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STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

TEXACO DOWNSTREAM INC.,

Defendant.

NO. **01-2-35802-6SEA**

CONSENT DECREE RESOLVING
ECOLOGY'S PAST COSTS CLAIM
AGAINST TEXACO DOWNSTREAM
INC.

I. INTRODUCTION

A. In entering into this Consent Decree (Decree), the mutual objective of the Washington State Department of Ecology (Ecology), and Texaco Downstream Inc. (hereafter Texaco or Defendant) is to settle Ecology's claim against Texaco for all Costs it incurred through September 28, 1999, relating to the release or threatened release of hazardous substances at or near the Manhattan Express Deli (formerly Arnold's Mini-Mart) located at 631 Queen Anne Avenue North, Seattle, Washington (the Site). Ecology has determined that these actions are necessary as part of the process to remediate the release or threatened release of hazardous substances at or near the Site and to protect public 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.

1 cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be
2 entered as a consent decree issued by a court of competent jurisdiction.

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

5 D. Ecology has given notice to Defendant, as set forth in RCW 70.105D.020(15),
6 of Ecology's determination that the Defendant is a potentially liable person for the site and that
7 there has been a release or threatened release of hazardous substances at the site.

8 E. Defendant consents to the entry of this Decree under the MTCA.

9 III. SETTLEMENT AND PARTIES BOUND

10 Within thirty (30) days after the effective date of this Decree, Defendant shall pay
11 Ecology Four Hundred Fifty Thousand Dollars (\$450,000.00) to completely settle Ecology's
12 claim against Defendant for Ecology's costs and expenses incurred before and including
13 September 28, 1999. This Decree shall apply to and be binding upon the signatories to this
14 Decree (parties), their successors and assigns. The undersigned representative of each Party
15 hereby certifies that he or she is fully authorized to enter into this Decree and to execute and
16 legally bind such Party to comply with the Decree. Defendant agrees to undertake all actions
17 required by the terms and conditions of this Decree and not to contest state jurisdiction
18 regarding this Decree.

19 IV. DEFINITIONS

20 Except for as specified herein, all definitions in WAC 173-340-200 apply to the terms
21 in this Decree.

22 A. Site: Refers to the Manhattan Express Deli (formerly Arnolds Mini-Mart),
23 located at 631 Queen Anne Avenue North, Seattle, Washington. The Site is more particularly
24 described in Exhibit A to this Decree, which is a detailed site diagram. For the purposes of
25 remedial investigation and cleanup action under MTCA, the Site includes the location defined

1 C. In February 1978, the basement of the neighboring Monterey apartment building
2 was noted to have gasoline odors, which were investigated by the Seattle Fire Department. In
3 1986, Ecology began investigating the source of gasoline odors in the Monterey apartment
4 building.

5 D. In 1989, the Arnolds sold the site to John Yoo and Young Yoo. In 1993, the
6 sale was rescinded because of the presence of petroleum contamination. In 1993, Ecology
7 ordered the Site to stop selling gasoline and contracted to have the underground storage tanks
8 and associated gasoline dispensing equipment removed from the Site. In addition, Ecology
9 installed a soil vapor extraction remediation system at the Site.

10 E. By letter dated February 11, 1994, Ecology notified Mr. and Mrs. Arnold that it
11 proposed to find them "potentially liable persons" under RCW 70.105D.040. This letter
12 invited Mr. and Mrs. Arnold to submit comments on this proposed finding. Mr. and
13 Mrs. Arnold requested and were given additional time to submit comments. After reviewing
14 information submitted by Mr. and Mrs. Arnold, Ecology notified them by letter dated
15 October 5, 1994, of their status as "potentially liable persons" under RCW 70.105D.040.

16 F. By letter dated April 27, 1999, Ecology notified Texaco that it proposed to find
17 it a "potentially liable person" under RCW 70.105D.040. The letter invited Texaco to submit
18 comments on this proposed finding. Texaco did submit comments on August 5, 1999. After
19 reviewing information submitted by Texaco, Ecology notified Texaco by letter dated
20 September 28, 1999, of its status as a "potentially liable person" under RCW 70.105D.040.

21 G. Ecology and Texaco have evaluated Ecology's potential claim for past Costs
22 through September 28, 1999, which totals nearly \$940,000.00. Ecology has determined that it
23 is appropriate under the circumstances to compromise its past Costs claim for this period.
24 Ecology has agreed to accept payment from Texaco in the amount of \$450,000.00 as complete
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VII. 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 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, the Defendant shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in implementing the activities pursuant to this Decree.

VIII. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

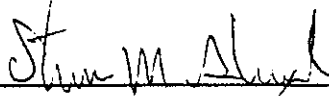
By entering into this settlement and Consent Decree, Ecology covenants that it will not sue Defendant or Defendant's predecessors or successors (if any) for Costs incurred by Ecology through September 28, 1999. In addition, Ecology expressly waives and forever releases with prejudice any and all claims it may have against Defendant and Defendant's predecessors or successors (if any), for Costs incurred through September 28, 1999. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.


The Parties agree, and by entering this Consent Decree this Court finds, that the Defendant, Defendant's predecessors or successors (if any) are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by RCW 70.105D.040(4)(d) for matters addressed in this Consent Decree. "Matters addressed" in this Consent Decree are

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

5 STATE OF WASHINGTON
6 DEPARTMENT OF ECOLOGY

CHRISTINE O. GREGOIRE
Attorney General

7 
8 _____
9 STEVE ALEXANDER
10 Section Head
11 Toxics Cleanup Program
12 Northwest Regional Office

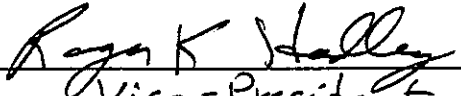


ANDREW A. FITZ, WSBA #22169
Assistant Attorney General

11 Date: 12-18-01

Date: 12/19/01

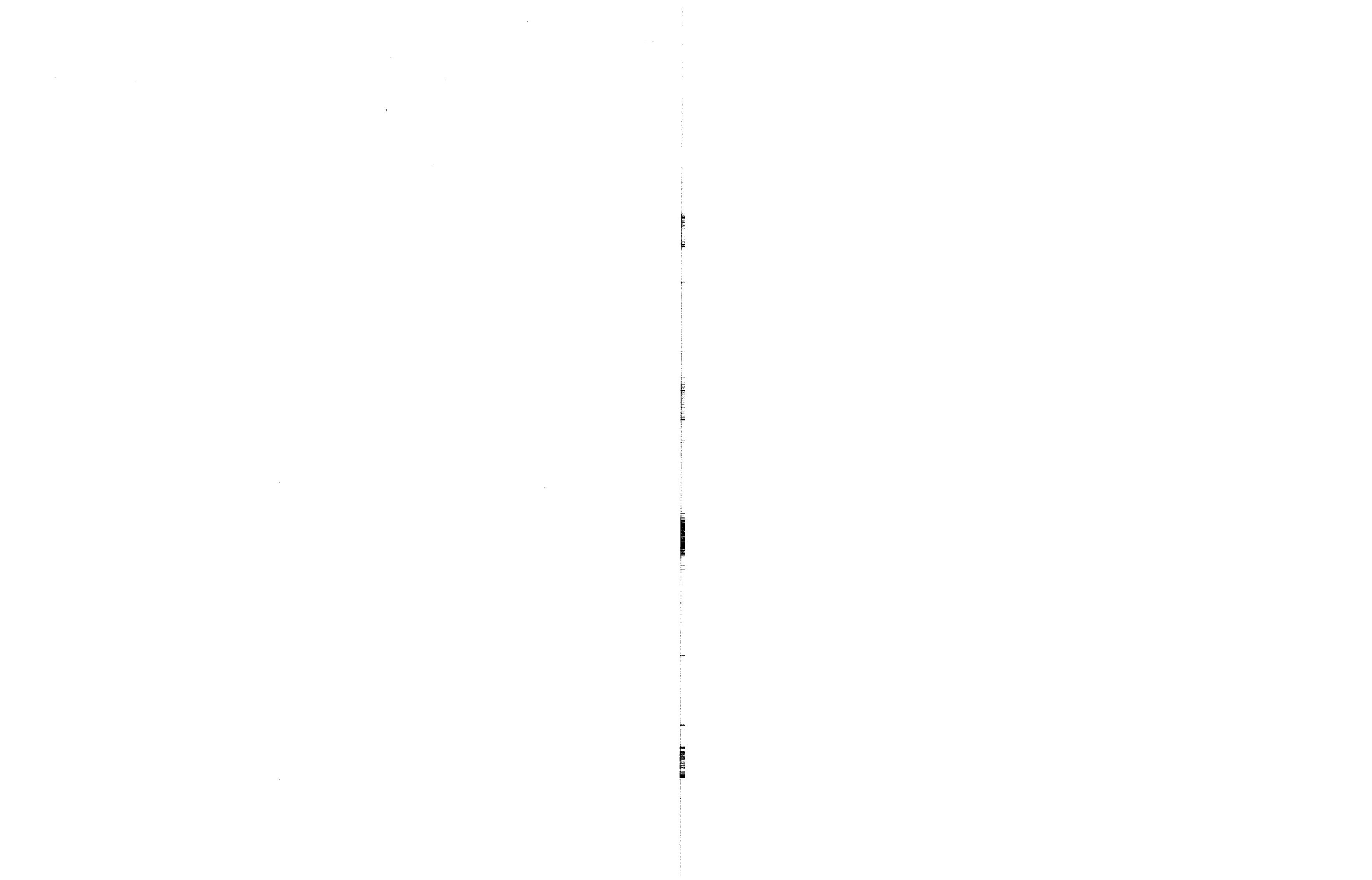
13 TEXACO DOWNSTREAM INC.

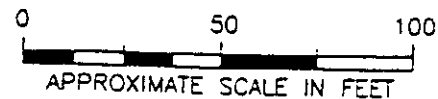
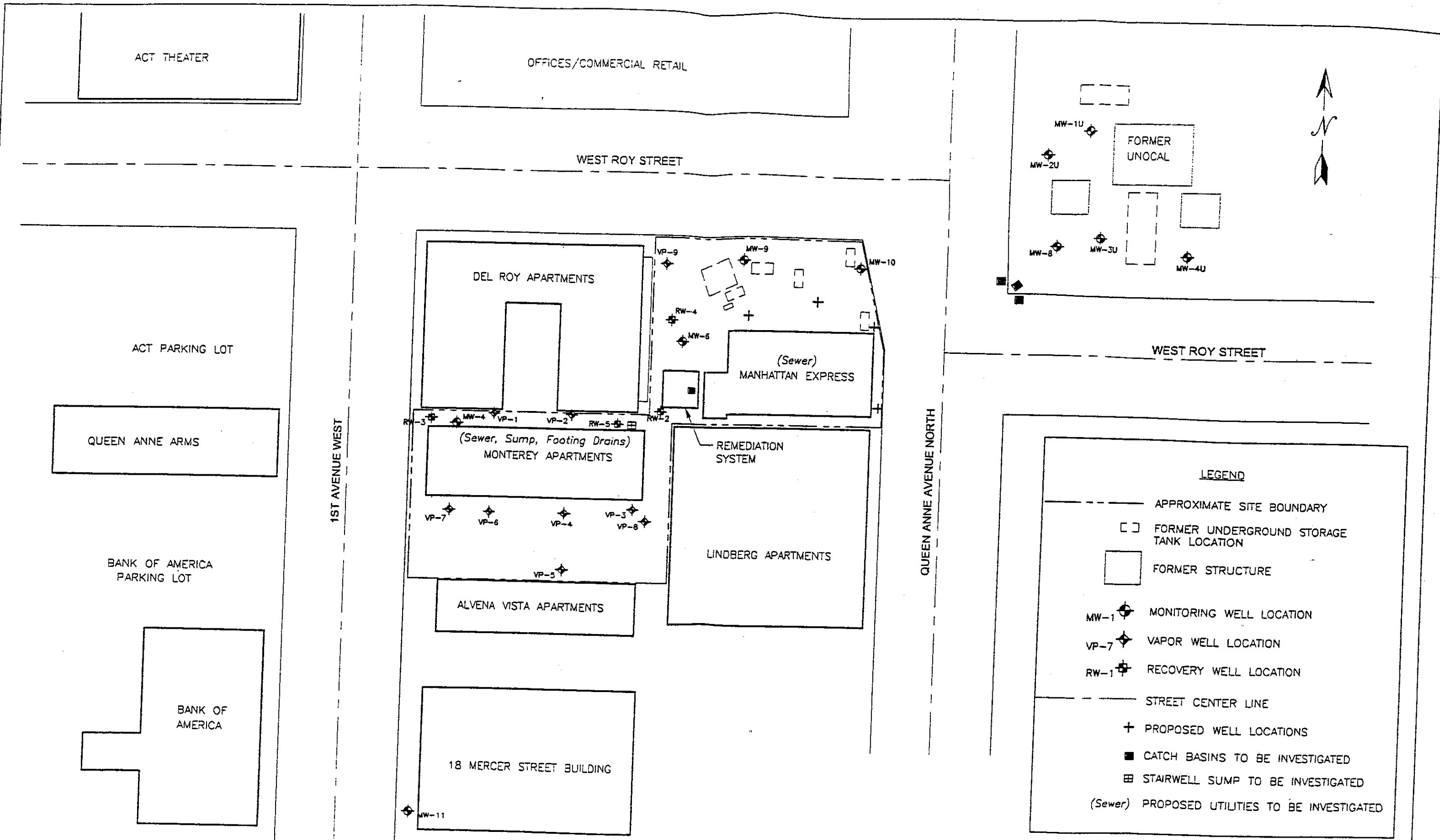
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16 By: 
17 Title: Vice-President

18 Date: 12-3-01

19 DATED this 28th day of December, 2001.

21 Frederick S. Simmons
22 _____
23 JUDGE
24 King County Superior Court





BASE MAP REFERENCE: City of Seattle Department of Engineering
 SE 1/4 & NE 1/4 Section 25-TS 25 N., R 3 E, W.M.
 Revised 2/00

EXHIBIT A

SITE MAP SHOWING PROPOSED WELL LOCATIONS AND UTILITIES TO BE EXPLORED
 QUEEN ANNE TRXACO