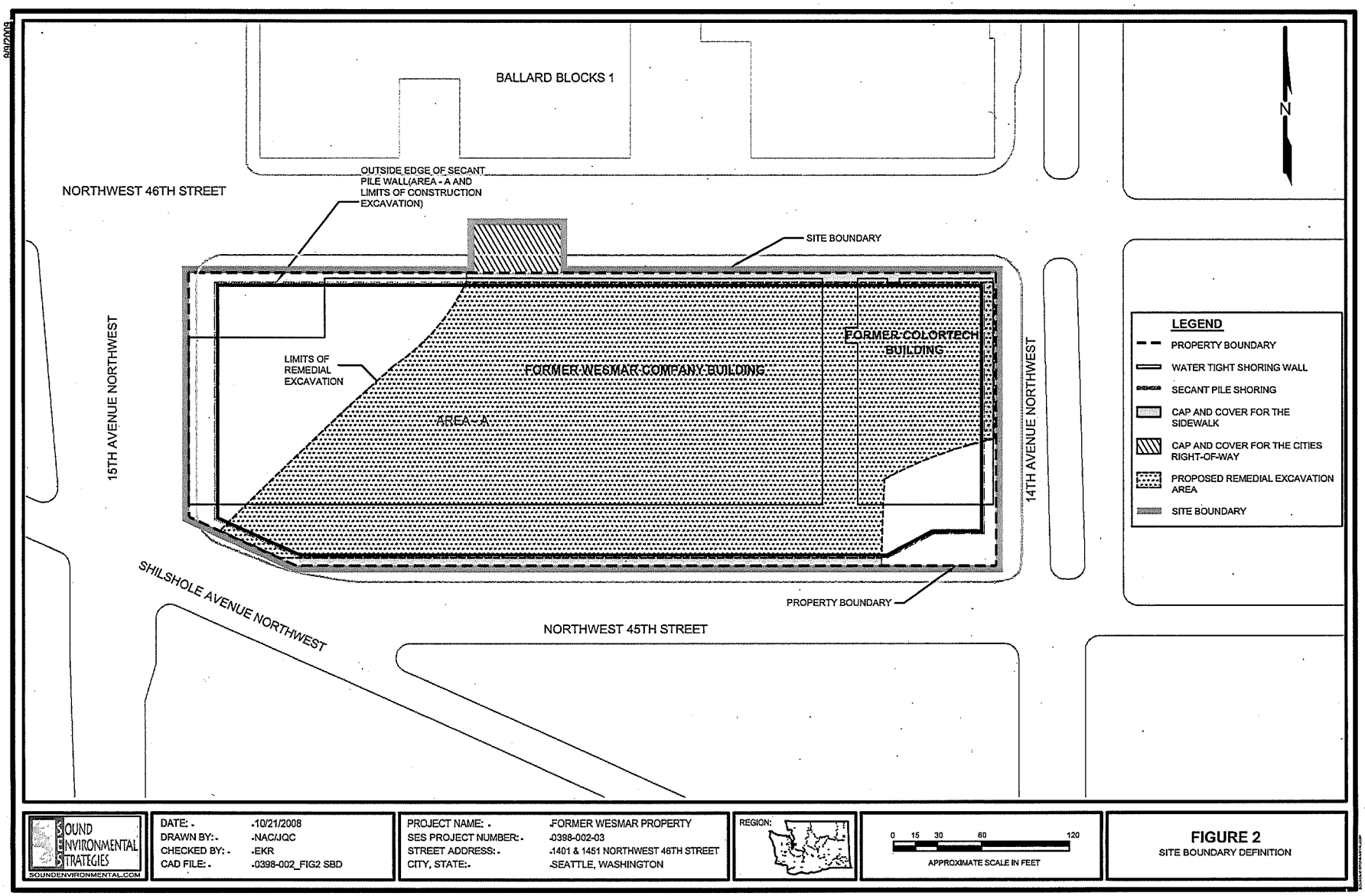
Washington State Department of Ecology (Ecology). 1995. *Guidance for Remediation of Petroleum Contaminated Soils.* Toxics Cleanup Program. Publication No. 91-30. Revised November 1995.

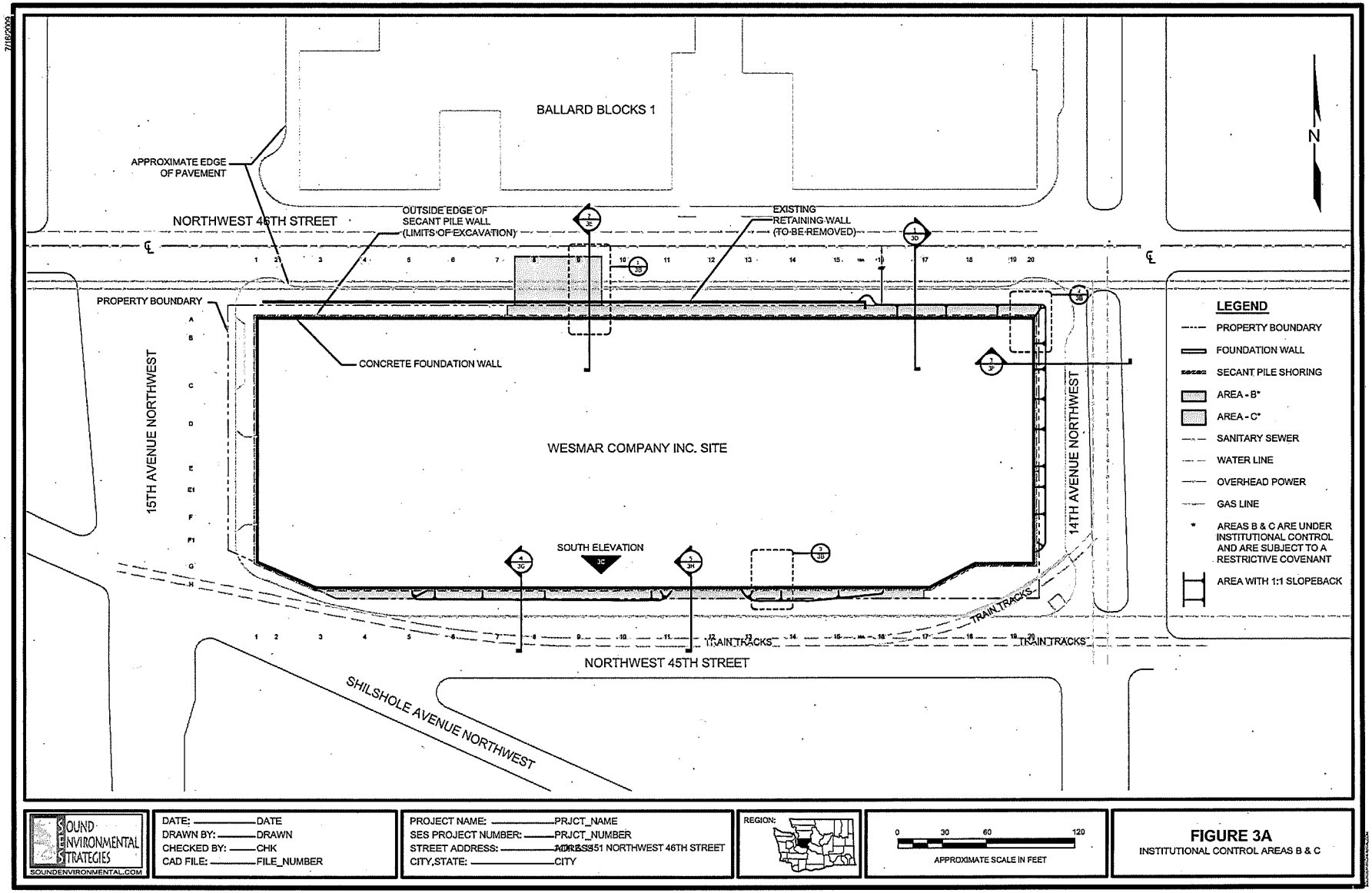
_____. 1992. *Statistical Guide for Ecology Site Managers.* Toxics Cleanup Program. Publication No. 92-54. August 1992.

9/11/2008



SOUND ENVIRONMENTAL STRATEGIES SOUNDENVIRONMENTAL.COM	DATE: 07/08/2008 DRAWN BY: NAC CHECKED BY: EKR CAD FILE: 0398-002_FIG 1 VIC	PROJECT NAME: FORMER WESMAR PROPERTY SES PROJECT NUMBER: 0398-002-03 STREET ADDRESS: 1401 & 1451 NORTHWEST 46TH STREET CITY, STATE: SEATTLE, WASHINGTON	REGION:	0 90 180 360 720 APPROXIMATE SCALE IN FEET 1" = 360'	**FIGURE 1** VICINITY MAP


9/9/2009
BALLARD BLOCKS 1
N
NORTHWEST 46TH STREET
OUTSIDE EDGE OF SECANT PILE WALL(AREA - A AND LIMITS OF CONSTRUCTION EXCAVATION)
SITE BOUNDARY
15TH AVENUE NORTHWEST
LIMITS OF REMEDIAL EXCAVATION
FORMER WESMAR COMPANY BUILDING
FORMER COLORTECH BUILDING
AREA-A
14TH AVENUE NORTHWEST
SHILSHOLE AVENUE NORTHWEST
PROPERTY BOUNDARY
NORTHWEST 45TH STREET
LEGEND
PROPERTY BOUNDARY
WATER TIGHT SHORING WALL
SECANT PILE SHORING
CAP AND COVER FOR THE SIDEWALK
CAP AND COVER FOR THE CITIES RIGHT-OF-WAY
PROPOSED REMEDIAL EXCAVATION AREA
SITE BOUNDARY
SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM
DATE: 10/21/2008
DRAWN BY: NAC/JQC
CHECKED BY: EKR
CAD FILE: 0398-002_FIG2 SBD
PROJECT NAME: FORMER WESMAR PROPERTY
SES PROJECT NUMBER: 0398-002-03
STREET ADDRESS: 1401 & 1451 NORTHWEST 46TH STREET
CITY, STATE: SEATTLE, WASHINGTON
REGION:
0 15 30 60 120
APPROXIMATE SCALE IN FEET
FIGURE 2
SITE BOUNDARY DEFINITION



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

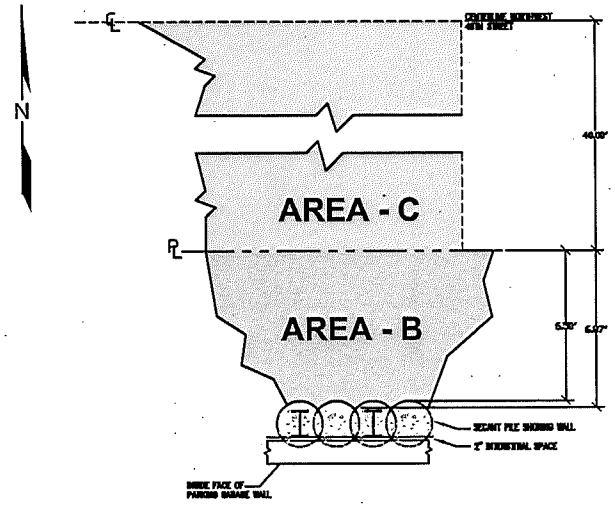
DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADDRESS 351 NORTHWEST 46TH STREET
CITY,STATE: CITY

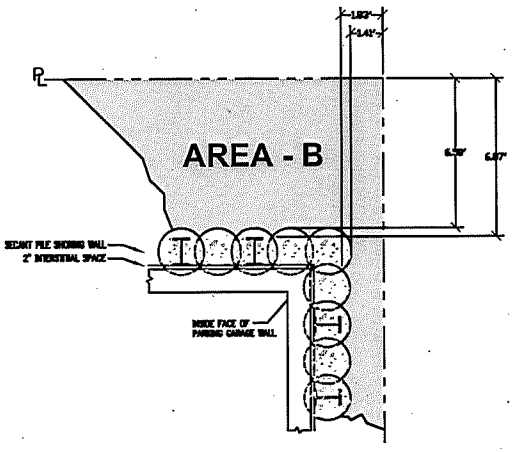
REGION:

0 30 60 120
APPROXIMATE SCALE IN FEET

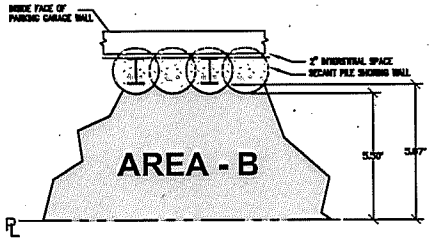
FIGURE 3A
INSTITUTIONAL CONTROL AREAS B & C



1 AREA - B/C DETAIL: NORTHERN PROPERTY BOUNDARY



2 AREA - B DETAIL: NORTHEAST PROPERTY BOUNDARY



3 AREA - B DETAIL: SOUTHERN PROPERTY BOUNDARY

SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

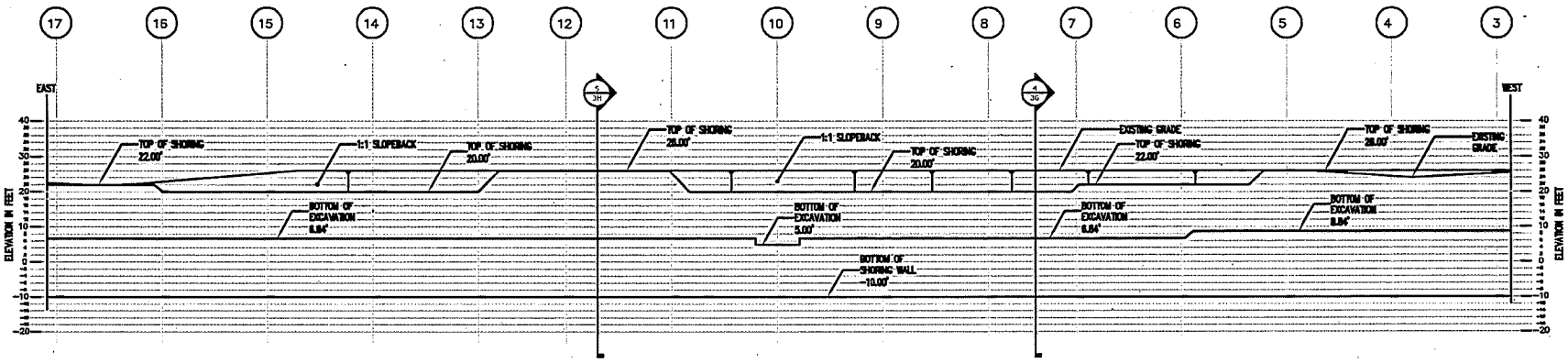
DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADRESS851 NORTHWEST 46TH STREET
CITY,STATE: CITY

REGION:

0 5 10
APPROXIMATE SCALE IN FEET

FIGURE 3B
PLAN VIEW DETAILS OF SHORING WALL, PROPERTY BOUNDARY, AND REMAINING CONTAMINATION CONDITIONS



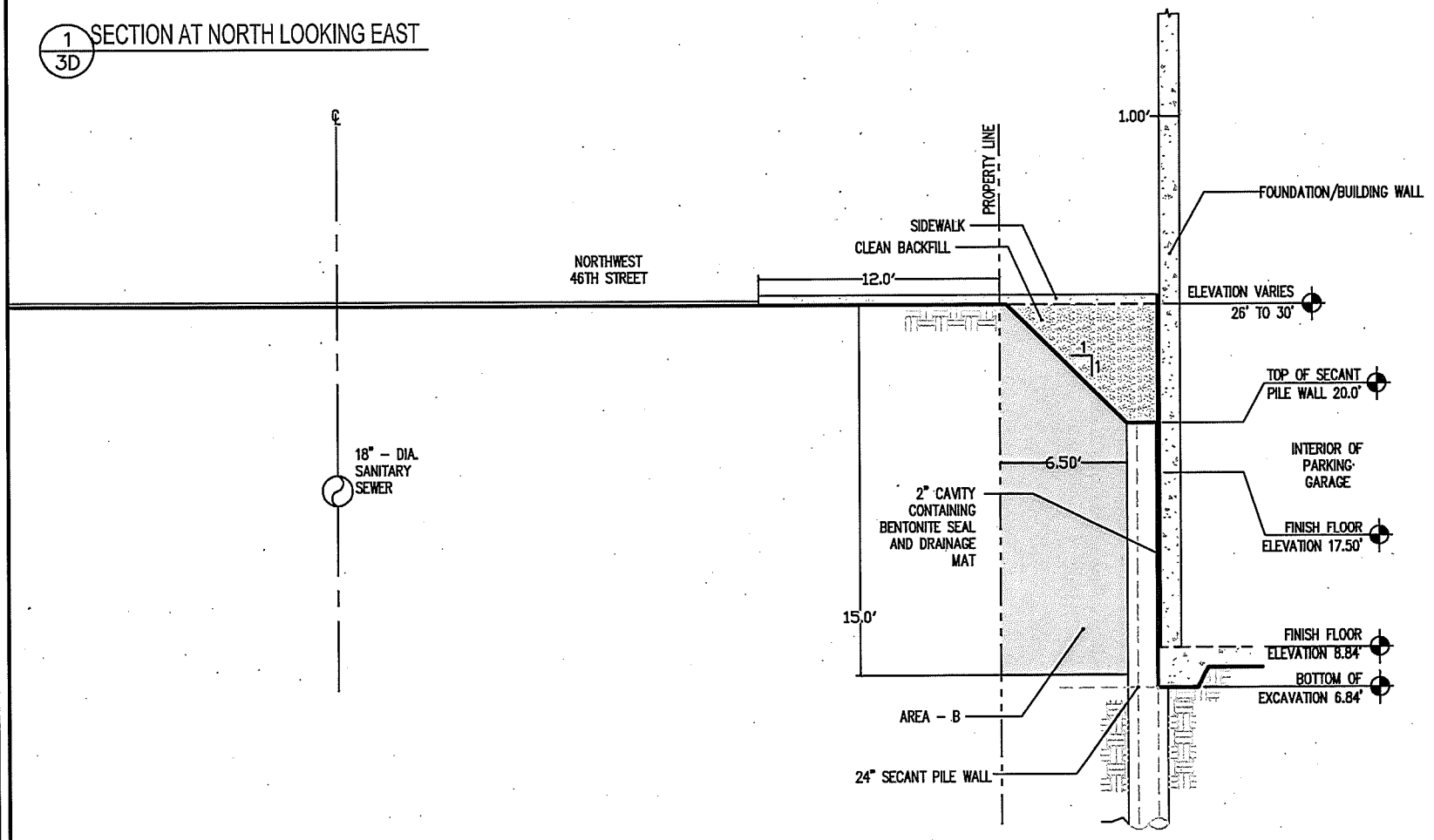
SOUTH SHORING WALL

PARTIAL ELEVATION

SOUND ENVIRONMENTAL STRATEGIES SOUNDENVIRONMENTAL.COM	DATE: DATE DRAWN BY: DRAWN CHECKED BY: CHK CAD FILE: FILE_NUMBER	PROJECT NAME: PRJCT_NAME SES PROJECT NUMBER: PRJCT_NUMBER STREET ADDRESS: ADDRESS 1 NORTHWEST 46TH STREET CITY,STATE: CITY	REGION:	0 15 30 60 APPROXIMATE SCALE IN FEET VERTICAL AND HORIZONTAL	**FIGURE 3C** PARTIAL ELEVATION SOUTH SHORING WALL

7/16/2009

1/3D SECTION AT NORTH LOOKING EAST



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

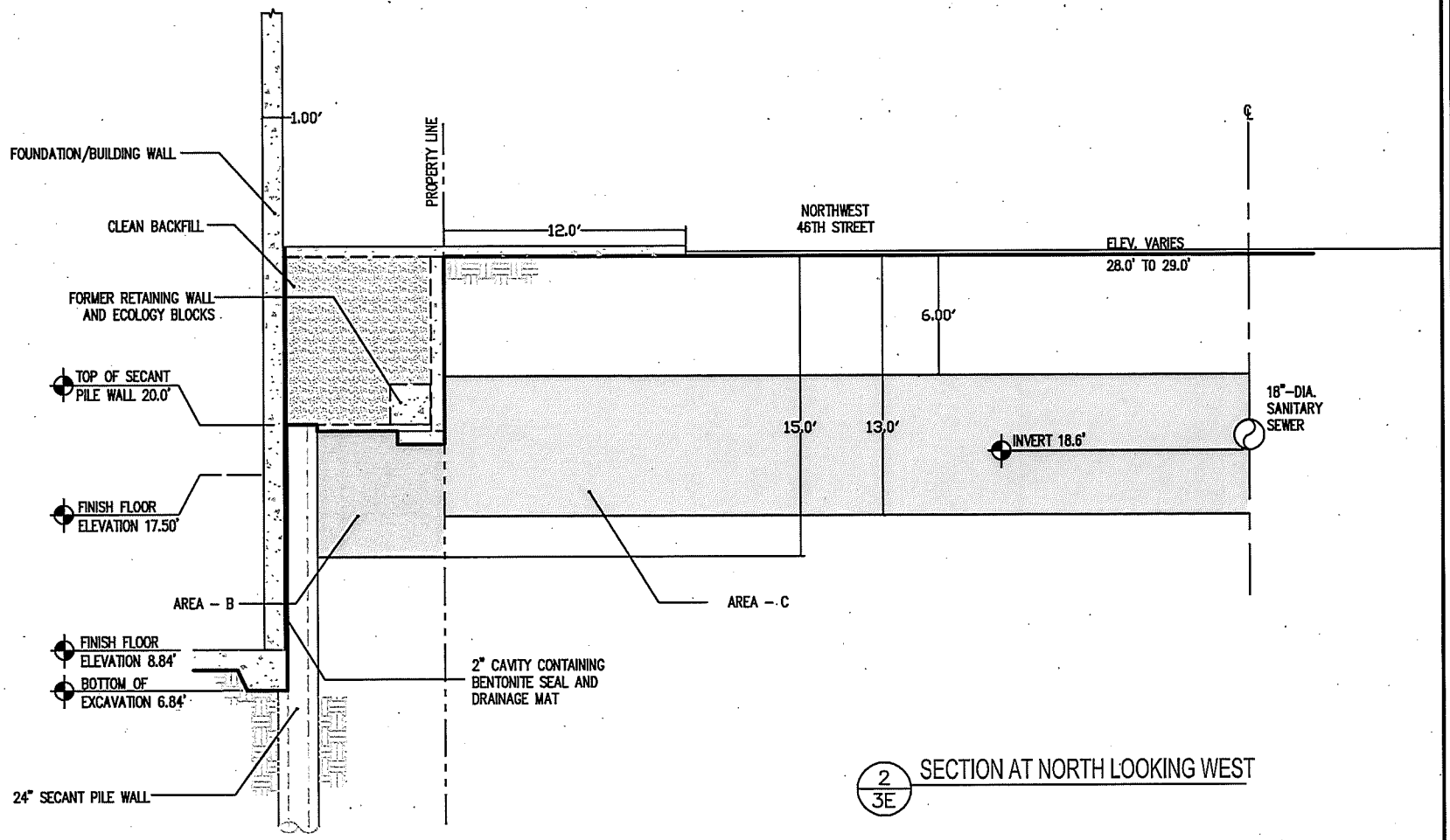
DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADRESS 1551 NORTHWEST 46TH STREET
CITY,STATE: CITY

REGION:

0 5 10
APPROXIMATE SCALE IN FEET

FIGURE 3D
CROSS-SECTIONAL DETAIL
NORTH SHORING WALL



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

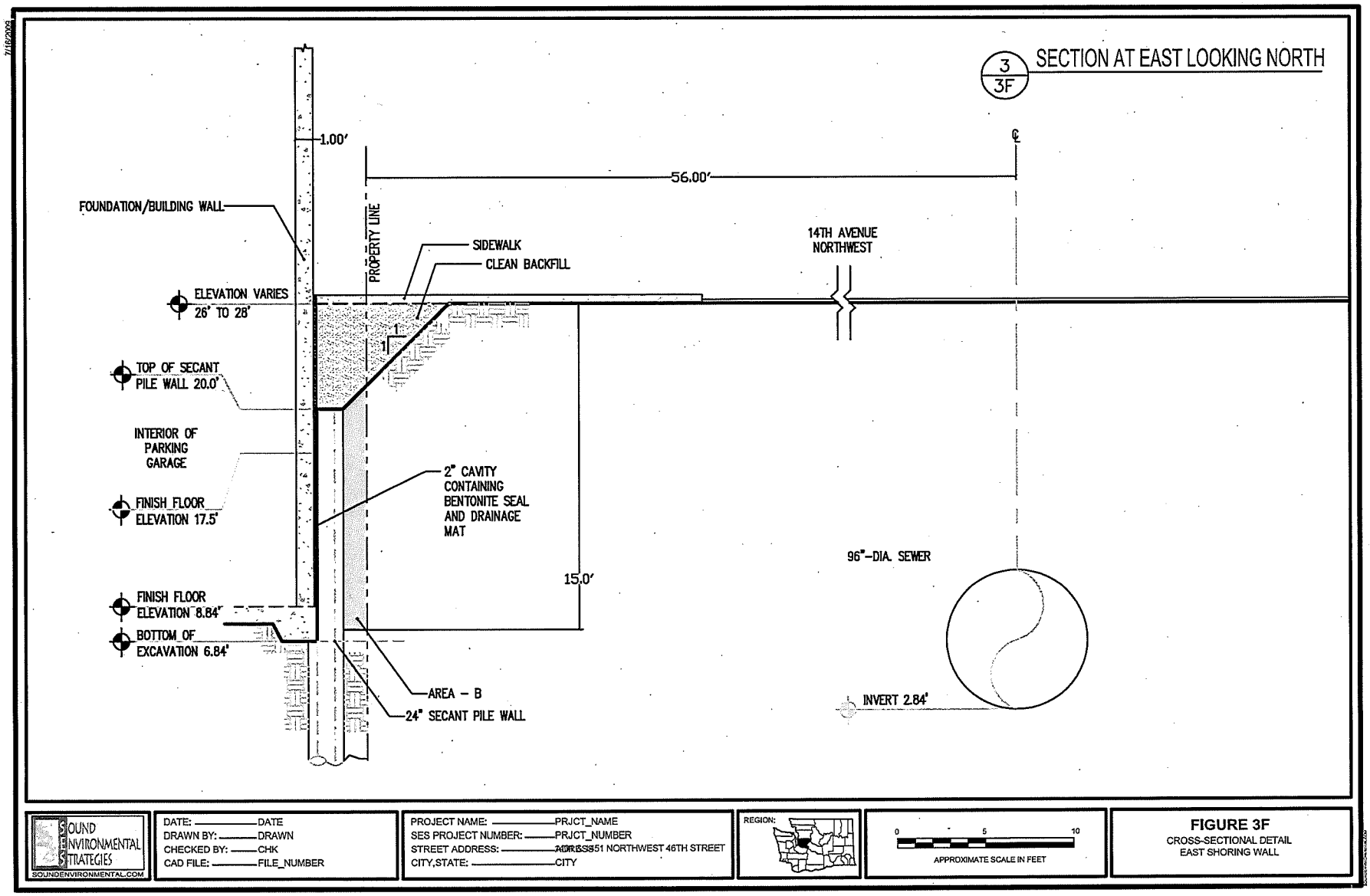
DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADDRESS
CITY,STATE: CITY

REGION:

0 5 10
APPROXIMATE SCALE IN FEET

FIGURE 3E
CROSS-SECTIONAL DETAIL
NORTH SHORING WALL



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADRESS 1351 NORTHWEST 46TH STREET
CITY,STATE: CITY

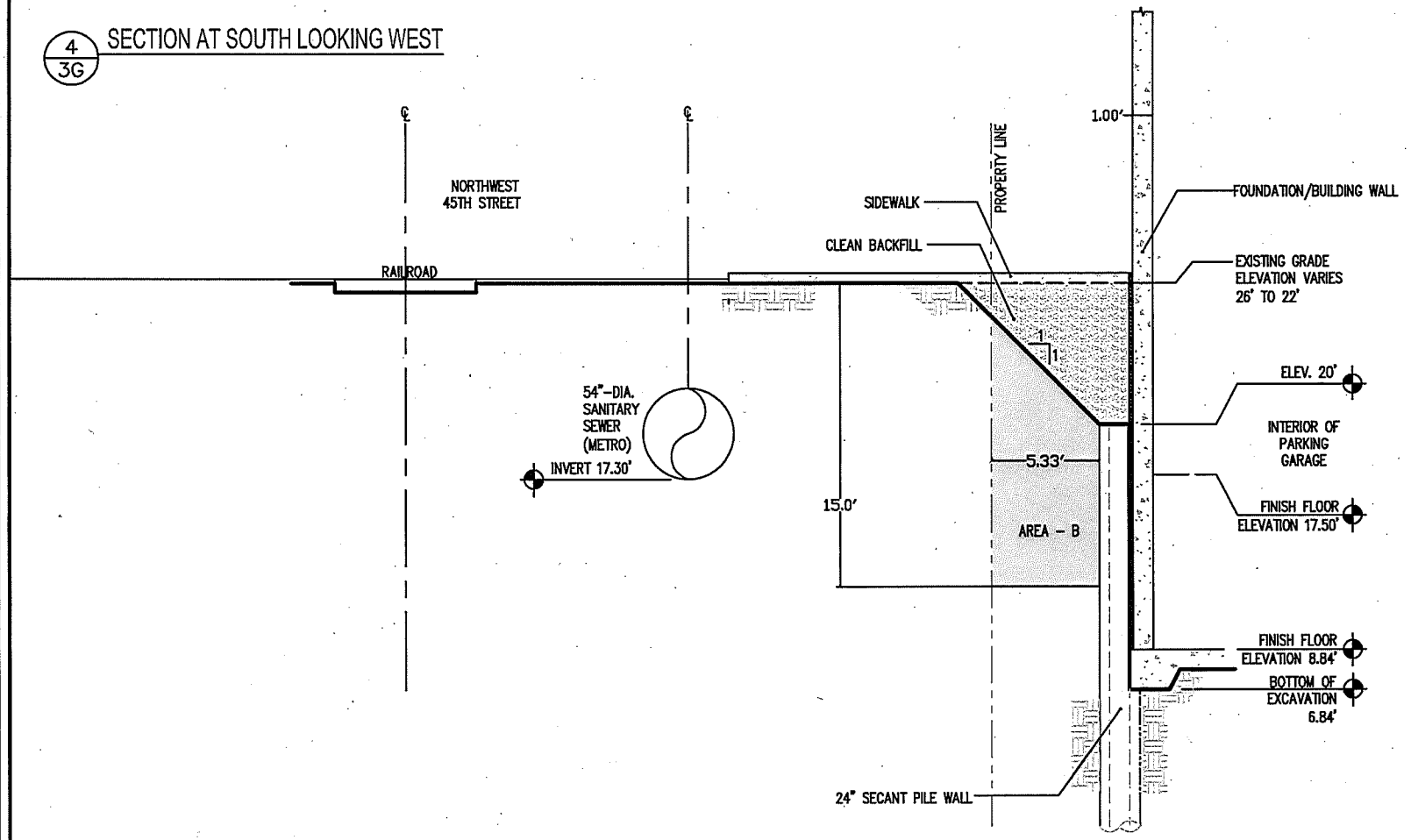
REGION:

0 5 10
APPROXIMATE SCALE IN FEET

FIGURE 3F
CROSS-SECTIONAL DETAIL
EAST SHORING WALL

7/16/2009

4 / 3G SECTION AT SOUTH LOOKING WEST

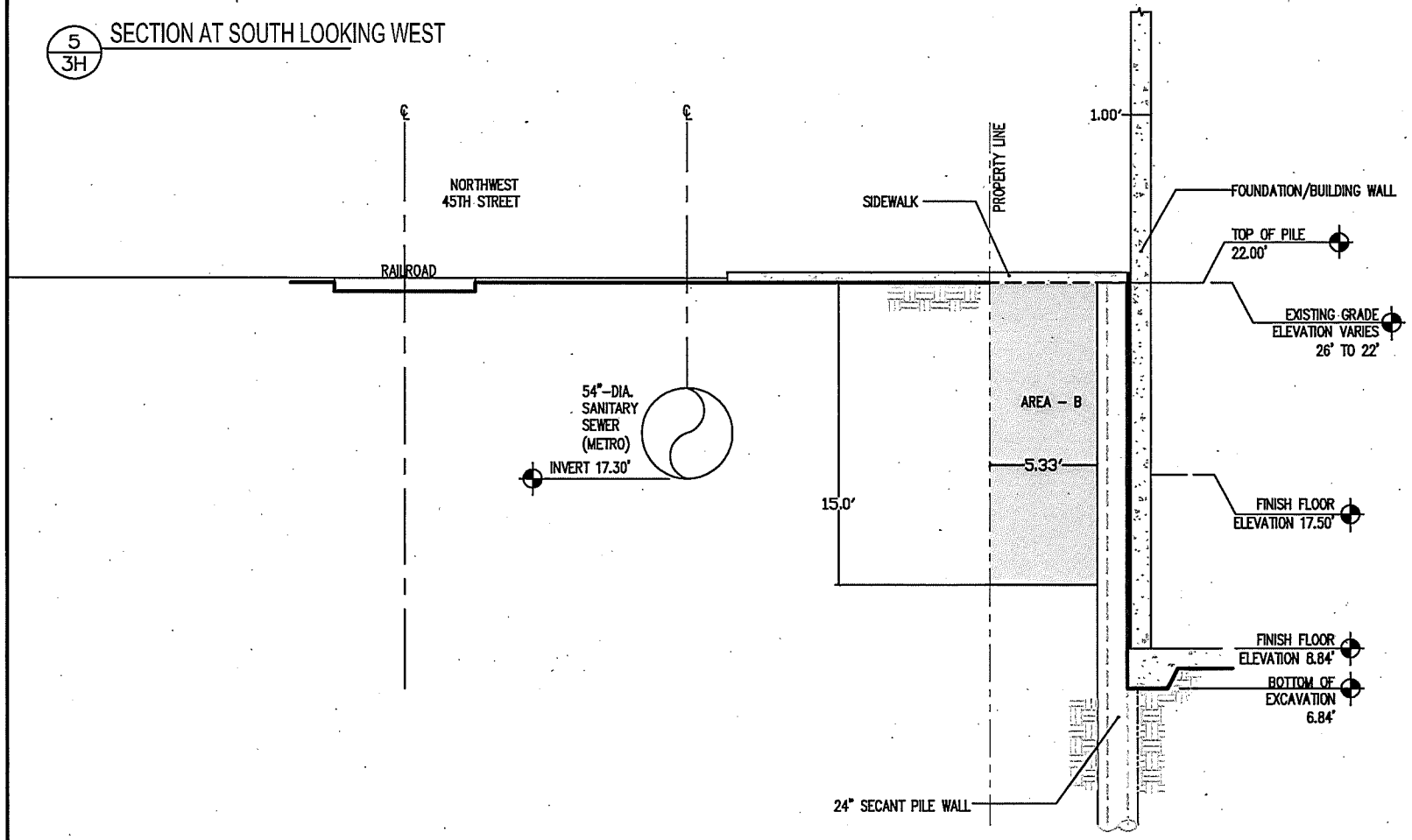


SOUND ENVIRONMENTAL STRATEGIES SOUNDENVIRONMENTAL.COM	DATE: ——— DATE DRAWN BY: ——— DRAWN CHECKED BY: ——— CHK CAD FILE: ——— FILE_NUMBER	PROJECT NAME: ——— PRJCT_NAME SES PROJECT NUMBER: ——— PRJCT_NUMBER STREET ADDRESS: ——— ADRESS 1551 NORTHWEST 46TH STREET CITY,STATE: ——— CITY	REGION:	0 5 10 APPROXIMATE SCALE IN FEET	**FIGURE 3G** CROSS-SECTIONAL DETAIL SOUTH SHORING WALL

7/15/2009

5
3H

SECTION AT SOUTH LOOKING WEST



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

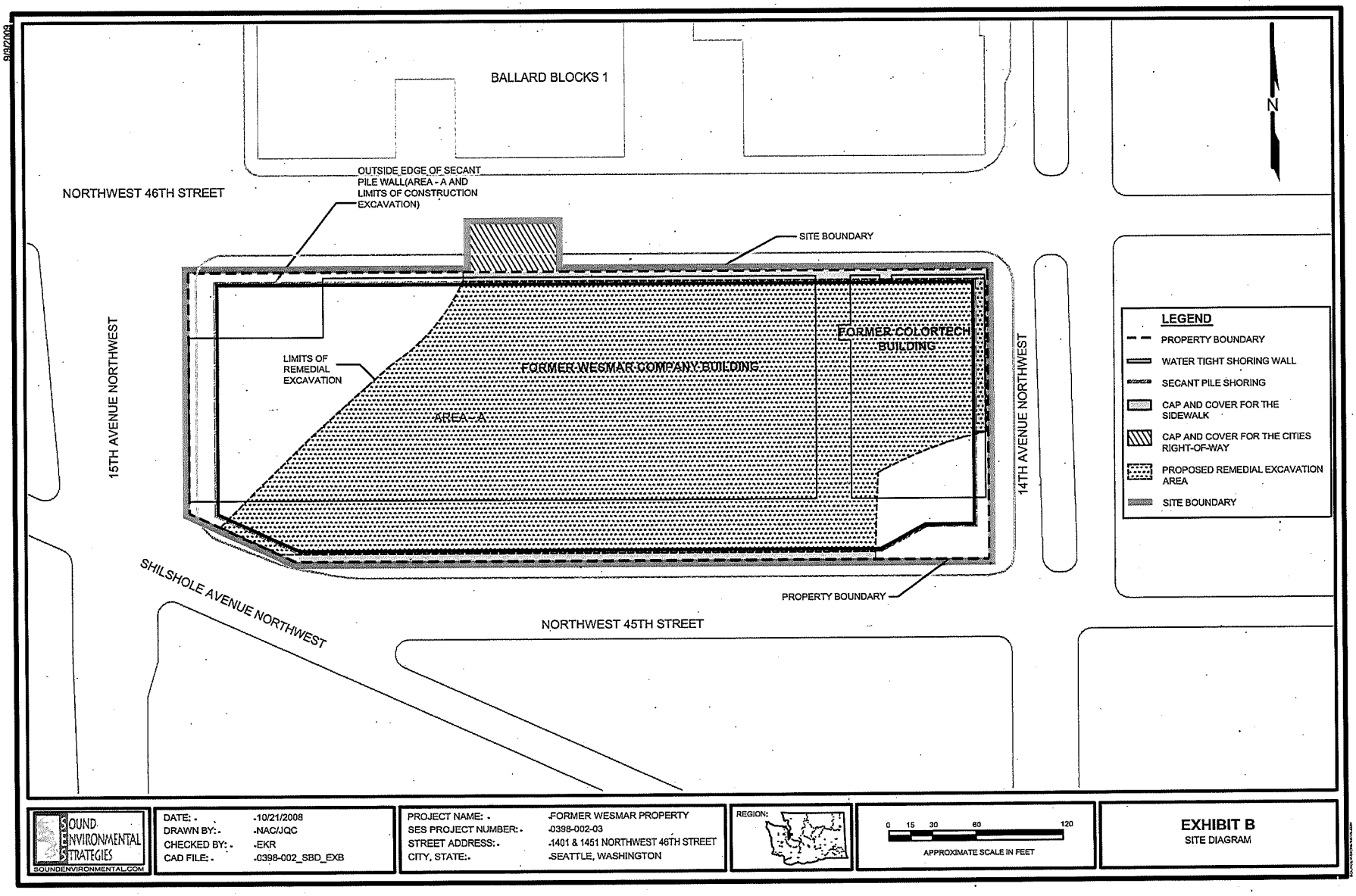
DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADDRESS 351 NORTHWEST 46TH STREET
CITY,STATE: CITY

REGION:

0 5 10
APPROXIMATE SCALE IN FEET

FIGURE 3H
CROSS-SECTIONAL DETAIL
SOUTH SHORING WALL



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

DATE:	10/21/2008
DRAWN BY:	NAC/JQC
CHECKED BY:	EKR
CAD FILE:	0398-002_SBD_EXB

PROJECT NAME:	FORMER WESMAR PROPERTY
SES PROJECT NUMBER:	0398-002-03
STREET ADDRESS:	1401 & 1451 NORTHWEST 46TH STREET
CITY, STATE:	SEATTLE, WASHINGTON

REGION:

0 15 30 60 120
APPROXIMATE SCALE IN FEET

EXHIBIT B
SITE DIAGRAM

Exhibit B

Site Diagram

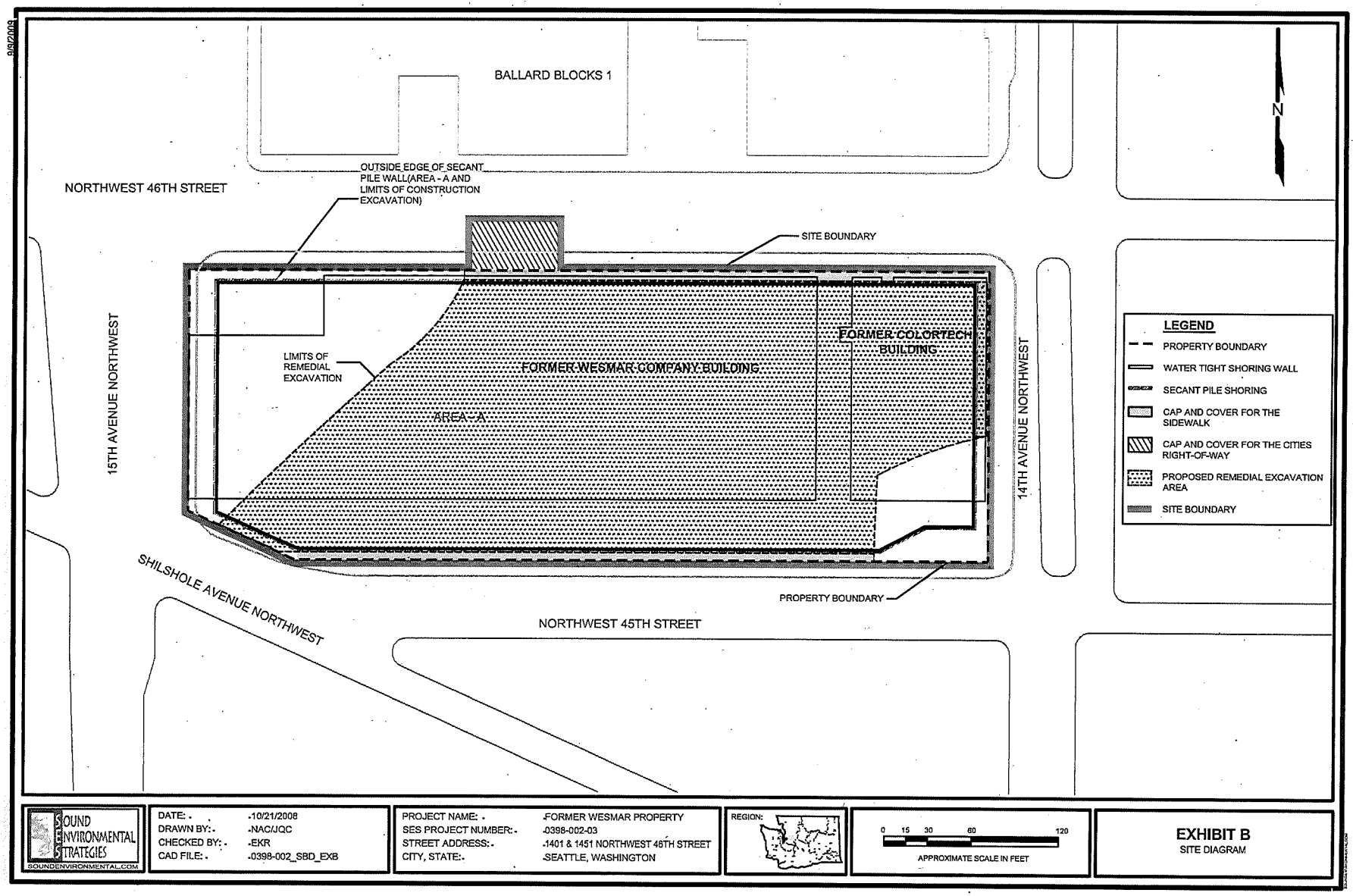

BALLARD BLOCKS 1
N
NORTHWEST 46TH STREET
OUTSIDE EDGE OF SECANT PILE WALL(AREA - A AND LIMITS OF CONSTRUCTION EXCAVATION)
SITE BOUNDARY
15TH AVENUE NORTHWEST
LIMITS OF REMEDIAL EXCAVATION
FORMER WESMAR COMPANY BUILDING
FORMER COLORTECH BUILDING
AREA -A
14TH AVENUE NORTHWEST
PROPERTY BOUNDARY
SHILSHOLE AVENUE NORTHWEST
NORTHWEST 45TH STREET
LEGEND
PROPERTY BOUNDARY
WATER TIGHT SHORING WALL
SECANT PILE SHORING
CAP AND COVER FOR THE SIDEWALK
CAP AND COVER FOR THE CITIES RIGHT-OF-WAY
PROPOSED REMEDIAL EXCAVATION AREA
SITE BOUNDARY
SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM
DATE: 10/21/2008
DRAWN BY: NAC/JQC
CHECKED BY: EKR
CAD FILE: 0398-002_SBD_EXB
PROJECT NAME: FORMER WESMAR PROPERTY
SES PROJECT NUMBER: 0398-002-03
STREET ADDRESS: 1401 & 1451 NORTHWEST 46TH STREET
CITY, STATE: SEATTLE, WASHINGTON
REGION:
0 15 30 60 120
APPROXIMATE SCALE IN FEET
EXHIBIT B
SITE DIAGRAM

EXHIBIT C: SCHEDULE
WESMAR COMPANY, INC. SITE

Activity	Deadline
Submit Quarterly Progress Report documenting anticipated schedule for commencing Remediation Construction	By 10th day of January, April, July, and October, from effective date of Consent Decree until Remediation Construction begins
Commence Remediation Construction	September 2010* (or earlier)
Submit Monthly Progress Report	By 10th day of each month, from commencement of Remediation Construction until notified by Ecology
Complete excavation and disposal of contaminated soils in Area A	Not later than 1 year after remediation construction begins
Initiate operation of Permanent Subgrade Water Control System	Not later than 6 weeks after completion of the parking garage foundation and concrete slab construction
Groundwater Monitoring	Begin within 3 months after installation and operation of Subgrade Water Control System
Submit Draft Cleanup Action Completion Report	3 months after initial ground water monitoring samples taken from Subgrade Water Control System
Install improvements to existing cap for Area B	Not later than 2 years after remediation construction begins
Record Institutional Controls	At time of final Ecology approval of Cleanup Action Completion Report

* Changes to this schedule shall be governed by Section XV of the Consent Decree.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (360) 586-6760

Exhibit D

Environmental Covenant

Note to Parties: In the event of material changes to the planned property use requiring substantial changes to the cleanup, the terms of this Restrictive Covenant will be reviewed and potentially revised.

Exhibit D: Restrictive Covenant

After Recording Return to:

Department of Ecology
Northwest Regional Office
3190 160th Ave. SE
Bellevue, WA 98008-5452

Environmental Covenant

Grantor: Block at Ballard II LLC
Grantee: State of Washington, Department of Ecology
Legal:

PARCEL A
LOTS 1-6 AND 17-22, BLOCK 173, GILMAN PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE(S) 40, RECORDS OF KING COUNTY, WASHINGTON

PARCEL B
LOTS 7-16, BLOCK 173, GILMAN PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE(S) 40, RECORDS OF KING COUNTY, WASHINGTON

SUBJECT TO AN EASEMENT OVER THE SOUTHEASTERLY PORTION OF LOT 12 FOR A SPUR TRACT AS RECORDED UNDER KING COUNTY RECORDING NUMBER 3761195

Tax Parcel Nos.: To Be Determined

Grantor, Block At Ballard II LLC, hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this _ day of _____, 2009 in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of

enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

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

A remedial action (hereafter "Remedial Action") occurred under a Consent Decree with Ecology at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the following document[s]:

Remedial Investigation, Feasibility Study, and Proposed Cleanup Action, XXX(date). Sound Environmental Strategies Corporation.

Cleanup Action Plan, XXX(date). Washington State Department of Ecology.

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

This Covenant is required because the Remedial Action resulted in residual concentrations of polycyclic aromatic hydrocarbons (PAHs) and arsenic, which exceed the Model Toxics Control Act Method A Cleanup Level(s) for soil established under WAC 173-340-745.

The undersigned, Block at Ballard II LLC, is the fee owner of real property (hereafter "Property") in the County of King, State of Washington, that is subject to this Covenant. The Property is legally described as follows:

PARCEL A
LOTS 1-6 AND 17-22, BLOCK 173, GILMAN PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE(S) 40, RECORDS OF KING COUNTY, WASHINGTON

PARCEL B
LOTS 7-16, BLOCK 173, GILMAN PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE(S) 40, RECORDS OF KING COUNTY, WASHINGTON

SUBJECT TO AN EASEMENT OVER THE SOUTHEASTERLY PORTION OF LOT 12 FOR A SPUR TRACT AS RECORDED UNDER KING COUNTY RECORDING NUMBER 3761195

environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Examples of such other activities that are prohibited include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

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

Section 3. Unless authorized by the Cleanup Action Plan or this Restrictive Covenant, no activity is permitted on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, without prior written approval from Ecology.

Section 4. The Owner must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property other than the lease of individual units within the improvements to be constructed on the property. No conveyance of title, easement, lease, or other partial interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

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

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of Area B, or any use by Owner of Area C, that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment. The Owner will notify Ecology upon evidence that the City is using Area C in a manner inconsistent with the terms of this Covenant.

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

Section 1. Portions of the Property adjacent to the north, south, and east Property boundaries (located outside of the shoring system and construction excavation footprints) contain residual PAH and arsenic contaminated soil associated with the Property. These Property portions are designated Area B and are depicted on the attached Figures 1 through 8 (Exhibit A). Area B is completely capped by concrete sidewalks. A three-foot wide concrete foundation and shoring wall separates the parking garage from Area B. The sidewalks and the foundation and shoring wall system were installed as components of the redevelopment project (Figures 1, 2, 4,5,6,7, and 8). Any activity that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

A second area located in NW 46th Street adjacent to the north Property boundary contains PAH and arsenic contaminated soil. This area is designated Area C and is shown on the attached Figures 1, 2, and 5 (Exhibit A). With respect to Area C, the covenant will extend from 6 feet below ground surface (bgs) to below the maximum depth of soil contamination encountered 13 feet bgs (Figure 5). Area C is located within the City of Seattle (hereafter "City") right-of-way (ROW). Area C is completely capped by a concrete sidewalk and the asphalt paved street surface. If the City is conducting any repair work at the depth between 6 feet bgs and 13 feet bgs within Area C, the City is responsible for following health and safety and soil management protocols as defined in the Soil Management Plan (Plan must be approved by Ecology prior to recording of this Covenant). Any other activity that may result in the release or exposure to the

Section 6. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 7. The Owner reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

Block at Ballard II LLC

_____

[Name of Signatory]
[Title]

Dated: _____

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

_____

[Name of Person Acknowledging Receipt]
[Title]

Dated: _____

[INDIVIDUAL ACKNOWLEDGMENT]

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 20__, I certify that _____ personally appeared before me, and acknowledged that **he/she** is the individual described herein and who executed the within and foregoing instrument and signed the same at **his/her** free and voluntary act and deed for the uses and purposes therein mentioned.

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

[CORPORATE ACKNOWLEDGMENT]

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 20__, I certify that _____ personally appeared before me, acknowledged that **he/she** is the _____ 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
_____.
My appointment
expires_____.

[REPRESENTATIVE ACKNOWLEDGEMENT]

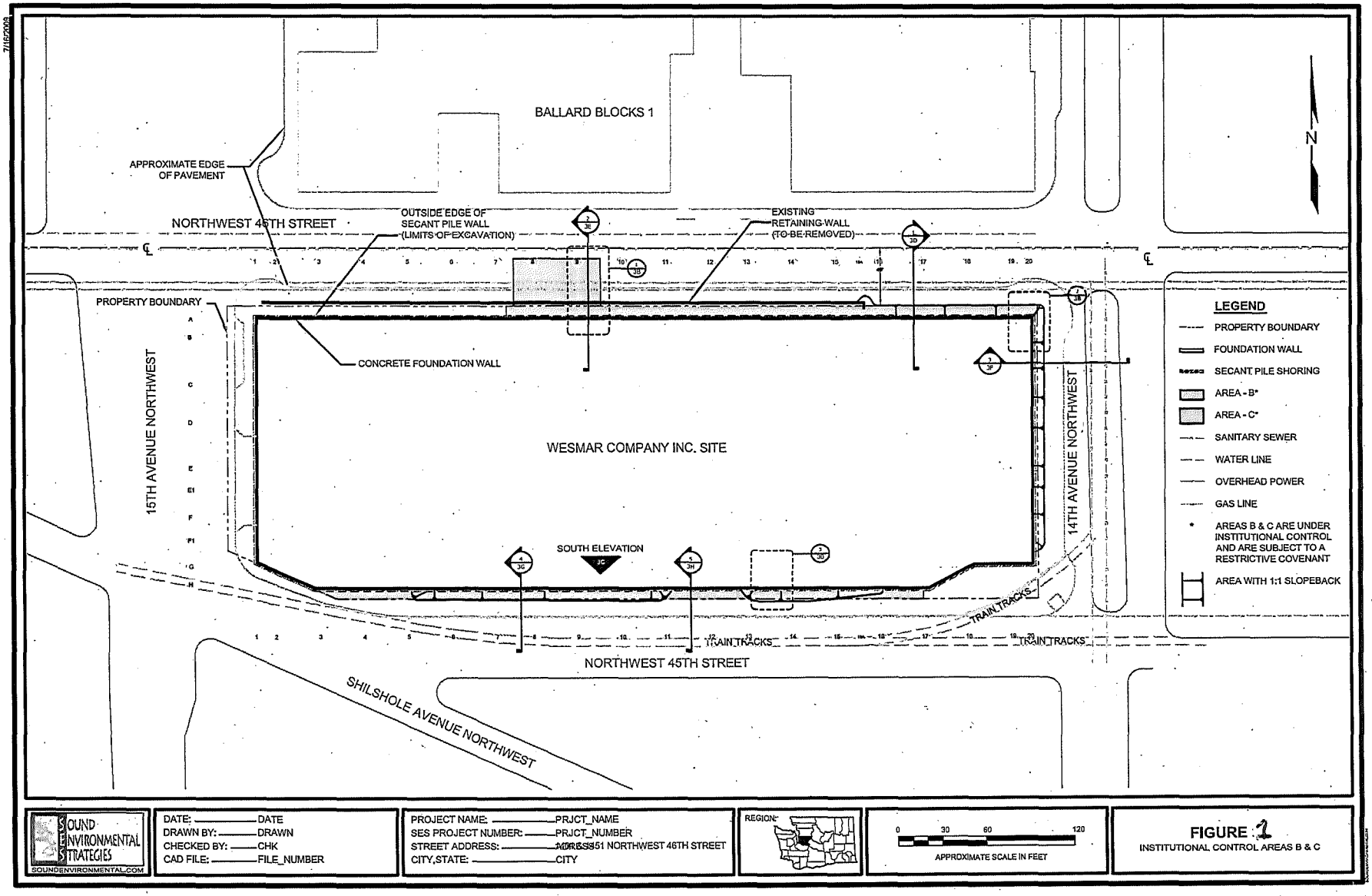
STATE OF _____
COUNTY OF _____

On this _____ day of _____, 20__, I certify that _____ _____ personally appeared before me, acknowledged that **he/she** signed this instrument, on oath stated that **he/she** was authorized to execute this instrument, and acknowledged it as the

_____ [type of authority] of _____ [name of party being represented] to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

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

Exhibit A
Figures 1-8



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

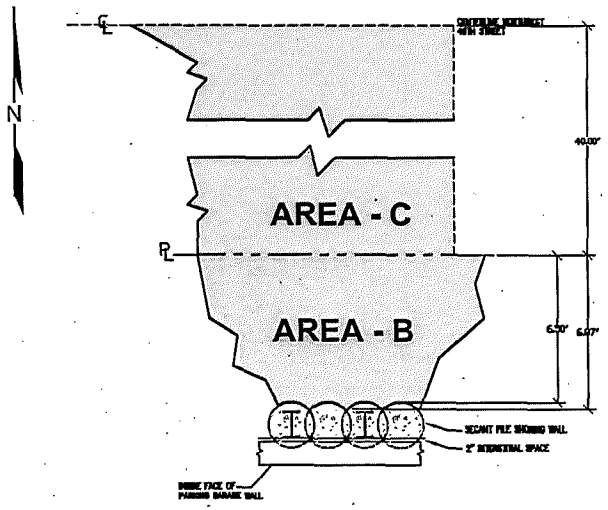
DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADDRESS 1351 NORTHWEST 46TH STREET
CITY,STATE: CITY

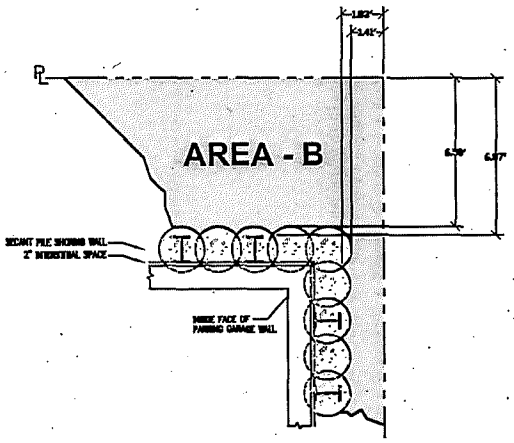
REGION:

0 30 60 120
APPROXIMATE SCALE IN FEET

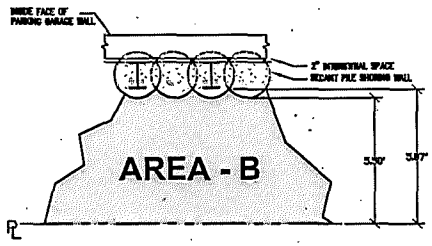
FIGURE 1
INSTITUTIONAL CONTROL AREAS B & C



1 AREA - B/C DETAIL: NORTHERN PROPERTY BOUNDARY



2 AREA - B DETAIL: NORTHEAST PROPERTY BOUNDARY



3 AREA - B DETAIL: SOUTHERN PROPERTY BOUNDARY

SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

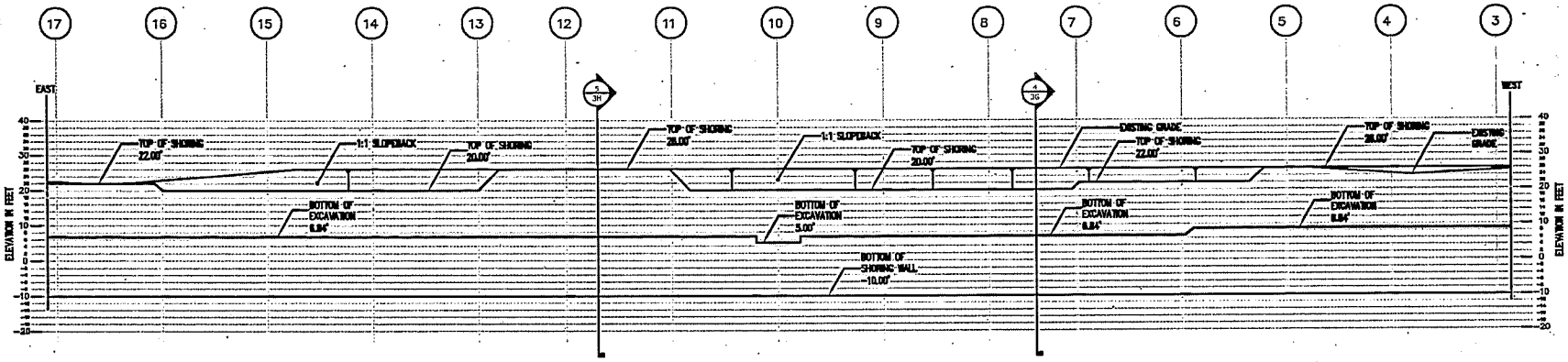
DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADRESS951 NORTHWEST 46TH STREET
CITY,STATE: CITY

REGION:

0 5 10
APPROXIMATE SCALE IN FEET

FIGURE 2
PLAN VIEW DETAILS OF SHORING WALL, PROPERTY BOUNDARY, AND REMAINING CONTAMINATION CONDITIONS



SOUTH SHORING WALL

PARTIAL ELEVATION

SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADDRESS 1551 NORTHWEST 46TH STREET
CITY,STATE: CITY

REGION:

0 15 30 60
APPROXIMATE SCALE IN FEET
VERTICAL AND HORIZONTAL

FIGURE 3
PARTIAL ELEVATION
SOUTH SHORING WALL

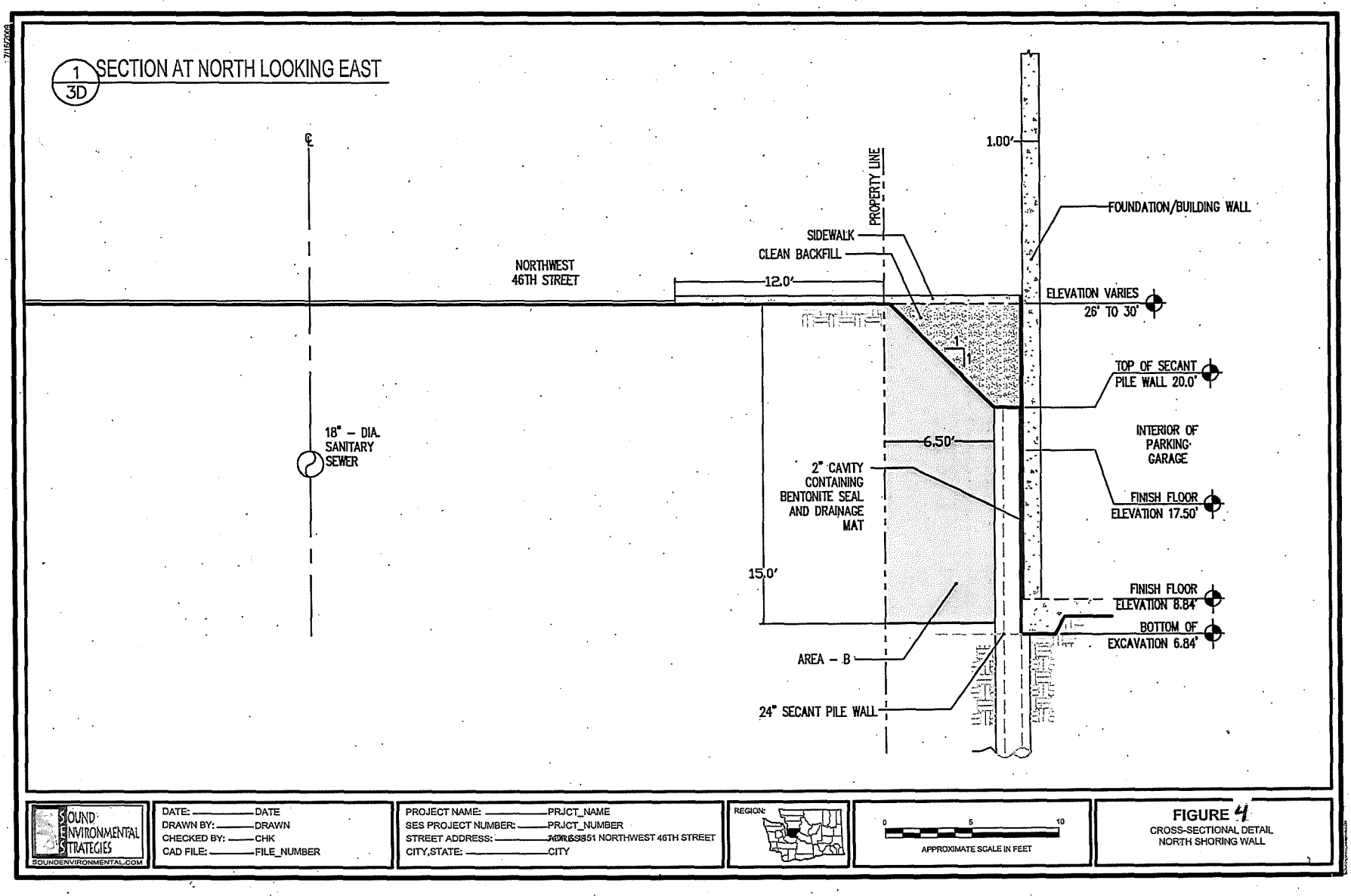
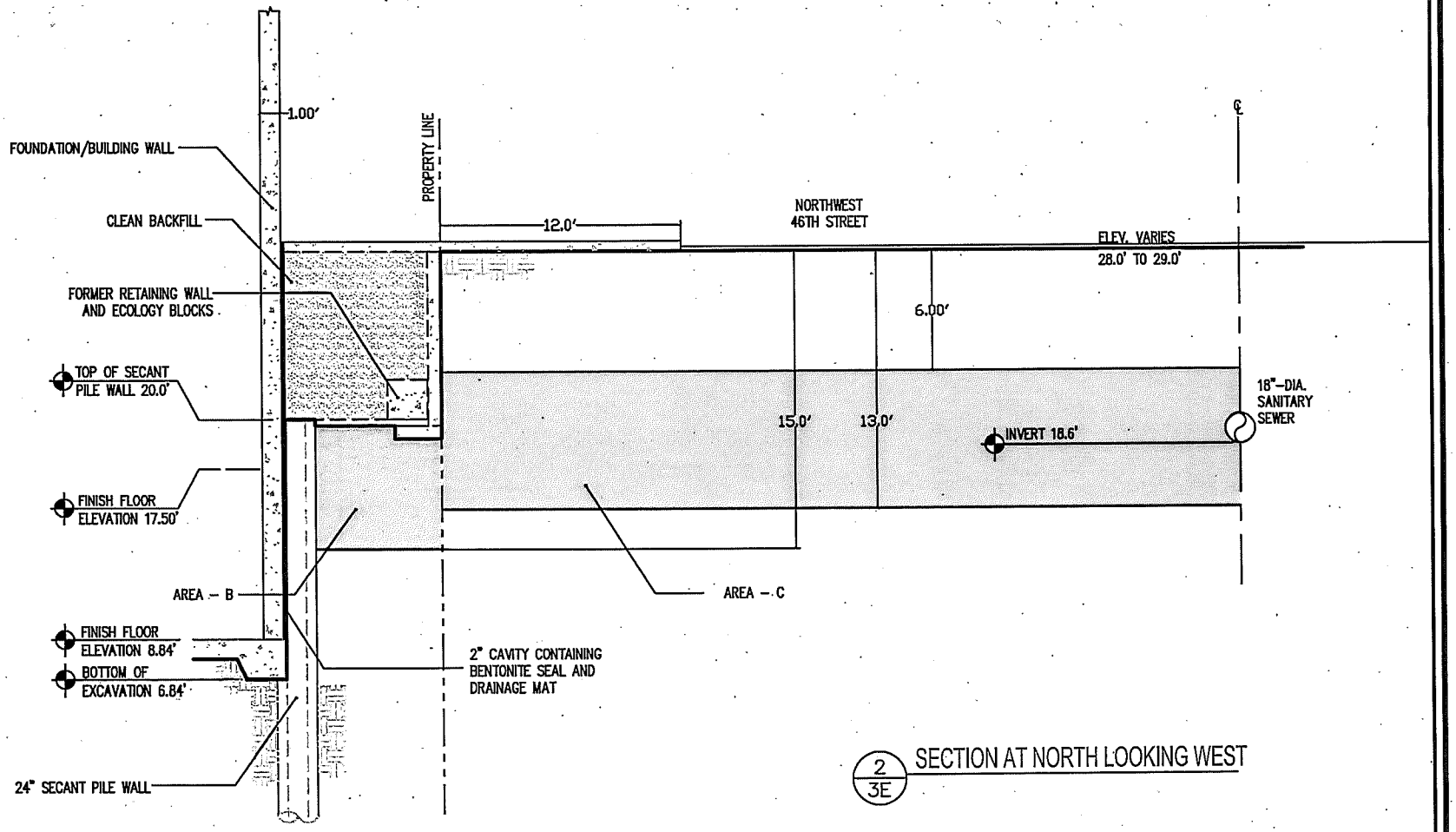


FIGURE 4
CROSS-SECTIONAL DETAIL
NORTH SHORING WALL



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

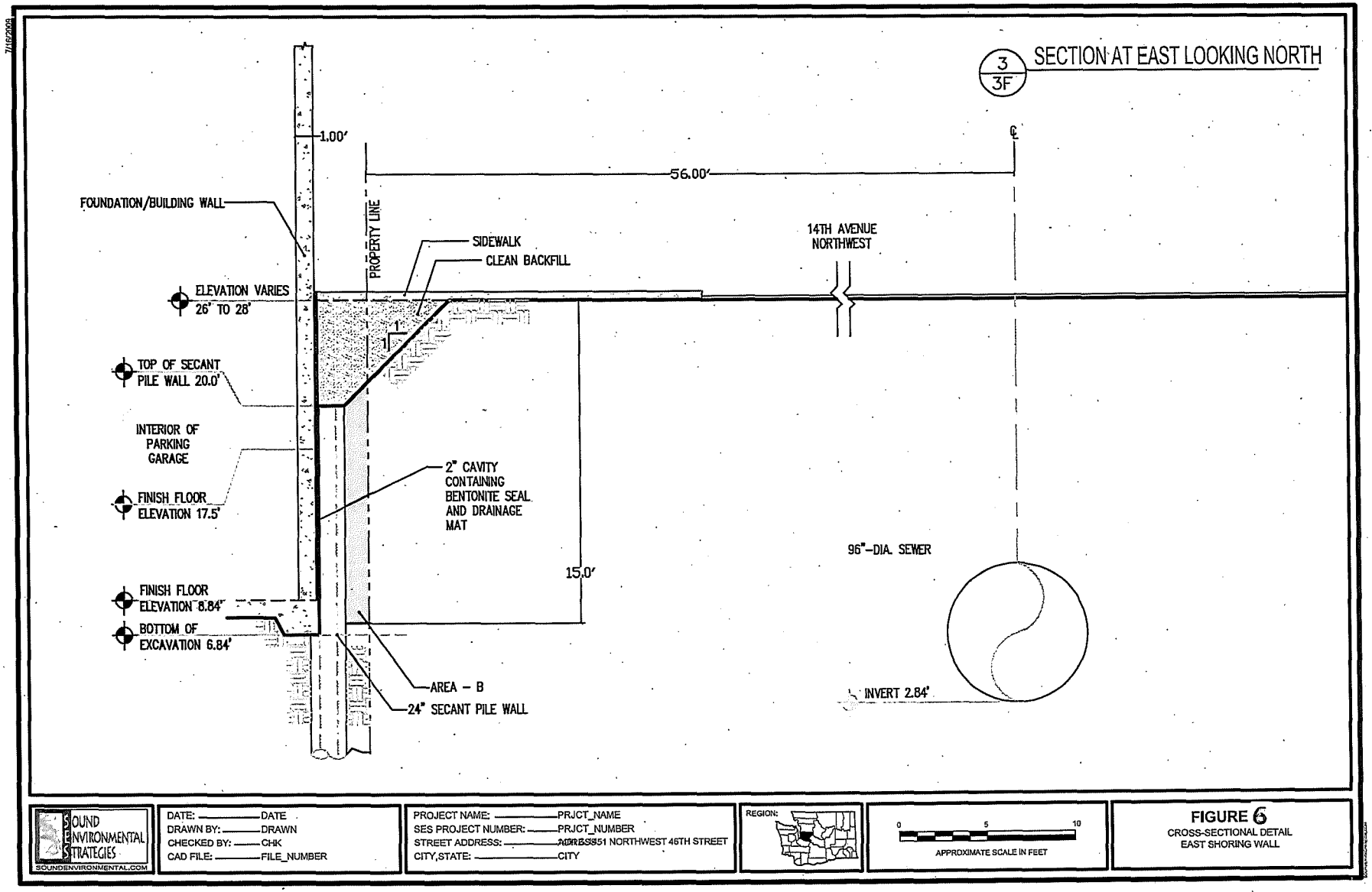
DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADDRESS 351 NORTHWEST 46TH STREET
CITY,STATE: CITY

REGION:

0 5 10
APPROXIMATE SCALE IN FEET

FIGURE 5
CROSS-SECTIONAL DETAIL
NORTH SHORING WALL



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADDRESS 851 NORTHWEST 45TH STREET
CITY,STATE: CITY

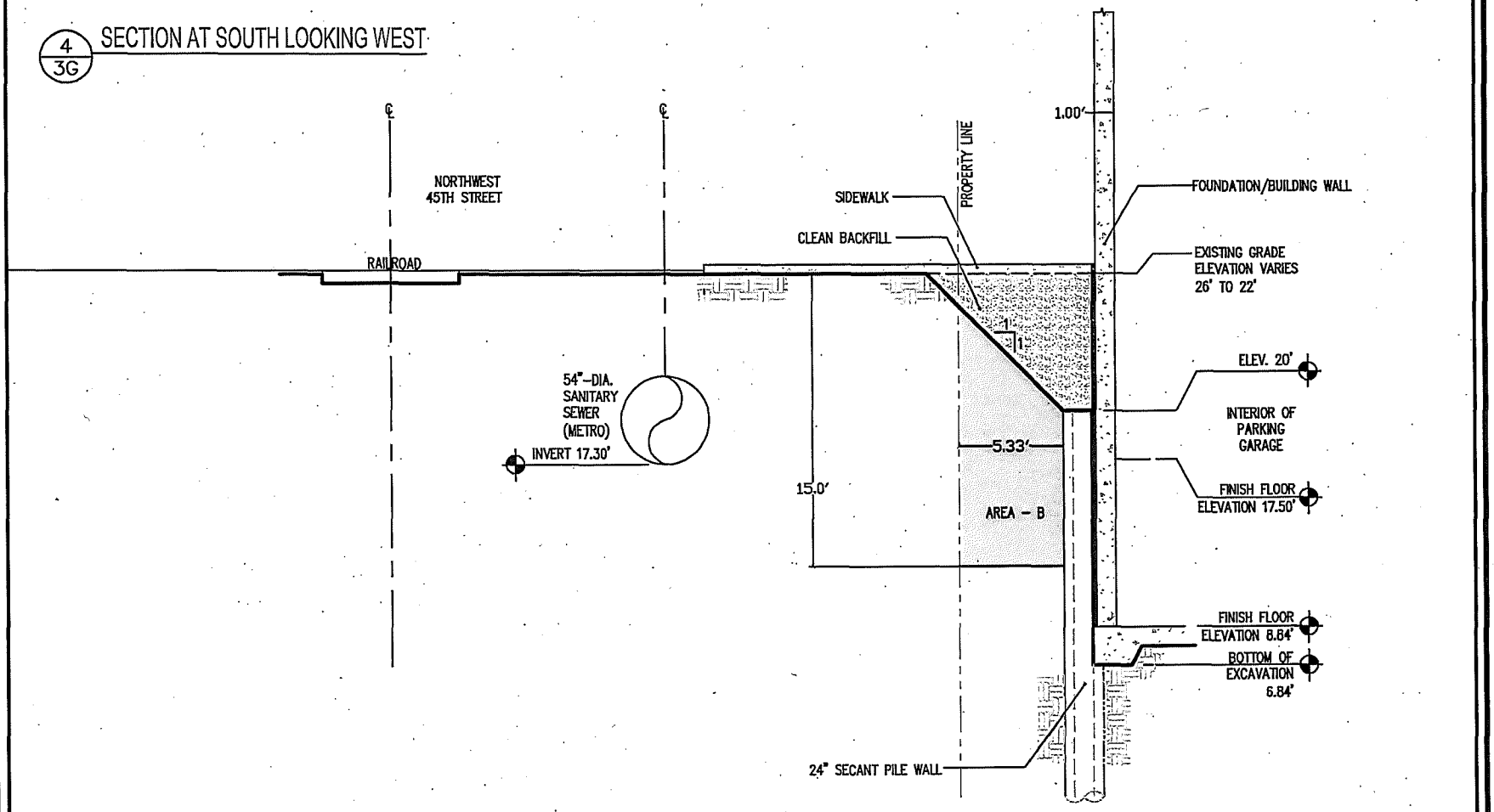
REGION:

0 5 10
APPROXIMATE SCALE IN FEET

FIGURE 6
CROSS-SECTIONAL DETAIL
EAST SHORING WALL

7/16/2009

4/3G SECTION AT SOUTH LOOKING WEST



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADRESS 1951 NORTHWEST 46TH STREET
CITY,STATE: CITY

REGION:

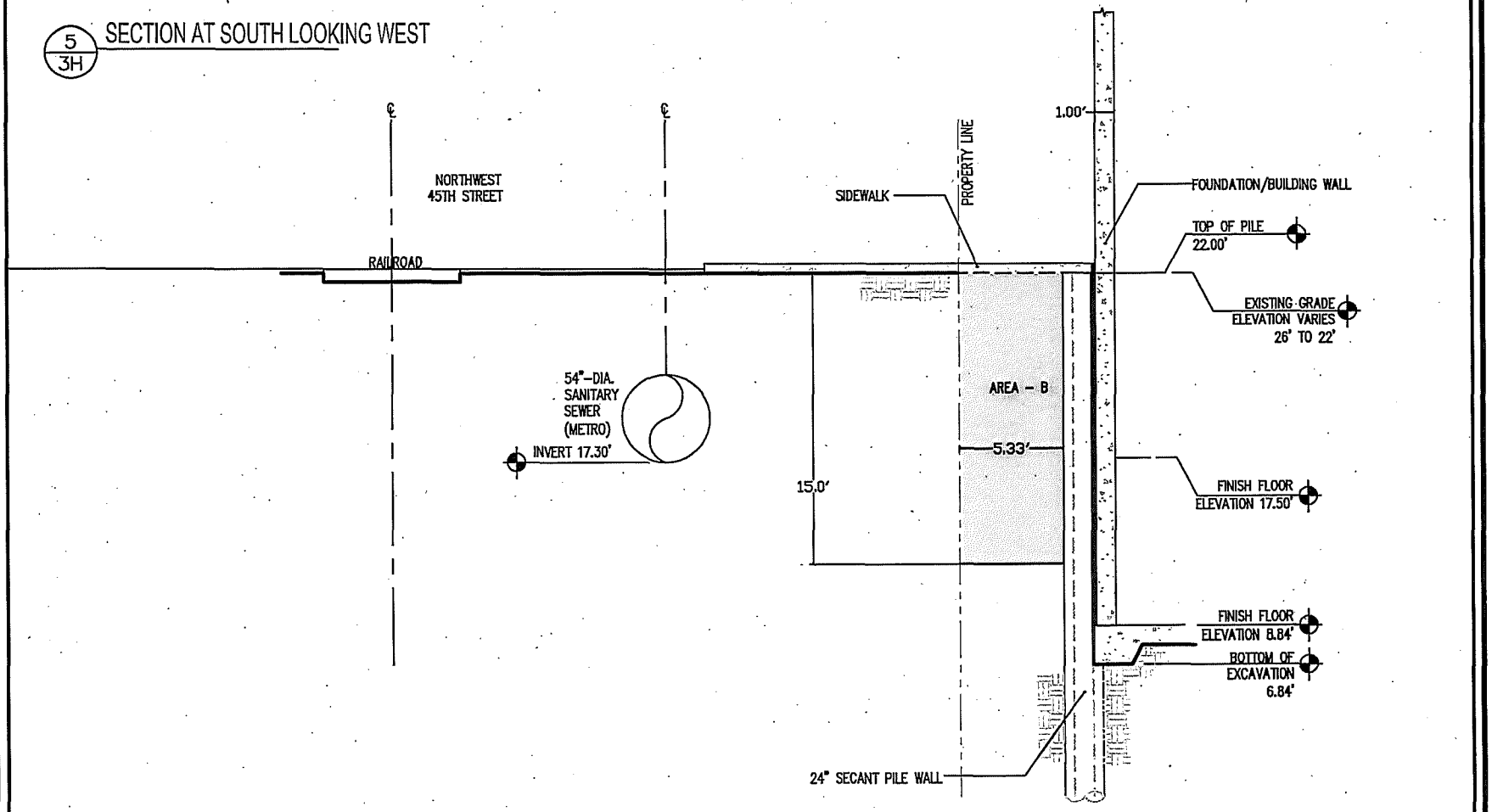
0 5 10
APPROXIMATE SCALE IN FEET

FIGURE 7
CROSS-SECTIONAL DETAIL
SOUTH SHORING WALL

7/16/2009

5
3H

SECTION AT SOUTH LOOKING WEST



SOUND ENVIRONMENTAL STRATEGIES
SOUNDENVIRONMENTAL.COM

DATE: DATE
DRAWN BY: DRAWN
CHECKED BY: CHK
CAD FILE: FILE_NUMBER

PROJECT NAME: PRJCT_NAME
SES PROJECT NUMBER: PRJCT_NUMBER
STREET ADDRESS: ADDRESS 351 NORTHWEST 46TH STREET
CITY,STATE: CITY

REGION:

0 5 10
APPROXIMATE SCALE IN FEET

FIGURE 8
CROSS-SECTIONAL DETAIL
SOUTH SHORING WALL

Exhibit E

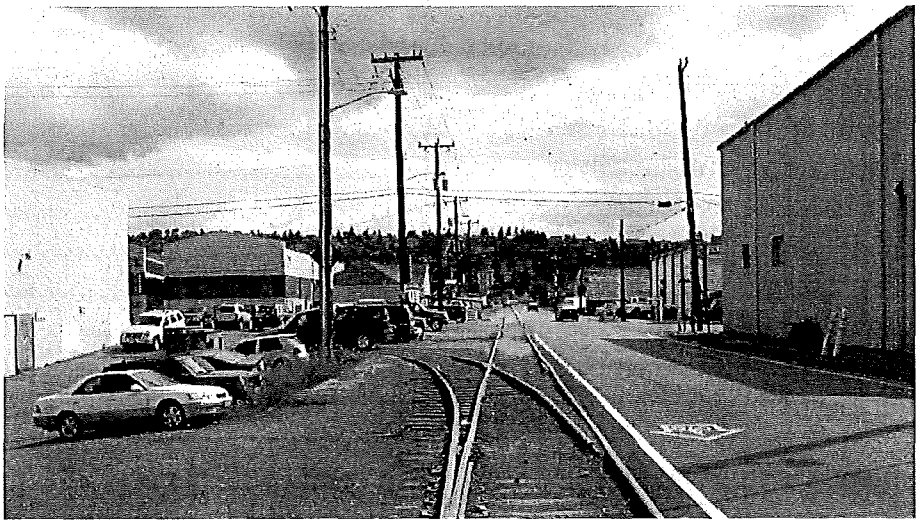
Public Participation Plan

Exhibit E

DEPARTMENT OF ECOLOGY
State of Washington

PUBLIC PARTICIPATION PLAN

Wesmar Company, Inc. Site (Former Wesmar Ballard Facility)



SEATTLE, WASHINGTON

October 2009

Prepared by
Washington State Department of Ecology
3190 160th Avenue SE
Bellevue, WA 98008-5452

TABLE OF CONTENTS

1.0 INTRODUCTION

The Washington State Department of Ecology (Ecology) has developed this public participation plan pursuant to the Model Toxics Control Act (MTCA), to promote meaningful community involvement prior to implementation of a remedial investigation and cleanup actions at the Wesmar Company Inc. site.

This plan outlines and describes the tools and approaches that Ecology uses to inform the public about site activities and identifies opportunities for the community to become involved. This plan aims at addressing potential community concerns regarding the cleanup and defines the types of public participation activities that will take place as a part of the cleanup process. It is based on Ecology's MTCA regulations (WAC 173-340-600 Public Participation).

Ecology is committed to an open dialogue with the community to ensure that interested parties can receive information as well as provide input during the decision-making process.

Ecology and Block at Ballard II, LLC have negotiated a legal agreement called a Consent Decree (CD) that formally describes their working relationship, outlines the scope of work, and sets a schedule for the cleanup action. The CD requires Block at Ballard II, LLC to implement remedial activities that will clean up contaminated soil and groundwater at the site.

1.1 CLEANUP WORK TO BE PERFORMED

Under the Consent Decree, Block at Ballard II, LLC will conduct the following tasks described in a Cleanup Action Plan or CAP:

- Install water tight shoring wall within the perimeter of the property
- Excavate contaminated soil within shoring wall
- Implement dewatering system
- Cap or cover the contaminated soil at the sidewalk and City's right-of way
- Implement institutional controls under an environmental covenant
- Monitor groundwater

1.2 LOCATION

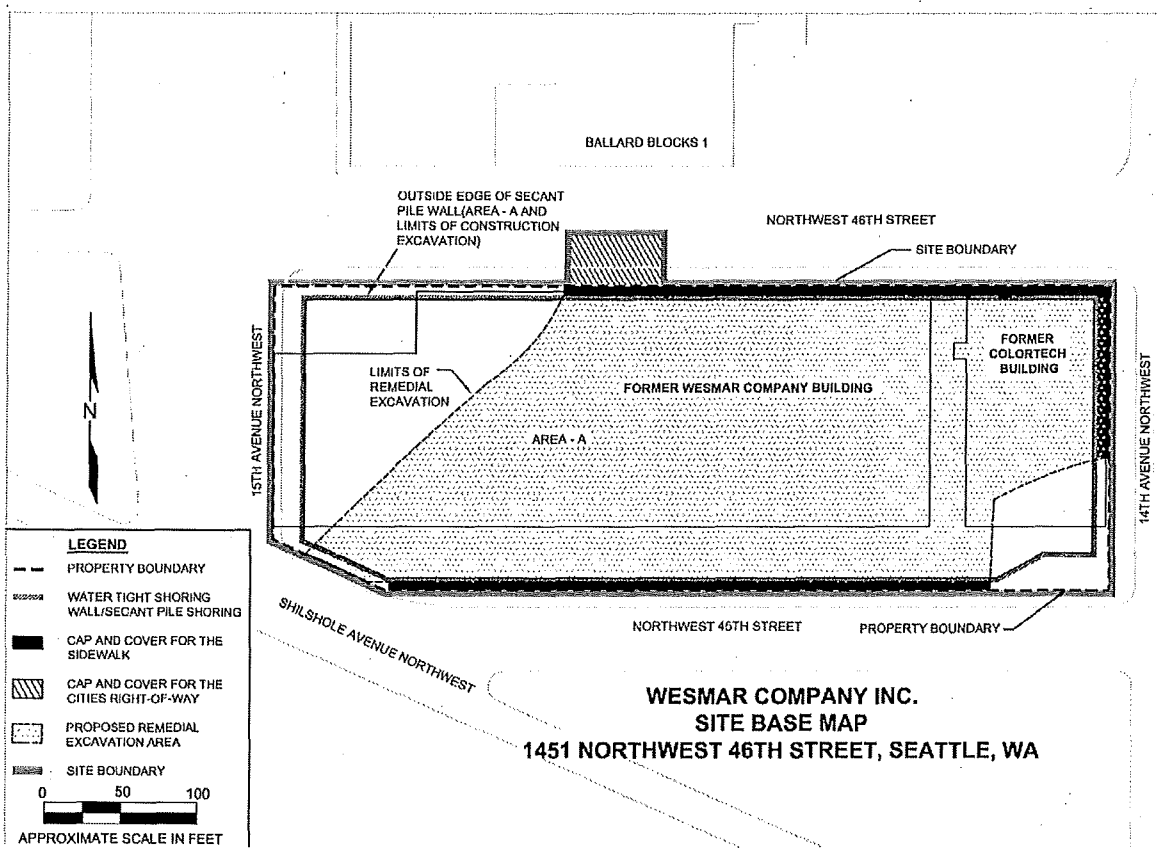
The Wesmar Company site, also known as the Former Wesmar Ballard Facility, is located at 1401/1451 Northwest 46th Street in Seattle, Washington (herein referred to as the Site).

Block at Ballard II, LLC currently owns the property that was formerly known to be operated by Wesmar Company, Inc., a chemical product manufacturer and distributor, and Color Tech, Inc, (aka, Color-Tech, Inc; Colortech, Inc.) a metal coating service.

The property is located in a commercial/industrial area in the Ballard neighborhood of Seattle. Portions of the property are located within 200 feet of the shoreline of Lake Washington Ship Canal, a freshwater surface body. It is known to have been operated from 1905 to 1917 by Pacific Coast Pipe Company, which used and stored the wood preservative creosote. In 1991, two underground fuel storage tanks are reported to have been removed from the property.

The property is planned for redevelopment into a multi-story mixed-use office/retail complex with an underground parking facility. Improvements to the property will also include new sidewalks, trees, and lighting.

Wesmar Company, Inc. (Former Wesmar Ballard Facility) Site Map



2.0 CONTAMINANTS OF CONCERN

The following hazardous substances are contaminants of concern (COCs) for subsurface soil and groundwater at the Site.

- Polycyclic aromatic hydrocarbons (PAHs)
- Petroleum hydrocarbons
- Volatile organic compounds (VOCs)
- Heavy metals, including arsenic, lead, barium, and chromium

3.0 KEY COMMUNITY CONCERNS

Residents of this community have expressed interest in the following topics relating to this Site:

- Construction oversight (i.e. noise, public access of the right-away, and public safety)
- Keeping the public informed
- Future land use of the property

With regard to access concerns, most of the cleanup work will occur within the property boundaries. Some work activities will be performed within the public right-of-way. At these areas, streets and sidewalks will be barricaded to protect public safety. There will be alternative access routes approved by City of Seattle Department of Transportation.

4.0 PUBLIC PARTICIPATION ACTIVITIES AND RESPONSIBILITY

The purpose of this Public Participation Plan is to promote public understanding and participation in the cleanup process for this Site. This section addresses how Ecology will keep the public informed about Site activities and provide opportunities for being involved in the cleanup.

Ecology will use a variety of tools to facilitate public participation in the planning and cleanup of this Site. These tools are:

- Formal comment periods and responsiveness summaries if needed
- Fact sheets
- Public meetings (if required)
- Information repositories
- Site register
- Web tools including a web based public events calendar
- Ecology web page for this Site.

Ecology will consider and implement constructive input provided by the community whenever possible.

Ecology urges the public to become involved in the remedial action process. Information will be provided regularly to provide many opportunities to review materials and provide comments.

This plan is intended to be a flexible working document that will be updated as community concerns emerge and/or more information becomes available during the cleanup process.

To arrange for a briefing with project staff, ask questions or provide comments on the plan or other aspects of the cleanup, please contact one of the persons listed below.

For technical questions, please contact:
Sunny Becker
Site Manager
WA State Department of Ecology
Toxics Cleanup Program
Phone: 425-649-7187
E-mail: hlin461@ecy.wa.gov

For Community Involvement questions, please contact:
Nancy Lui
Community Outreach Coordinator
WA State Department of Ecology
Toxics Cleanup Program
Phone: 425-649-7117
E-mail: nlui461@ecy.wa.gov

4.1 Roles and Responsibilities

Ecology maintains overall responsibility and approval authority for the activities outlined in this plan in accordance with Model Toxic Control Act (MTCA) requirements. Ecology conducts public comment periods as required by MTCA, including soliciting, receiving and considering comments, making decisions, and preparing responsiveness summaries.

4.2 Formal Public Comment Period

Comment periods are the primary method Ecology uses to get feedback from the public on proposed cleanup decisions, which Ecology presents as draft documents. Comment periods usually last for 30 days and are required at key points during the investigation and cleanup process before final decisions are made.

During a comment period, the public can comment in writing. Verbal comments are taken if a public hearing is held. After formal comment periods, Ecology reviews all comments received and may respond in a document called a Responsiveness Summary.

Ecology will consider the need for changes or revisions to draft documents based on input from the public. If significant changes are made, then a second comment period may be held. If no significant changes are made, then the draft document(s) will be finalized.

4.3 Public Meetings and Hearings

Public meetings may be held at key points during the cleanup process. Ecology may also offer public meetings for actions expected to be of particular interest to the community. Also, if ten or more people request a public meeting or hearing during the 30 day comment period, Ecology will hold a public meeting for the purpose of taking verbal comments on draft documents.

4.4 Information Repositories

Information repositories are convenient places where the public can go to read and review Site information and decision documents. The information repositories are often at libraries or community sites to which the public has access. During the comment period, the Site documents will be available for review at each repository that is listed below. Documents remain at the repositories for the entire duration of the project. The information repositories for this Site are found in the following locations:

Washington State Department of Ecology
3190 160th Ave., S.E.
Bellevue, WA 98008
Call for an appointment: Sally Perkins
(425) 649-7190
(425) 649-4450 FAX
E-mail: sper461@ecy.wa.gov
Hours: Tuesday - Thursday, 8 AM - 12:00 PM and 1:00 - 4:30 PM

Ballard Branch Public Library
5614 22nd Ave N.W
Seattle, WA 98107
(206) 684-4089

4.5 Site Register and Public Events Calendar

Ecology's Toxics Cleanup Program uses the Site Register and web-based Public Involvement Calendar to announce all of its public meetings and comment periods as well as additional Site activities. To receive the Site Register in electronic or hard copy format, contact Linda Thompson at 360-407-6069 or by email at ltho461@ecy.wa.gov. The Public Involvement Calendar is available on Ecology's website at http://apps.ecy.wa.gov/pubcalendar/calendar.asp

4.6 Mailing List

Ecology has compiled and maintained a list of interested parties, organizations and residents living in proximity to the cleanup Site. This list will be used to disseminate information via mail (fact sheets, Site updates, public notices, etc.). If you are not on the mailing list for this Site and wish to be added, please contact Nancy Lui at 425-649-7117 or by email at luin461@ecy.wa.gov. In the subject line, please write "**Block at Ballard II, LLC aka Wesmar Company, Inc Site** mailing list".

4.7 Ecology Website

Information on the cleanup at the Wesmar Site is also available online. These websites include background information, status updates, and contact information for the Site.

Ecology's web page on the Site:

http://www.ecy.wa.gov/programs/tcp/sites/wesmar/wesmar_hp.htm

4.8 Public Participation Grants and Technical Assistance

Additionally, citizen groups living near contaminated sites may apply for public participation grants (during open application periods). These grants help citizens receive technical assistance in understanding the cleanup process and create additional public participation avenues.

NOTE: Ecology currently does not have a citizen technical advisor for providing technical assistance to citizens on issues related to the investigation and cleanup of the Site.

4.9 Public Participation Plan Amendments

The Plan was developed by Ecology and complies with the Model Toxics Control Act regulations (Chapter 173-340 WAC). It will be reviewed as cleanup progresses and may be amended if necessary. Amendments may be submitted to Ecology's site manager, Sunny Becker, for review and consideration. Ecology will determine final approval of the Plan as well as any amendments.

APPENDIX A - GLOSSARY

Cleanup: The implementation of a cleanup action, or interim action.

Cleanup Action: means any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with WAC 173-340-350 through 173-340-390.

COCs: Chemicals of Concern means hazardous substances that are of particular concern at this site.

Consent Decree: A formal legal document approved and issued by a court which formalizes an agreement reached between the state (and EPA if involved) and the potentially liable person(s) (PLPs) on what will take place during the Remedial Investigation and Feasibility Study. A Consent Decree is similar to an Agreed Order except that a Consent Decree goes through the courts. Consent Decrees are subject to public comment. If a decree is substantially changed, an additional comment period is provided.

Containment: A container, vessel, barrier, or structure, whether natural or constructed, which confines a hazardous substance within a defined boundary and prevents or minimizes its release into the environment.

Contaminant: Any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

Interim Action: Any remedial action that partially addresses the cleanup of a site. It is an action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance at a facility; an action that corrects a problem that may become substantially worse or cost substantially more to address if the action is delayed; an action needed to provide for completion of a site hazard assessment, state remedial investigation/feasibility study, or design of a cleanup action.

Model Toxics Control Act (MTCA): Refers to RCW 70.105D approved by voters in the state of Washington in November 1988. The implementing regulation is WAC 173-340 and was amended in 2001.

Public Notice: At a minimum, adequate notice mailed to all persons who have made a timely request to Ecology and notice to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the local (city or county) newspaper of largest circulation; and the opportunity for interested persons to comment.

Public Participation Plan: A plan prepared under the authority of WAC 173-340-600 to encourage coordinated and effective public involvement tailored to the public's needs at a particular site.

Remedial Investigation/Feasibility Study: Means a remedial action that consists of activities conducted under WAC 173-340-350 to collect, develop, and evaluate sufficient information regarding a site to select a cleanup action under WAC 173-340-360 through 173-340-390.

Responsiveness Summary: A compilation of all questions and comments into a document open for public comment and their respective answers/replies by Ecology. The responsiveness summary is mailed, at a minimum, to those who provided comments, and its availability is published in the Site Register.

Soil Borings: The process of drilling in soil that allows subsurface soil and groundwater sampling.

VOCs: Volatile Organic Compounds means those carbon-based chemicals that have vapor pressures or boiling points that may cause them to be hazards in the air.

Exhibit F

SEPA Checklist

STATE ENVIRONMENTAL POLICY ACT (SEPA)
DETERMINATION OF NONSIGNIFICANCE (DNS)

Name of Proposal: Former Wesmar Property

Description of Proposal:

INSTALL SECANT SHORING WALL WITHIN THE PERIMETER OF THE PROPERTY, CONSTRUCT STABILIZED CONSTRUCTION ENTRANCE AND WHEEL WASH, EXCAVATE CONTAMINATED SOIL WITHIN PROPERTY BOUNDARY, DEWATER EXCAVATION, CAP CONTAMINATED SOIL WITHIN RIGHT-OF-WAY, IMPROVEMENTS TO SIDEWALK AND RIGHT OF WAY ON NW 46TH ST, AND IMPLEMENT PERMANENT DEWATERING SYSTEM.

Location of Proposal:

THE PROPOSED PROJECT IS LOCATED AT 1401 AND 1451 NW 46TH STREET, SEATTLE, WASHINGTON. THE PROJECT SITE HAS FRONTAGES ON NW 46TH STREET TO THE NORTH, 15TH AVE TO THE WEST,14TH AVENUE NW TO THE EAST, AND NW 45TH TO THE SOUTH. THE LEGAL DESCRIPTION AND OTHER ITEMS ARE INCLUDED IN THE MASTER USE PERMIT PLANS.

Proponent / Applicant:

BLOCK AT BALLARD II, LLC

Lead Agency: State of Washington Department of Ecology

Public Comment Period: Oct. 23 to Nov. 23, 2009. Comments will be accepted by email, US Mail, or fax.

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal until the end of public comment period. Comments must be submitted to the contact person listed below. Email comments are acceptable.

Contact Person, if other than responsible official: Sunny Becker (425) 649-7187, Email: hlin461@ecy.wa.gov

Responsible Official:	Robert Warren
Position / Title:	Section manager, Northwest Regional Office
Address:	Department of Ecology 3190 – 160th Ave SE Bellevue, WA 98008-5452

Date: 3/24/2010 **Signature:**

WAC 197-11-960 Environmental checklist.

ENVIRONMENTAL CHECKLIST

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For non-project actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:

Former Wesmar Property

2. Name of applicant:

BLOCK AT BALLARD II, LLC

3. Address and phone number of applicant and contact person:

C/O SCS Engineers2405 140th Avenue NE, Suite 107

Bellevue, Washington 98005

(425) 289-5446

Greg Helland, R.G.

4. Date checklist prepared:

JANUARY 26, 2009

5. Agency requesting checklist:

WASHINGTON STATE DEPARTMENT OF ECOLOGY

6. Proposed timing or schedule (including phasing, if applicable):

BEGIN REMEDIATION CONSTRUCTION – SEPTEMBER 2010 (OR EARLIER)

DRAFT CLEANUP ACTION REPORT – 3 MONTHS AFTER THE CLEANUP ACTION

GROUNDWATER MONITORING – WITHIN 3 MONTHS AFTER CLEANUP ACTION

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

CONSTRUCTION OF NEW FOUR AND FIVE STORY BUILDINGS WITH TWO BELOW-GRADE LEVELS OF PARKING, RETAIL USES AT THE FIRST FLOOR, OFFICES ON FOUR UPPER LEVELS. SITE IMPROVEMENTS INCLUDE NEW CURBS, SIDEWALK AND STREET TREES AT 14TH AVE, NW 45TH AND NW 46TH STREET. SEPARATE SEPA CHECKLISTS FOR BOTH PARCELS' BUILDING CONSTRUCTION ACTIVITIES HAVE BEEN SUBMITTED TO DPD FOR REVIEW ON OCTOBER 10, 2007. A DETERMINATION OF NON SIGNIFICANCE WAS ISSUED FOR BOTH PARCELS BY THE CITY OF SEATTLE ON AUGUST 11, 2008. ADDITIONALLY, THE MUP AND DEMOLITION PERMITS HAVE BEEN ISSUED, AND THE BUILDING PERMIT AND SIPS ARE CURRENTLY IN PROCESS.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

GEOTECHNICAL ENGINEERING REPORT PREPARED BY EARTH SOLUTIONS NW, 29 SEPTEMBER 2006.

SUBSURFACE INVESTIGATION REPORT PREPARED BY SOUND ENVIRONMENTAL STRATEGIES CORPORATION, OCTOBER AND DECEMBER 2006.

RECONNAISSANCE INVESTIGATION REPORT PREPARED BY SOUND ENVIRONMENTAL STRATEGIES CORPORATION, MARCH 2007.

PROSPECTIVE PURCHASER AGREEMENT/CONSENT DECREE PROPOSAL PREPARED BY SOUND ENVIRONMENTAL STRATEGIES CORPORATION, MARCH 2007.

GROUNDWATER MONITORING REPORT PREPARED BY SOUND ENVIRONMENTAL STRATEGIES CORPORATION, JUNE 2007.

ARCHAEOLOGICAL RESOURCES AND HISTORIC BUILDINGS AND STRUCTURES ASSESSMENT REPORT PREPARED BY HISTORIC RESEARCH ASSOCIATES, INC, OCTOBER 2007.

TRANSPORTATION IMPACT ANALYSIS PREPARED BY HEFFRON TRANSPORTATION, 5 NOVEMBER 2007.

REVISED HYDROGEOLOGIC REPORT PREPARED BY SOUND ENVIRONMENTAL STRATEGIES, 30 JUNE 2008.

DRAFT REMEDIAL INVESTIGATION/FEASIBILITY STUDY AND PROPOSED CLEANUP ACTION PREPARED BY SOUND ENVIRONMENTAL STRATEGIES, 29 DECEMBER, 2008.

STORMWATER POLUTION PREVENTION PLAN PREPARED BY SOUND ENVIRONMENTAL STRATEGIES, 7 NOVEMBER, 2008.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

BUILDING PERMIT (NOS. 6156774 AND 6156775) TO CONSTRUCT THE MIXED-USE BUILDINGS.

STREET INPROVEMENT PERMITS ARE CURRENTLY IN PROCESS.

10. List any government approvals or permits that will be needed for your proposal, if known.

MASTER USE PERMITS (NOS. 3008040 AND 3008041 – SEE SEPA CHECKLISTS) BUILDING AND STREET IMPROVEMENT PERMITS (IN PROCESS) AS NOTED IN A.9.

AGREED ORDER AND CONSENT DECREE FOR CLEANUP ACTIVITIES AS APPROVED BY THE DEPARTMENT OF ECOLOGY UNDER MTCA.

NATIONAL POLUTION DISCHARGE ELIMINATION SYSTEM PERMIT AS APPROVED BY THE DEPARTMENT OF ECOLOGY

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers

on this page. (Lead agencies may modify this form to include additional specific information on project description.

INSTALL SECANT SHORING WALL WITHIN THE PERIMETER OF THE PROPERTY, CONSTRUCT STABILIZED CONSTRUCTION ENTRANCE AND WHEEL WASH, EXCAVATE CONTAMINATED SOIL WITHIN PROPERTY BOUNDARY, DEWATER EXCAVATION, CAP CONTAMINATED SOIL WITHIN RIGHT-OF-WAY, IMPROVEMENTS TO SIDEWALK AND RIGHT OF WAY ON NW 46TH ST, AND IMPLEMENT PERMANENT DEWATERING SYSTEM.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

THE PROPOSED PROJECT IS LOCATED AT 1401 AND 1451 NW 46TH STREET, SEATTLE, WASHINGTON. THE PROJECT SITE HAS FRONTAGES ON NW 46TH STREET TO THE NORTH, 15TH AVE TO THE WEST,14TH AVENUE NW TO THE EAST, AND NW 45TH TO THE SOUTH. THE LEGAL DESCRIPTION AND OTHER ITEMS ARE INCLUDED IN THE MASTER USE PERMIT PLANS.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one):
(Flat), rolling, hilly, steep slopes, mountainous,
other: _____

b. What is the steepest slope on the site (approximate percent slope)?

STEEPEST SLOPE = 0% (SITE IS FLAT).

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

ACCORDING TO THE GEOTECHNICAL STUDY, THE SITE IS UNDERLAIN BY ABOUT 3 FEET OF LOOSE LAYERED BROWN-GREY FINE TO MEDIUM SAND, SOME SILT AND WOOD FRAGMENTS, WET (FILL). WHICH OVERLIES VERY LOOSE, BLACK-BROWN, MIXTURE OF SILT AND WOOD DEBRIS, WET (FILL). THIS OVERLAYS MEDIUM DENSE TO DENSE, GRAY, SLIGHTLY SILTY FINE TO MEDIUM SAND, TRACE GRAVEL, WET. THIS OVERLAYS VERY DENSE GRAY, SILTY SAND, WET.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

NO. DPD HAS DETERMINED THAT THE SITE DOES NOT CONTAIN AN ENVIRONMENTALLY CRITICAL AREA.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

GRADING FOR THIS PROJECT WILL BE MINIMAL AS FINISHED GRADES WILL NEARLY MATCH EXISTING GRADES. SITE GRADING WILL CONSIST OF EXCAVATION FOR THE BELOW-GRADE PARKING.

EXCAVATED CONTAMINATED SOIL FOR DISPOSAL:

27,300 TONS

GRAVEL IMPORT/BACKFILL FOR NEW PAVEMENT AND UTILITIES:

7,500 CY

GRAVEL IMPORT WILL BE PURCHASED FROM NEARBY ROCK MATERIALS MINING/PROCESSING SITE.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

EROSION COULD OCCUR AS A RESULT OF CONSTRUCTION ACTIVITIES IF AND WHEN A SIGNIFICANT AMOUNT OF PRECIPITATION FALLS OR IF OPEN SOILS ARE SUBJECTED TO LARGE VOLUMES OF FLOWING SURFACE WATER. THE SUBJECT SITE IS FOR THE MOST PART FLAT. EXCAVATION ACTIVITIES ON THE SITE WILL OCCUR BELOW ALL SURROUNDING GRADES, WITH THE EXCEPTION OF THE NE CORNER. EXISTING AND PROPOSED EROSION POTENTIAL FOR THIS SITE IS VERY LOW.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

PROPOSED IMPERVIOUS SURFACE AREA: 58,775 SF (100%)

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

DURING EXCAVATION AND CONSTRUCTION, THE ADJACENT SITES WILL BE PROTECTED FROM SEDIMENTATION THROUGH THE USE OF FILTER FABRIC FENCE. THE EXISTING UTILITIES WILL ALSO BE PROTECTED FROM SILTATION WITH GEOFABRIC INSERTS. THE EXISTING STREETS WILL BE KEPT CLEAN VIA STREET SWEEPING AND THE USE OF A PAVED CONSTRUCTION ENTRANCE. FUGITIVE DUST WILL BE MINIMIZED WITH THE USE OF WATER ON OPEN SOILS PRIOR TO GRADING. MOST SURFACES EXPOSED DURING CONSTRUCTION WILL BE COVERED IMMEDIATELY WITH GRAVEL AND PRIOR TO FINAL SURFACE TREATMENT. ADDITIONAL DETAILS FOR EROSION CONTROLS ARE INCLUDED IN THE EXCAVATION AND TEMPORARY EROSION AND SEDIMENTAION CONTROL PLANS IN THE BUILDING PERMITS CURRENTLY UNDER REVIEW BY THE CITY OF SEATTLE.

2. Air

a. What type of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke, greenhouse gases) during construction

and when the project is completed? If any, generally describe and give approximate quantities if known.

MINIMAL DUST DURING DEMOLITION, EXCAVATION, AND CONSTRUCTION.

AFTER CONSTRUCTION: AUTOMOBILES – TOTAL FOR BOTH PARCELS: 562 VEHICLE STALLS

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

NO.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

NO PROPOSED MEASURES. VEHICLE EMISSIONS ARE MITIGATED BY STATE AIR QUALITY PROGRAMS.

3. Water

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

YES, SALMON BAY IS SOUTH OF SHILSHOLE AVE N.W.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

YES, THE SW CORNER OF THE SITE LIES WITHIN THE

200'-0" URBAN INDUSTRIAL SHORELINE DISTRICT.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

NONE.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

NO.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

NO.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

NO.

b. Ground:

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.

GROUND WATER COLLECTED WITHIN THE EXCAVATION WILL BE PUMPED INTO A HOLDING TANK STORED ON THE PROPERTY. THE EXTRACTED WATER IS TO BE PERMITTED AND DISCHARGED TO THE KING COUNTY METRO SEWER SYSTEM VIA THE LOCAL SEWER SYSTEM OR TREATED ON-SITE TO WASHINGTON STATE SURFACE WATER STANDARDS AND DISCHARGED TO THE CITY OF SEATTLE STORM WATER SYSTEM. DISCHARGES WILL MEET STATE WATER QUALITY REUIREMENTS FOR REGULATED PARAMETERS INCLUDING: TURBIDITY, PH, METALS, OILS AND GREASES, AND POLYCYCLIC AROMATIC HYDROCARBONS (PAHS). THE APPROXIMATE QUANTITY AND QUALITY OF THE WATER IS EXPECTED TO BE ACCEPTABLE FOR DISCHARGE TO THE METRO SEWER SYSTEM.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: domestic sewage; industrial, containing the following chemicals ...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

NO WASTE MATERIALS WILL BE DISCHARGED INTO THE GROUND AS A RESULT OF THIS PROJECT THAT WE ARE AWARE OF. THERE ARE NO PROPOSED SEPTIC SYSTEMS OR INDUSTRIAL WASTE TREATMENT SYSTEMS ASSOCIATED WITH ANY OF THE CURRENTLY PROPOSED IMPROVEMENTS.

c. Water Runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

RUNOFF COULD OCCUR FROM THE PERIMETER OF THE PROPERTY IF AND WHEN A SIGNIFICANT AMOUNT OF PRECIPITATION FALLS. THE SUBJECT SITE IS FOR THE MOST PART FLAT. EXCAVATION ACTIVITIES ON THE SITE WILL OCCUR BELOW ALL SURROUNDING GRADES, WITH THE EXCEPTION OF THE NE CORNER AS DESCRIBED IN SECTION B.1.F. A MAJORITY OF THE SURFACE WATER ORIGIONATING FROM PERCIPITATION EVENTS AN GROUNDWATER WILL COLLECT IN THE EXCAVATION AND BE ROUTED TO THE SANITARY OR STORM SYSTEM AS DESCRIBED IN SECTION 3.B.1.

2) Could waste materials enter ground or surface waters? If so, generally describe.

IT IS POSSIBLE THAT NORMAL CONSTRUCTION ACTIVITIES COULD GENERATE A SMALL VOLUME OF SEDIMENT LADEN WATER. SURFACE FLOW FROM AREAS SUBJECT TO VEHICULAR TRAFFIC COULD ALSO POSSIBLY ENTER THE GROUND OR SURFACE

WATERS IF SAID SURFACE AREAS WERE EXPOSED AND SUBJECTED TO PRECIPITATION OR OTHER SURFACE FLOW.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

THE PROPOSED MEASURES TO REDUCE AND CONTROL SURFACE, GROUND AND RUNOFF WATER IMPACTS DURING CONSTRUCTION INCLUDE THE USE OF BMP'S SUCH AS FILTER FENCING AND SURFACE COVER DURING CONSTRUCTION, TOGETHER WITH SEDIMENTATION CONTROL BMP'S PRIOR TO SURFACE WATER BEING CONNECTED TO THE EXISTING PUBLIC STORM DRAIN. RUNOFF GENERATED IN THE PROPOSED CONDITION WILL BE CONVEYED TO THE STORM DRAIN OUTFALL AS DESCRIBED IN QUESTION 3.C.1). THE EXCAVATION, WHICH IS BELOW GRADE FOR ALL BUT THE NE CORNER OF THE SITE, WILL COLLECT SOME GROUND, SURFACE AND RUNOFF WATER. WATER COLLECTED FROM THE EXCAVATION WILL UNDERGO TREATMENT IN A HOLDING TANK BEFOR BEING DISCHARGED TO THE KING COUNTY METRO SEWER SYSTEM OR CITY OF SEATTLE STORMWATER SYSTEM.

A PERMANENT DEWATERING SYSTEM WILL BE INSTALLED AS A COMPONENT OF THE BUILDINGS UPON COMPLETION OF THE EXCAVATION. WATER WILL BE COLLECTED IN A SUBGRADE WATER CONTROL SYSTEM AND DISCHARGED TO THE STORM DRAIN. WATER COLLECTED IN THE SUBGRADE WATER CONTROL SYSTEM WILL BE MONITORED FOR ARSENIC AND PAH CONTAMINATION BEFORE BEING DISCHARGED TO THE STORM DRAIN. A 3 WEEK SAMPLING PROGRAM WILL BE ESTABLISHED TO DETERMINE THE CONCENTRATION OF ARSENIC AFTER INITIAL OPERATION HAS BEGUN. IF CONCENTRATIONS ARE CONSISTENTLY BELOW 190 µg/L THEN WEEKLY SAMPLING WILL BE DISCONTINUED AND QUARTERLY MONITORING WILL BEGIN. DETAILED INFORMATION IS INCLUDED IN THE DRAFT REMEDIAL INVESTIGATION/FEASIBILITY STUDY AND CLEANUP ACTION PLAN (SOUND ENVIRONMENTAL STRATEGIES, 29 DECEMBER 2008).

4. Plants

a. Check or circle types of vegetation found on the site:

__ deciduous tree: alder, maple, aspen, other
__ evergreen tree: fir, cedar, pine, other
__ shrubs
__ grass
__ pasture
__ crop or grain
__ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
__ water plants: water lily, eelgrass, milfoil, other
X other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

PERENNIAL/ANNUAL FLOWER GARDEN ON SOUTHWEST CORNER OF SITE. ALONG WITH MINIMAL BLACKBERRIES AND WEEDS.

c. List threatened or endangered species known to be on or near the site.

NONE KNOWN.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

LANDSCAPING INCLUDES NEW STREET TREES ALONG 14TH AVE NW, NW 45TH STREET, AND NW 46TH STREET. REFER TO LANDSCAPE DRAWINGS FOR SPECIES.

5. Animals

a. Circle any birds and animals that have been observed on or near the site or are known to be on or near the site:

birds: hawk, heron, eagle, songbirds, other:
Seagulls, pigeons, and crows

mammals: deer, bear, elk, beaver, other:
Opossums and squirrels

fish: bass, salmon, trout, herring, shellfish, other:
none

b. List any threatened or endangered species known to be on or near the site.

NONE KNOWN.

c. Is the site part of a migration route? If so, explain.

NO.

d. Proposed measures to preserve or enhance wildlife, if any:

N/A

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

PETROLEUM WILL BE USED TO MEET CONSTRUCTION NEEDS FOR POWERING HEAVY EQUIPMENT.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

NO.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

NONE.

7. **Environmental Health**

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.

SUBSURFACE INVESTIGATIONS PERFORMED BY SES IN 2005 THROUGH 2008 INDICATE THAT SITE SOILS CONTAIN CONCENTRATIONS OF PAHS AND ARSENIC WHICH EXCEED MTCA METHOD A CLEANUP LEVELS. THE PAH RELEASE RESULTED FROM THE FORMER USE OF THE PROPERTY AS A WOODEN PIPE TREATMENT AND STORAGE FACILITY. THE SUSPECTED SOURCES OF THE ARSENIC CONTAMINATED SOIL ARE THE ADJACENT RAIL LINES AND OTHER REGIONAL INDUSTRIAL ACTIVITIES. GROUNDWATER ON THE SITE CONTAINS CONCENTRATIONS OF ARSENIC WHICH EXCEED THE MTCA METHOD A CLEANUP LEVEL AND THE SURFACE WATER DISCHARGE STANDARD. THE ARSENIC CONTAMINATED GROUNDWATER ORIGINATES FROM OFF PROPERTY SOURCES INCLUDING THE RAIL LINES ADJACENT TO THE PROPERTY. MANAGEMENT OF THE CONTAMINATED SOIL AND GROUNDWATER IS DESCRIBED ABOVE IN SECTIONS 3.B.1 AND 3.D.

1) Describe special emergency services that might be required.

NONE.

2) Proposed measures to reduce or control environmental health hazards, if any:

THE PAH-CONTAMINATED SOIL IS A DIRECT-CONTACT EXPOSURE HAZARD. THE CONCRETE SLABS OF THE FORMER BUILDINGS HAVE BEEN LEFT IN PLACE, TO BE REMOVED DURING THE REMEDIATION ACTIVITIES, AND SOIL WILL BE EXCAVATED UNDER THE OVERSIGHT OF HAZWOPER-TRAINED WORKERS. ADDITIONALLY, AN EXCLUSION ZONE AND A SITE SECURITY FENCE WILL BE ERECTED AROUND THE PERIMETER OF THE PROPERTY TO PREVENT UNAUTHORIZED ENTRY. CONTAMINATED SOIL IN THE ROW WILL BE CAPPED, AND ANY UTILITY WORK OR ROW IMPROVEMENTS THAT MAY BE CONDUCTED ARE NOT LIKELY TO EXTEND TO THE CONTAMINATED ZONE DUE TO THE DEPTH OF THE CONTAMINATION. ADDITIONALLY, AN ENVIRONMENTAL COVENANENT WILL BE PLACED ON THE CAPPED AREAS. ARSENIC-CONTAMINATED GROUNDWATER WILL NOT POSE AN EXPOSURE HAZARD TO ONSITE PERSONNEL OR MEMBERS OF THE PUBLIC.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment operation, other)?

NONE.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from site.

SHORT TERM CONSTRUCTION NOISE.

3) Proposed measures to reduce or control noise impacts, if any:

COMPLIANCE WITH SEATTLE NOISE CONTROL ORDINANCE.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

VACANT. THE FORMER BUILDINGS HAVE BEEN DEMOLISHED.

b. Has the site been used for agriculture? If so, describe.

NO.

c. Describe any structures on the site.

NONE

d. Will any structures be demolished? If so, what?

NO. ALL OF THE EXISTING BUILDINGS HAVE BEEN DEMOLISHED.

e. What is the current zoning classification of the site?

THE SITE IS ZONED IG2/U-65' WITH AN URBAN INDUSTRIAL SHORELINE OVERLAY ON THE SOUTHWEST CORNER OF THE LOT.

f. What is the current comprehensive plan designation of the site?

INDUSTRIAL – BALLARD INTERBAY NORTHEND MANUFACTURING INDUSTRIAL CENTER.

g. If applicable, what is the current shoreline master program designation of the site?

URBAN INDUSTRIAL (SOUTHWEST CORNER OF LOT).

h. Has any part of the site been classified as an "environmentally critical" area? If so, specify.

NO.

i. Approximately how many people would reside or work in the completed project?

250-350 PEOPLE

j. Approximately how many people would the completed project displace?

15 WORKERS. ALL WORKERS ARE RELOCATING TO A NEW SITE.

k. Proposed measures to avoid or reduce displacement impacts, if any:

NONE REQUIRED.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

THE PROPOSED PROJECT IS PERMITTED OUTRIGHT.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

NONE.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

NONE.

c. Proposed measures to reduce or control housing impacts, if any:

NONE REQUIRED.

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

PLEASE SEE SEPA CHECKLISTS FOR MUPS 3008040 AND 3008041. NO STRUCTURES ARE PROPSED FOR THIS COMPONENT OF THE PROJECT. AFTER FINAL CONSTRUCTION, PROPOSED STRUCTURES WOULD BE 65' IN HEIGHT, EXCEPT IN THE SHORELINE ZONE WHERE THE HEIGHT WOULD BE 35'.

THE BUILDING MATERIALS WOULD BE GLASS, METAL AND CONCRETE.

b. What views in the immediate vicinity would be altered or obstructed?

NO RESIDENTIAL VIEWS ARE ANTICIPATED TO BE ALTERED.

c. Proposed measures to reduce or control aesthetic impacts, if any:

NONE REQUIRED.

11. Light and Glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

NO GLARE IS ANTICIPATED FOR THE CONSTRUCTION PHASE OF THE PROJECT.

NORMAL OFFICE/RETAIL BUILDING LIGHTING FOR THE FINISHED BUILDING.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

NO.

c. What existing off-site sources of light or glare may affect your proposal?

NONE.

d. Proposed measures to reduce or control light and glare impacts, if any:

NONE.

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

THE 14TH AVE NW BOAT RAMP

THE BURKE GILMAN TRAIL.

b. Would the proposed project displace any existing recreational uses? If so, describe.

NO.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

NONE.

13. Historic and Cultural Preservation

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

NO.

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

NONE.

c. Proposed measures to reduce or control impacts, if any:

NONE.

14. Transportation

a. Identify public streets and highways serving the site, and describe the proposed access to the existing street system. Show on site plans, if any.

STREETS ADJACENT TO THE SITE INCLUDE NW 45TH STREET, NW 46TH STREET, AN ALLEY LOCATED IN THE 15TH AVENUE NW RIGHT OF WAYADJACENT TO THE BALLARD BRIDGE APPROACH STRUCTURE, AND 14th AVENUE NW. THE TWO EAST-WEST STREETS CONNECT BETWEEN NW LEARY WAY AND SHILSHOLE AVENUE NW. 14TH AVENUE NW CONNECTS BETWEEN THE SHIP CANAL AND NW 65TH STREET.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

THERE IS EXTENSIVE TRANSIT SERVICE IN THE SITE VICINITY ON BOTH THE 15TH AVENUE NW CORRIDOR AND LEARY WAY. THE NEAREST TRANSIT STOP IS LOCATED ABOUT ¼ MILE AWAY, AT 15TH AVENUE NW AND NW LEARY WAY.

c. How many parking spaces would the completed project have? How many would the project eliminate?

THE FINISHED PROJECT WILL ADD 562 PARKING SPACES IN A TWO-STORY SUBSURFACE PARKING GARAGE.

THE PROJECT WOULD REMOVE BOTH THE EXISTING ONSITE PARKING SPACES, AS WELL AS THE USES THAT GENERATE PARKING DEMAND. MOST OF THE ON-SITE SPACES ARE INFORMAL AND OCCUR ALONG

DRIVE AISLES THAT SERVE THE FORMER FREIGHT LOADING BAYS ON THE SITE.

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

A TEMPORARY CONSTRUCTION ACCESS/DECONSTRUCTION PAD AND WHEEL WASH WILL BE CONSTRUCTED ON THE SOUTHERN PORTION OF THE PROPERTY. UPON COMPLETION OF THE REMEDIATION, THE PAD WILL BE EXCAVATED, TRANSPORTED, AND DISPOSED.

A PORTION OF THE PROPERTY LOCATED BEYOND THE SHORING SYSTEM FOR THE PROPOSED BUILDING THAT CONTAINS SOME CONTAMINATED SOIL WILL BE WILL BE CAPPED WITH A COMBINATION OF ASPHALT, LANDSCAPING, AND CONCRETE SIDEWALKS. THE SIDEWALK ON NW 46TH STREET IS PROPOSED TO BE 20-FEET WIDE (12 FEET WITHIN THE RIGHT-OF-WAY AND 8-FEET WITHIN THE SITE).

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

RAIL TRACKS USED BY THE BALLARD TERMINAL RAILROAD COMPANY ARE LOCATED WITHIN THE NW 45TH STREET RIGHT-OF-WAY. THESE TRACKS WILL BE MAINTAINED. THE PROJECT DESIGN TEAM IS COORDINATING WITH SEATTLE DEPARTMENT OF TRANSPORTATION (SDOT) STAFF RELATED TO THE BURKEGILMAN TRAIL PROJECT. THAT PROJECT MAY RELOCATE THE TRACKS FURTHER SOUTH TO BETTER ACCOMMODATE THE DRIVING LANES AND TRAIL WITHIN THIS RIGHT OF WAY. THE PROPOSED PROJECT WOULD NOT AFFECT SDOT'S PLANS.

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

VEHICULAR VOLUME HAS BEEN ADDRESSED IN PREVIOUS SEPA CHECKLISTS FOR THE BUILDING COMPONENT OF PROJECT. DETAILS ARE ADDRESSED IN SEPA CHECKLISTS FOR MUPS 3008040 AND 3008041.

g. Proposed measures to reduce or control transportation impacts, if any.

A HAULING ROUTE AGREEMENT WITH THE CITY OF SEATTLE WILL BE USED TO CONTROL CONSTRUCTION TRAFFIC.

FOR THE COMPLETED PROJECT - OFF-SITE IMPROVEMENTS AT TWO INTERSECTIONS ARE PROPOSED ALONG WITH PARKING MANAGEMENT MEASURES. THESE ARE DETAILED IN THE TRANSPORTATION IMPACT ANALYSIS CONDUCTED UNDER MUPS 3008040 AND 3008041.

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

NO.

b. Proposed measures to reduce or control direct impacts on public services, if any.

NONE.

16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in immediate vicinity which might be needed.

ALL UTILITIES ARE AVAILABLE IMMEDIATELY ADJACENT TO THE PROJECT SITE AS WELL AS ON THE SITE. THERE WILL BE LITTLE DISRUPTION TO EXISTING UTILITIES AND TO PUBLIC PROPERTY.

ELECTRICITY- SEATTLE CITY LIGHT; ELECTRICAL SERVICE FROM EXISTING SEATTLE CITY LIGHT FACILITIES LOCATED ON 14TH AVE NW AND NW 46TH STREET.

NATURAL GAS – PUGET SOUND ENERGY; THERE IS AN EXISTING GAS LINE ALONG 14TH AVE NW.

WATER- SEATTLE PUBLIC UTILITIES; WATERMAIN LOCATED IN NW 46TH STREET. METER AND BACKFLOW PREVENTION WILL BE PROVIDED IN CONFORMANCE OF SEATTLE BUILDING STANDARDS.

STORM DRAINAGE WILL BE SERVICED BY AN EXISTING; STORM DRAIN MAIN IN 14TH AVENUE NW IN CONFORMANCE WITH CITY OF SEATTLE DRAINAGE REQUIREMENTS.

FIRE PROTECTION EXISTS ADJACENT TO SITE THROUGH FIRE HYDRANTS AT THE NORTHEAST CORNER OF 15TH AVENUE NW AND NW BALLARD WAY, AT MID-BLOCK ON NW BALLARD WAY BETWEEN 14TH AVENUE NW AND 15TH AVENUE NW, AT THE NORTHWEST CORNER OF 15TH AVENUE NW AND NW 46TH STREET, AND AT MID-BLOCK ON NW 46TH STREET BETWEEN 14TH AVENUE NW AND 15TH AVENUE NW.

REFUSE SERVICE - SEATTLE PUBLIC UTILITIES; REFUSE SERVICE ALREADY EXISTS ON THE SITE.

TELEPHONE SERVICE EXISTS AT NW 46TH STREET AND 14TH AVENUE NW.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand the lead agency is relying on them to make its decision.

Signature: _____

Date submitted: September 22, 2009

This checklist was reviewed by: _____

Sunny Becker, Washington State Department of Ecology

Any comments or changes made by the Department are entered in the body of the checklist and contain the initials of the reviewer.

_____

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(Do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

   Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

   Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

   Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally critical areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

Exhibit G

Form Agreement of Successors in Interest and Assigns

EXHIBIT G

The Honorable

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. BLOCK AT BALLARD II, LLC, Defendant.	No. AMENDMENT TO CONSENT DECREE RE: WESMAR COMPANY, INC. (AGREEMENT OF SUCCESSORS IN INTEREST AND ASSIGNS)

The undersigned Successors in Interest and Assigns are made a party to the Consent Decree Re: Wesmar Company, Inc. Site, Seattle, Washington (King County Superior Court Cause No. _____). The undersigned hereby agrees to be bound by all applicable provisions of the Decree.

This Agreement of Successors in Interest and Assigns shall be effective upon approval by the Court.

//

//

//

So ordered this ___ day of _____ 2010.

_____
JUDGE
King County Superior Court

IT IS SO AGREED BY THE UNDERSIGNED SUCCESSORS IN INTEREST AND ASSIGNS:

By: _____

Its: _____

Date: _____

Address: _____

_____

IT IS SO AGREED BY THE DEPARTMENT OF ECOLOGY:

By: _____

Its: _____

Date: _____

Address: _____

_____

IT IS SO AGREED BY THE OFFICE OF THE ATTORNEY GENERAL:

By: _____

Its: _____

Date: _____

Address: _____

_____

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770