FS. 2225439/

STATE OF WASHINGTON
KING COUNTY.SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

1925 THIRD LLC,

Defendant.

NO. 04-2-01681-9 SEA

PROSPECTIVE PURCHASER CONSENT DECREE RE: BARG FRENCH CLEANERS SITE, SEATTLE, WASHINGTON

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I. INTRODUCTION

This prospective purchaser consent decree ("Decree") is made and entered into by and between the Washington State Department of Ecology ("Ecology") and 1925 Third LLC. 1925 Third LLC is herein referred to as "Defendant."

1. WHEREAS, the purpose of this Decree is to resolve the potential liability of Defendant for known and suspected contamination at the Barg French Cleaners site in Seattle, Washington (the "Site") arising from a release or threatened release of hazardous substances, to promote the public interest by expediting cleanup activities at the Site and to facilitate the cleanup and redevelopment of contaminated properties in Seattle, Washington.

2. WHEREAS, a Site Diagram and Legal Description are attached as Exhibit A.

3. WHEREAS, Defendant has proposed to participate in the cleanup of the Site and redevelop the Property for commercial use consistent with applicable city zoning provisions and comprehensive plan designations.

4. WHEREAS, Defendant has entered into a contract to acquire the Property.

5. WHEREAS, Defendant intends to purchase the Property and to perform the remedial action outlined in this Consent Decree.

6. WHEREAS, in the absence of this Decree, at the time it acquired the Property, Defendant would incur potential liability under RCW 70.105D.040(1)(a) of the Model Toxics Control Act ("MTCA") for performing remedial actions, or for paying remedial costs incurred by Ecology, resulting from past releases or threatened releases of hazardous substances at the Site, and Defendant has certified that it is not otherwise currently liable under MTCA for remedial action at the Site.

7. WHEREAS, Defendant has developed a Cleanup Action Plan ("CAP") to address soil, air and groundwater contamination at the Site.

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8. WHEREAS, this Decree promotes the public interest by expediting cleanup activities at the Site consistent with MTCA, Chapter 70.105D RCW and its implementing rules in Chapter 173-340 WAC.

9. WHEREAS, Defendant shall perform the remediation specified in this Decree and the CAP, attached as Exhibit B, in exchange for a covenant not to sue and contribution protection.

10. WHEREAS, Defendant's plans for the redevelopment of the Property are not likely to contribute to contamination at the Site, interfere with remedial actions that may be needed on the Site, or increase human health risks to persons at or in the vicinity of the Site.

11. WHEREAS, this Decree will provide a substantial public benefit by promoting redevelopment of a former commercial site and yielding substantial new resources to facilitate cleanup.

12. WHEREAS, Defendant's remedial actions will lead to a more expeditious cleanup of hazardous substances at the Site than would otherwise occur, and will promote protection of the public health and the environment.

13. WHEREAS, 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.

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

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

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II. AUTHORITY, JURISDICTION AND VENUE

15. This Court has jurisdiction over the subject matter and over the parties pursuant to MTCA, RCW 70.105D. Venue is proper in King County pursuant to RCW 70.105D.050(5)(b).

16. Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) and RCW 70.105D.040(5) to enter into a settlement with persons not currently liable for remedial actions at a facility who propose to purchase property if, after public notice, Ecology finds the proposed settlement will lead to a more expeditious cleanup of hazardous substances in compliance with cleanup standards under RCW 70.105D.030(2)(e). In addition, the Attorney General may agree to the settlement if the settlement will yield substantial new resources to facilitate cleanup and expedite remedial action consistent with rules adopted under MTCA, and Ecology finds that the redevelopment or reuse of the property is not likely to contribute to the existing release or threatened release, interfere with remedial actions that may be needed at the site, or increase health risks to persons at or in the vicinity of the site. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a consent decree issued by a court of competent jurisdiction.

17. Ecology has determined that hazardous substances have been released at the Site. Ecology has not made a determination that Defendant is a Potentially Liable Person (PLP) for the Site and Defendant has certified that it is not currently liable under RCW 70.105D. Were Defendant to acquire an interest in the Site, however, it could become a PLP as an owner or operator under RCW 70.105D.040(1)(a). This Decree is entered prior to Defendant's operation of the Site, or acquisition of any property interest in the Site, to resolve its potential liability for known or suspected Site contamination described in reports and in the CAP and to facilitate a more expeditious cleanup of the Site than otherwise would occur. This Decree is entered into pursuant to the authority set forth in RCW 70.105D.040(5).

18. By entering into this Decree, Defendant agrees not to challenge Ecology's jurisdiction in any proceeding to enforce this Decree. Defendant consents to the issuance of this Decree and agrees to perform the remedial actions as specified in this Decree.

19. All Exhibits attached to this Decree are integral and enforceable parts of this Decree.

III. PARTIES BOUND

20. This Decree shall apply to and be binding upon the signatories to this Decree. 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 and not to contest state jurisdiction regarding this Decree. No change in ownership or corporate status shall alter the responsibility of Defendant 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 contractors and subcontractors will be in compliance with this Decree.

21. Pursuant to RCW 70.105D.040(4)(e)(ii), Ecology has determined that this Decree is not based on unique circumstances. Therefore, the stay of enforcement against successors in interest in RCW 70.105D.040(4)(e) applies to this Decree.

IV. DEFINITIONS

22. Unless otherwise expressly provided herein, terms used in this Decree that are defined in MTCA, Chapter 70.105D RCW, or in regulations promulgated under MTCA, Chapter 173-340 WAC, shall have the meaning assigned to them in MTCA or in such regulations. Whenever terms listed below are used in this Decree or in the attachments hereto, the following definitions shall apply:

"Decree" shall mean this Decree and all attachments hereto. In the event of conflict between this Decree and any Exhibit, this Decree shall control.

"Paragraph" shall mean a portion of this Decree identified by an Arabic numeral.

"Section" shall mean a portion of this Decree identified by a Roman numeral and including one or more Paragraphs.

"Site" shall mean the property located at the Nineteen-hundred block of Third Avenue in Seattle, Washington and conforming to the legal description included in Exhibit A (the "Property"), and surrounding areas where hazardous substances released from the historic dry cleaning operations have come to be located. The Site is depicted on Exhibit A. The Site was historically divided into three storefronts, respectively designated 1925 3rd Avenue, 1927 3rd Avenue and 1929 3rd Avenue. The Site, which has also been known as the Barg French Cleaners site, is a "facility" as defined in MTCA per RCW 70.105D.020(4).

"Successors in Interest and Assigns" shall mean any person who acquires an interest in the Site through purchase, lease, transfer, assignment, or otherwise.

V. STATEMENT OF FACTS

23. The Site is located at 1925, 1927 and 1929 Third Avenue in Seattle, Washington. The property is bounded by Third Avenue to the northeast, a six-story office building to the southeast, a paved alley to the southwest, and a two-story parking structure to the northwest.

24. The Site is occupied by a building erected in 1914 and originally known as the Heiden Building. This building is a three-story structure without a basement, comprised of brick and masonry walls supported on conventional shallow concrete spread footings.

25. The northwestern third of the ground floor was occupied by the dry cleaning operation from 1951 to 2000. The remainder of the ground floor formerly housed a bookstore. The second and third floors have been used as commercial business spaces. All spaces within the building are currently vacant.

26. A limited Phase II site assessment conducted by Websters, Inc. in 1999 detected the presence of perchloroethylene (PCE), a dry cleaning solvent, in shallow soil beneath the

floor of the dry cleaning space. Subsequent subsurface investigations included installation of more than 30 subsurface explorations consisting of soil probes, soil vapor extraction points, and monitoring wells. In 2001, SECOR International, Inc. prepared a remedial action plan that included development of cleanup levels by media and a proposed remedial approach. SECOR also collected two air samples inside the building and established cleanup levels for groundwater that would be protective of air quality.

27. These environmental conditions were reported in a Remedial Investigation report dated August 28, 2002. Based on the results of the Remedial Investigation, Defendant proposed and Ecology approved a final remedy as outlined in the Work to be Performed, Section VII, below and as described more fully in the attached CAP (Exhibit B).

VI. DESCRIPTION OF PLANNED PROJECT

28. Defendant intends to acquire and operate the Property.

29. Defendant plans to redevelop the Property for commercial use.

VII. WORK TO BE PERFORMED, SCHEDULE AND LAND USE RESTRICTIONS

30. This Decree contains a program designed to protect public health, welfare, and the environment from the known, suspected, or threatened release of hazardous substances or contaminants at, on, or from the Site. The requirements of such program are described in detail in this section of the Decree and in the Cleanup Action Plan (Exhibit B) and in the schedule set forth in Exhibit C.

31. A Remedial Investigation has been completed, and Defendant agrees to perform the remedial actions herein and as described in the CAP and Schedule to protect human health and the environment from the release or threatened release of known or suspected hazardous substances at or from the Site.

32. Defendant shall perform remedial actions in the attached CAP pursuant to the Schedule attached at Exhibit C. Defendant, through its contractor(s) and subcontractor(s) as necessary, shall accomplish the following tasks:

A. Comply with all applicable local, state and federal laws relating to implementation of this remedial action at the Site, see Exhibit B.

B. Demolish and remove existing flooring material from the former dry cleaners and bookstore on the first floor and excavate two feet of soil.

C. Stockpile and test the excavated soil and transport offsite for disposal.

D. Install vertical and horizontal wells for air sparging and vapor extraction.

E. Use air sparging to volatilize PCE and other volatile organic compounds (VOCs) in the groundwater layer.

F. Use vacuum extraction system to recover VOCS released from the groundwater and PCE in the unsaturated soil column.

G. Heat extracted vapors to room temperature to reduce relative humidity and then adsorb and remove them in activated carbon cannisters.

H. Conduct soil and groundwater compliance monitoring.

Defendant agrees not to perform any remedial actions on the Site that are inconsistent with the remedial actions required under this Consent Decree.

33. Defendant shall obtain any and all state, federal, or local permits required by applicable law before commencing the remedial action at the Site, except as provided in Section XXI. Defendant shall prepare a Site Safety and Health Plan in accordance with WAC 173-340-810 and the most recent OSHA, WISHA, Ecology, and EPA guidance and applicable regulations, for Ecology review. Defendant shall also provide a security system at the Property designed to prevent entry by unauthorized persons during the excavation work.

34. Defendant shall be prohibited from using the Site in a manner likely to cause or contribute to the existing release, interfering with remedial actions performed or that may be needed at the Site, or increasing health risks to persons or risks to the environment at or in the vicinity of the Site.

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35. Defendant shall record the Restrictive Covenant attached to this Decree as Exhibit D with the King County Auditor's Office within thirty (30) days of the documented completion of the cleanup (Exhibit C, Task 24) if there are any remaining hazardous substances that exceed cleanup levels, and shall provide Ecology with proof of such recording within thirty (30) days of such recording. The Restrictive Covenant will apply only to that portion of the Property on which hazardous substances are left in concentrations exceeding cleanup levels. Defendant shall provide Ecology with a copy of the version of the Restrictive Covenant proposed for filing at least seven (7) days prior to the actual filing of the document. Defendant, or its Successors in Interest and Assigns, after confirmational monitoring has shown that contaminants are no longer present at the Property above applicable cleanup levels, may record an instrument that provides that the Restrictive Covenant provided in Exhibit D shall no longer limit uses of the Property or be of any further force or effect, but only with Ecology's prior written approval of such instrument.

VIII. ECOLOGY COSTS

36. Defendant agrees to pay costs incurred by Ecology pursuant to this Decree. These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70-105D RCW, for investigations, remedial actions, oversight and administration associated with this Decree (including preparation and negotiation of this Decree). Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Defendant agrees to pay the required amount within ninety (90) 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 and costs shall be prepared quarterly. Failure to pay Ecology costs within ninety (90) days of receipt of the itemized statement will result in interest charges as allowed by law. Defendant reserves the right to review and approve any

charges prior to payment. Any dispute regarding remedial and investigation costs for the Site shall be subject to dispute resolution pursuant to Section XIV. Defendant reserves the right to pay the undisputed portion of an invoice and not pay the disputed portion.

IX. DESIGNATED PROJECT COORDINATORS

37. The project coordinator for Ecology is:

Brian Sato
Toxics Cleanup Program
Department of Ecology
Northwest Regional Office
3190 160th Avenue Southeast
Bellevue, WA 98008
Telephone: (425) 649-7000

The project coordinator for Defendant is:

Mike Warfel
Parametrix, Inc.
5808 Lake Washington Boulevard, Suite 200
Kirkland, Washington 98033
Telephone: (425) 822-8880

38. Each project coordinator shall be responsible for overseeing the implementation of this Decree. The Ecology project coordinator will be Ecology's designated representative at 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, Section VII, and attached Cleanup Action Plan. The project coordinators may agree to minor modifications to the work to be performed without formal amendments to this Decree.

39. Any party may change its respective project coordinator. Written notification shall be given to the other parties at least ten (10) calendar days prior to the change.

X. PERFORMANCE

40. All work performed pursuant to this Decree shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or equivalent, with experience and expertise in hazardous waste site investigation and cleanup. Any construction work must be under the supervision of a professional engineer. Defendant shall notify Ecology in writing as to the identity of such engineer(s) or hydrogeologist(s), or others and of any contractors and subcontractors to be used in carrying out the terms of this Decree, in advance of their involvement at the Site.

XI. CERTIFICATION OF DEFENDANT

41. Defendant represents and certifies that, to the best of its knowledge and belief, it has fully and accurately disclosed to Ecology the information currently in its possession or control that relates to the environmental conditions at and in the vicinity of the Site, or to Defendant's right and title thereto.

42. Defendant represents and certifies that it did not cause or contribute to a release or threatened release of hazardous substances at the Site and is not otherwise potentially liable under RCW 70.105D.040(1), except by becoming an owner and/or operator of the Site.

XII. TRANSFER OF INTEREST IN PROPERTY

43. Prior to any voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Property, Defendant shall provide for continued compliance with all of the conditions of this Decree. Prior to transfer of any legal or equitable interest in all or any portion of the Property 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 interest of the Property; and, prior to any transfer, Defendant shall notify Ecology of said contemplated transfer.

44. Defendant shall require that any future use of the Property be consistent with the Restrictive Covenant set forth in Exhibit D.

XIII. AMENDMENT TO CONSENT DECREE

45. This Decree may only be amended by a written stipulation among the parties to this Decree that is thereafter entered and approved by order of the Court. Such amendment shall become effective upon entry by the Court or upon a later date if such date is expressly stated in the parties' written stipulation or the Court so orders.

46. Amendments may cover any subject or be for any purpose agreed to by the parties to this Decree. If Ecology determines that the subject of an amendment requires public input, Ecology shall provide thirty (30) days public notice prior to seeking entry of the amendment from the Court.

XIV. DISPUTE RESOLUTION

47. In the event a dispute arises as to an approval, disapproval, proposed modification, or other decision or action by Ecology's project coordinator, the parties shall use the dispute resolution procedure set forth below.

A. Upon receipt of the Ecology project coordinator's decision or upon discovery of Ecology project coordinator's action, Defendant has fourteen (14) days to notify Ecology's project coordinator of any objection to the decision or action.

B. 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 of Defendant's objection, Ecology's project coordinator shall issue a written decision.

C. Defendant may then request Ecology 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 Ecology's project coordinator's written decision.

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

48. If Ecology's final written decision is unacceptable to Defendant, Defendant shall have 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 any investigative or remedial action or decision of Ecology under an arbitrary and capricious standard of review.

49. The parties agree to use the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used. When either party uses the dispute resolution process in bad faith or for purposes of delay, the other party may seek sanctions. The parties may agree to substitute another dispute resolution process, such as mediation, for the procedure set forth above.

50. The 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. CONTRIBUTION PROTECTION

51. With regard to claims for contribution against Defendant for matters addressed in this Decree, Ecology agrees that Defendant, its Successors in Interest and Assigns are entitled to protection from contribution actions or claims as is provided by MTCA, RCW 70.105D.040, CERCLA § 107 or 113, or any other federal or state claim seeking, under other theories, substantially similar relief, to the extent allowed by MTCA, RCW 70.105D.040 and CERCLA § 113(f)(2). The contribution protection conferred in this section shall not be

frustrated by the use of non-CERCLA or non-MTCA theories to seek relief in the nature of contribution or indemnification.

52. For purposes of this Section, "matters addressed" include all remedial actions taken or to be taken and all remedial action costs (including Ecology's oversight costs) incurred or to be incurred by Ecology or any other person with respect to the Site. "Matters addressed" do not include those remedial actions or remedial action costs as to which Ecology has reserved its rights under this Consent Decree (except for claims for failure to comply with this Decree), if Ecology asserts rights against Defendant coming within the scope of such reservations.

XVI. COVENANT NOT TO SUE UNDER MTCA; REOPENERS

53. In consideration of compliance by Defendant with the terms and conditions of this Decree, Ecology agrees that compliance with this Decree shall stand in lieu of any and all administrative, legal, and equitable remedies and enforcement actions available to Ecology against Defendant, its Successors in Interest, and Assigns for the release or threatened release of known or suspected hazardous substances at the Site covered by the terms of this Decree. Ecology covenants not to sue Defendant, its Successors in Interest and Assigns for matters covered by the terms of this Decree, provided that Defendant, or its Successors in Interest and Assigns, has substantially complied with this Decree.

A. Reopeners: In the following circumstances the State of Washington may exercise its full legal authority to address releases of hazardous substances at the Site notwithstanding the Covenant Not to Sue set forth above:

1. In the event Defendant fails to comply with the terms and conditions of this Decree, including all attachments, and, after written notice of noncompliance, fails to come into compliance.

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2. In the event new information becomes available regarding factors previously unknown to Ecology, and Ecology determines, in light of this information, that further remedial action is necessary at the Site to protect human health or the environment.

3. In the event the remedial action conducted at the Site fails to meet the requirements set forth in Section VII of this Decree and the attached Cleanup Action Plan.

4. In the event the Property is used for any activities that contribute to the existing release or threatened release, interfere with remedial actions that may be needed at the Site, or increase health risks to persons at or in the vicinity of the Site.

B. Applicability. The Covenant Not To Sue set forth above shall have no applicability whatsoever to:

1. Criminal liability;

2. Any Ecology action against PLPs not party to this Decree (except Successors in Interest and Assigns); and

3. Any Claims by the State for Natural Resources Damages.

XVII. DEFENDANT'S RESERVATION OF RIGHTS

54. Defendant reserves all rights and defenses that it may have and which are not otherwise addressed in the Decree.

55. Except as provided herein for Defendant, this Decree does not grant any rights or affect any liabilities of any person, firm or corporation or subdivision or division of state, federal, or local government.

XVIII. DISCLAIMER

56. This Decree does not constitute a representation by Ecology that the Site is fit for any particular purpose.

XIX. RETENTION OF RECORDS

57. Defendant shall retain all records, reports, documents, and underlying data in its possession relevant to the implementation of this Decree during the pendency of this Decree and for a period of ten years following the termination of this Decree pursuant to Paragraph 80, and shall insert in contracts with project contractors and subcontractors a similar records retention requirement. Upon request of Ecology, Defendant shall make all non-archived records available to Ecology and allow Ecology reasonable access for record review. All archived records shall be made available to Ecology by Defendant within a reasonable period of time.

XX. SITE ACCESS

58. Ecology or any Ecology authorized representatives shall have the authority to enter and freely move about portions of the Site over which Defendant has control 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 reasonably 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 the Defendant. All parties with access to the Property pursuant to this Paragraph shall comply with approved health and safety plans. The parties acknowledge that Defendant does not and will not own all portions of the Site. Defendant will use reasonable efforts to obtain access to those portions of the Site it does not and will not own.

59. Notwithstanding any provision of this Decree, Ecology retains all of its access authorities and access rights, including enforcement authorities related thereto, under MTCA and any other applicable state statute, regulation or order. Nothing in this Decree shall limit any right of access Ecology may have concerning releases of hazardous substances not

addressed by this Decree. The right of entry granted in this Section is in addition to any right Ecology may have to enter onto the Site pursuant to specific statutory or regulatory authority. Consistent with Ecology's responsibilities under state and federal law, Ecology, and any persons acting for it, shall use reasonable efforts to minimize any interference and shall use reasonable efforts not to interfere with the operations of Defendant by any such entry. In the event Ecology enters the Site for reasons other than emergency response, Ecology agrees that it shall provide reasonable advance notice to Defendant of any planned entry, as well as schedules and locations of activity on the Site. Ecology further agrees to accommodate reasonable requests that it modifies its scheduled entry or activities at the Site.

XXI. OTHER APPLICABLE LAWS

60. All actions carried out by Defendant pursuant to this Decree shall be done in accordance with all applicable federal, state, and local requirements, including applicable permitting requirements. Pursuant to RCW 70.105D.090(1), the known and applicable substantive requirements of Chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW, and any laws requiring or authorizing local government permits or approvals for remedial action, have been included in the CAP and are incorporated by reference herein as binding and enforceable requirements in this Decree.

61. 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 Defendant or Ecology 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 whether the additional substantive requirements must be met by Defendant and on how Defendant must meet those requirements. Ecology shall inform Defendant in writing of these requirements and Defendant shall have an opportunity to comment on such 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.

62. Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

63. Pursuant to RCW 70.105D.090(2), in the event that 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 necessary for the state to administer any federal law, such 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.

XXII. SAMPLING, DATA REPORTING, AND AVAILABILITY

64. 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 and shall submit these results in accordance with Section XXIII of this Decree.

65. If requested by Ecology, Defendant shall allow split or duplicate samples to be taken by Ecology and/or Ecology's authorized representatives of any samples collected by Defendant pursuant to the implementation of this Decree. Defendant shall notify Ecology at least seven (7) working days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow split or duplicate samples to be taken, at Defendant's sole

expense, by Defendant, or its authorized representatives, of any samples collected by Ecology pursuant to the implementation of this Decree, provided its does not unreasonably interfere with the Department's sampling. Without limiting Ecology's rights under Section XX, Ecology shall endeavor to notify Defendant at least five (5) working days prior to any sampling collection activity.

XXIII. PROGRESS REPORTS

66. Defendant shall submit to Ecology monthly written progress reports that describe the actions taken to implement the requirements of this Decree. The progress report shall contain the following:

A. A list of on-Site activities that have taken place during the reporting period;

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 schedule during the current reporting period and any planned deviations in the upcoming reporting period;

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

E. All data (including laboratory analyses) which, after the QA/QC program has been performed, have been received by Defendant during the past reporting period and an identification of the source of the samples; and

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

67. All progress reports shall be submitted by the tenth day of the month following each reporting period after the effective date of this Decree. Unless otherwise specified,

progress reports and any other documents submitted pursuant to this Decree will be submitted in hard copy and electronic copy. Hard copies shall be sent by US mail, to Ecology's project coordinator.

XXIV. EXTENSION OF SCHEDULE

68. 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 when good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify the reason(s) the extension is needed.

69. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. A requested extension shall not be effective until approved by Ecology. Ecology shall act upon any written request for extension in a timely fashion. It shall not be necessary to formally amend this Decree pursuant to Section XIII when a schedule extension is granted.

70. 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 includes, but is not limited to, the following: (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; or (2) Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or (3) endangerment as described in Section XXV.

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

72. Ecology may extend the schedule for a period not to exceed ninety (90) days, except where an extension is needed as a result of:

A. Delays in the issuance of a necessary permit that was applied for in a timely manner; or

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

C. Endangerment as described in Section XXV.

73. Ecology shall give Defendant written notification in a timely fashion of any extensions granted pursuant to this Decree.

XXV. ENDANGERMENT

74. In the event Ecology determines that activities implementing or in compliance with this Decree, or any other circumstances or activities, are creating or have the potential to create a danger to the health or welfare of the people on the Site or in the surrounding area or to the environment, Ecology may order Defendant to stop further implementation of this Decree for such period of time as needed to abate the danger or may petition the Court for an order as appropriate. During any stoppage of work under this Section, the obligations of Defendant with respect to the work under this Decree that is ordered to be stopped shall be suspended and the time periods for performance of that work, as well as the time period for any other work dependent upon the work that is stopped, shall be extended, pursuant to Section XXIV of this Decree, for such period of time as Ecology determines is reasonable under the circumstances.

75. In the event Defendant determines that activities undertaken in furtherance of this Decree or any other circumstances or activities are creating an endangerment to the people on the Site or in the surrounding area or to the environment, Defendant may stop implementation of this Decree for such period of time necessary for Ecology to evaluate the situation and determine whether Defendant should proceed with implementation of the Decree

or whether the work stoppage should be continued until the danger is abated. Defendant shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after such stoppage of work, and thereafter provide Ecology with documentation of the basis for the work stoppage. If Ecology disagrees with Defendant's determination, it may order Defendant to resume implementation of this Decree. If Ecology concurs with the work stoppage, Defendant's obligations shall be suspended and the time period for performance of that work, as well as the time period for any other work dependent upon the work that was stopped, shall be extended, pursuant to Section XXIV of this Decree, for such period of time as Ecology determines is reasonable under the circumstances.

XXVI. IMPLEMENTATION OF REMEDIAL ACTION

76. If Ecology determines that Defendant has failed without good cause to implement the remedial action described herein and in the CAP, 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 the obligations under this Decree, Defendant shall reimburse Ecology for the costs of doing such work, provided that Defendant shall not be obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Decree.

XXVII. PUBLIC PARTICIPATION

77. Ecology shall maintain the responsibility for public participation at the Site. However, Defendant shall cooperate with Ecology with respect to the following public participation activities:

A. Prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans and engineering design reports. Ecology will finalize (including editing if necessary) and

distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings;

B. Each party shall notify the other party's project coordinator prior to the preparation of all press releases and fact sheets, and shall allow the other party to review and comment on the documents. In addition, each party shall notify the other party's project coordinator at least one week before major meetings with the interested public and local governments regarding the remediation of the Site;

C. 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. In cooperation with Ecology, arrange and/or continue information repositories to be located at the following locations:

Seattle Public Library
Downtown Branch
Government Documents
1000 4th Avenue, 2nd Floor
Seattle, Washington

Department of Ecology
Northwest Regional Office
3190 160th Avenue Southeast
Bellevue, Washington

At a minimum, copies of all public notices, fact sheets, and press releases, all quality assured monitoring data, remedial action plans, 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.

XXVIII. DURATION OF DECREE AND RETENTION OF JURISDICTION; CERTIFICATIONS BY ECOLOGY

78. This Decree shall remain in effect and this Court shall retain jurisdiction over both the subject matter of this Decree and the parties for the duration of the performance of the terms and provisions of this Decree for the purpose of enabling any of the parties to apply to the Court, consistent with the dispute resolution process set forth in Section XIV, and the amendment process set forth in Section XIII, for such further order, direction, and relief as may be necessary or appropriate to ensure that obligations of the parties have been satisfied. The Decree shall remain in effect until Defendant has received written notification from Ecology that the requirements of this Decree have been satisfactorily completed. Ecology shall provide such written notification or notice of any deficiencies in the completion of the requirements of this Decree within one hundred and eighty (180) days of receiving notice from Defendant that the requirements of the Decree have been satisfied. Within sixty (60) days of Defendant's written notice that any noted deficiencies have been corrected, Ecology shall provide written notification that the requirements of the Decree have been satisfied or notice of any deficiencies that still remain. The notification of completion shall be in substantially the form shown in Exhibit E. Upon receipt of written notification from Ecology that the requirements of this Decree have been satisfactorily completed, the parties shall move the Court to dismiss this action. The provisions set forth in Section XV (Contribution Protection), Section XVI (Covenant Not to Sue Under MTCA; Reopeners), Section XXX (Indemnification), and other such continuing or reserved rights of Defendant or Ecology under this Decree shall survive the dismissal of the action pursuant to this paragraph. This Decree shall in no way limit the authority of Ecology to obtain all legal or equitable remedies available against persons not party to this Decree and against all persons, parties or non-parties, for releases of hazardous substances at the Site not covered by this Decree.

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

XXIX. PUBLIC NOTICE AND WITHDRAWAL OF CONSENT

79. This Decree has been the subject of public notice and comment under RCW 70.105D.040(4)(a). As a result of this process, Ecology has found that this Decree will lead to a more expeditious cleanup of hazardous substances, in compliance with applicable cleanup standards, and is in the public interest.

80. If the Court withdraws its consent, this Decree 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. This paragraph shall not create a basis for withdrawal of consent or termination of this Decree other than those created by the terms of this Decree or that exist by operation of law or equity.

XXX. INDEMNIFICATION

81. 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 the Site 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 arising out of the negligent acts or omissions of the State of Washington, or employees or agents of the State, or its contractors in implementing the activities pursuant to this Decree.

XXXI. CLAIMS AGAINST THE STATE

82. 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 rights to seek to recover any costs incurred in implementing this Decree from any other PLP.

XXXII. EFFECTIVE DATE

83. This Decree is effective only after the date on which title to the Property vests in Defendant and the date on which the Court enters the Decree.

SO ORDERED this 15 day of January, 2004.

JUDGE/COURT COMMISSIONER
King County Superior Court

The undersigned parties enter into this Prospective Purchaser Consent Decree on the date specified below.

GROFF MURPHY TRACHTENBERG & EVERARD, PLLC

STEPHEN T. PARKINSON, WSBA 21111
Attorneys for Defendant 1925 Third LLC

DATED: 1/14/04

Manager of 1925 THIRD, LLC

DATED: 1/14/04

CHRISTINE O. GREGOIRE
Attorney General

STEVEN J. THIELE, WSBA 20275
Assistant Attorney General
Attorneys for Plaintiff
State of Washington
Department of Ecology

DATED: 1-9-04

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

JAMES PENDOWSKI
Program Manager
Toxics Cleanup Program

DATED: 1/9/04

EXHIBIT A

EXHIBIT A

Legal Description of 1925 Third Avenue Property:

Lot 3, Block 46, ADDITION TO THE TOWN OF SEATTLE, AS LAID OUT BY A.A. DENNY (COMMONLY KNOWN AS A.A. DENNY'S 6TH ADDITION TO THE CITY OF SEATTLE), according to the Plat thereof recorded in Volume 1 of Plats, Page 99, records of King County, Washington.

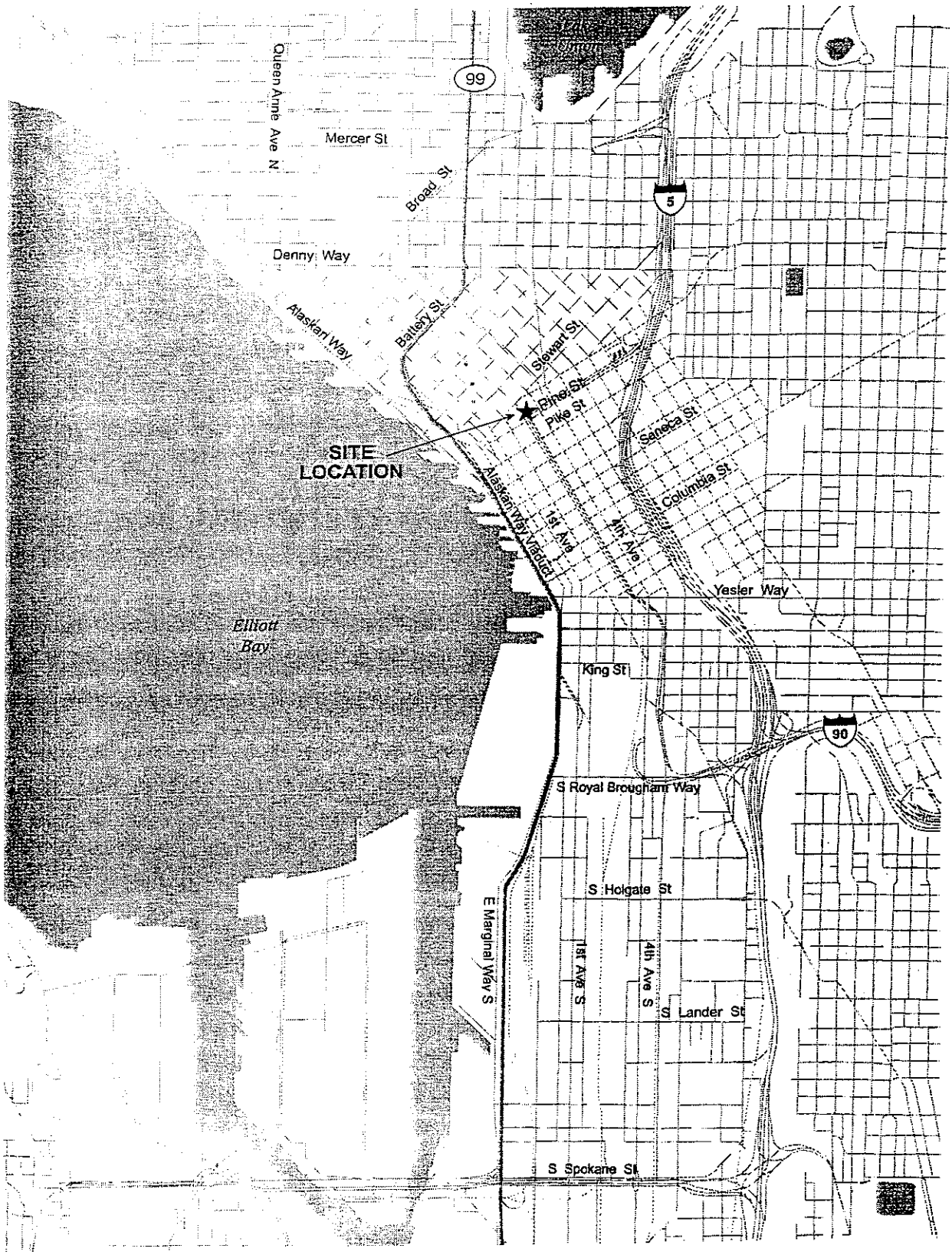
EXCEPT the Northeasterly 12 feet thereof heretofore condemned in King County Superior Court Cause No. 52280 for widening of Third Avenue, as provided by Ordinance No. 13776 of the City of Seattle.

Situate in the County of King, State of Washington.

NOTE FOR INFORMATIONAL PURPOSES ONLY:
The following may be used as an abbreviated legal description on the documents to be recorded, per amended RCW 65.04. Said abbreviated legal description is not a substitute for a complete legal description within the body of the document.

Ptn Lt 3, Blk 46, ADD TO T SEA

This property is located in King County.



Parametrix 1929 Third Avenue 555-4693-001/1(01) 11/03 (K)

0 2,500
SCALE IN FEET

N

Figure 1
Site Location Map
1925 Third Avenue
Seattle, Washington

EXHIBIT B

DRAFT CLEANUP ACTION PLAN
FORMER BARG FRENCH DRY CLEANING SITE
1925 Third Avenue
Seattle, Washington
Ecology Site Number 22254391

Prepared for:

1925 Third LLC
300 East Pine Street
Seattle, Washington 98122

Prepared by:

Parametrix, Inc.
5808 Lake Washington Boulevard, Suite 200
Kirkland, Washington 98033

November 13, 2003

DECLARATIVE STATEMENT

Consistent with Chapter 70.150D RCW, "Model Toxics Control Act", as implemented by Chapter 173-340 WAC, "Model Toxics Control Act Cleanup Regulation", it is determined by the Washington State Department of Ecology (Ecology) that these selected cleanup actions for the former Barg French Dry Cleaning site are protective of human health and the environment, attain Federal and State requirements which are applicable or relevant and appropriate, comply with cleanup actions, and provide for compliance monitoring. The cleanup actions also satisfy the preference expressed in WAC 173-340-360 for the use of permanent solutions within a reasonable timeframe.

This Cleanup Action Plan, and the work in support thereof, has been completed in compliance with Chapter 173-340-550 WAC, and hence is the "substantial equivalent" of a Cleanup Action Plan conducted or supervised by Ecology.

Brian S. Sato, P.E.
Project Manager
Toxics Cleanup Program, NWRO
Washington State Department of Ecology

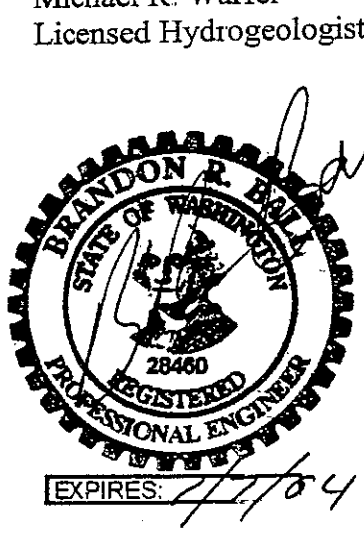
1/13/04
Date

CERTIFICATE OF LICENSED PROFESSIONALS

This document was prepared under the direct supervision and direction of the undersigned, who seals as licensed professionals to practice as such in the State of Washington are affixed as follows:

exp. 04-09-04

Michael R. Warfel
Licensed Hydrogeologist



1/1-1/04

Brandon Ball
Professional Engineer

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1 Introduction

The purpose of this Cleanup Action Plan (CAP) is to document the proposed remediation of contamination at the former Barg French Dry Cleaning site, which is located at 1925 Third Avenue, Seattle, Washington. The selected cleanup action documented by this CAP has been developed to support a Prospective Purchaser Agreement between the current property owner (Union Bank of California as Trustee of the Havers Trust) and the prospective purchaser, 1925 Third LLC.

The proposed cleanup action presented in this CAP was developed on the basis of site-specific data collected since 1999. This CAP meets the requirements specified in Chapter 173-340 WAC, the Model Toxics Control Act (MTCA) Regulations. The State Environmental Policy Act (SEPA) checklist (Appendix A to this CAP) has been completed per the requirements of the MTCA regulations and Chapter 197-11 WAC, the SEPA regulations. The Determination of Non-Significance (DNS) for the actions proposed is this CAP was declared by Ecology and is included as Appendix B.

2 Site Description and History

The identifying address of the former Barg French Dry Cleaning site is 1925 Third Avenue (Figure 1), which is occupied by a building erected in 1914 and originally known as the Heiden Building. This building is a three-story structure without a basement, comprised of brick and masonry walls supported on conventional shallow concrete spread footings. The northwestern third of the ground floor was occupied by the dry cleaning operation from 1951 to 2000. The remainder of the ground floor formerly housed a bookstore. The second and third floors have been used as commercial business spaces. All spaces within the building are currently vacant. The building is bounded by Third Avenue to the northeast, a six-story office building to the southeast, a paved alley to the southwest, and a two story parking structure to the northwest (Figure 2).

A limited Phase II site assessment conducted by Websters, Inc. (1999) detected the presence of perchloroethylene (PCE), a dry cleaning solvent, in shallow soil beneath the floor of the dry cleaning space. Subsequent subsurface investigations (Kleinfelder 1999a, 1999b;and 1999c; and Clayton Group Services 2000 and 2001) included installation of more 30 subsurface explorations consisting of soil probes, soil vapor extraction points, and monitoring wells. SECOR International, Inc. (2001) prepared a remedial action plan that included development of cleanup levels by media and a proposed remedial approach. SECOR (2003) also collected two air samples inside the building and established cleanup levels for groundwater that would be protective of air quality.

3 Subsurface Conditions

Data from geologic logs of soil probes, soil vapor extractor wells, and monitoring wells drilled at the former Barg French Dry Cleaning site show loosely consolidated, medium- to fine-grained sand that grades to dense sandy silt at depth of 15 to 20 feet below ground surface. A perched water table occurs at approximately 11 to 12 feet below ground surface. Average groundwater yields from a drawdown test conducted in May 2001 were reported as approximately 0.1 gallons per minute.

The deepest subsurface explorations at the site extended to 30 feet below ground surface in the dense silty sand. Geologic logs from deeper borings at properties within a few blocks of the site indicate the presence of the regional water table at approximate depths of 50 to 70 feet below ground surface (SECOR 2001). This data shows separation of the shallow perched water table and the regional water table by the dense sandy silt aquitard (glacial till), which typically has very low permeabilities on the order of 10^{-5} to 10^{-7} cm/sec (SEACOR 2001).

Groundwater level measurements collected at the site to date do not provide a definitive flow direction and gradient for the shallow perched water table. Since shallow groundwater flow commonly follows local topography, the flow direction in the shallow perched water table is likely to the west and southwest.

4 Nature and Extent of Contamination

The results of prior investigations with respect to the nature and extent of contamination are summarized as follows:

- PCE was the principal component of the dry cleaning fluids released at the site and best represents the impacts of the dry cleaning fluid release on the environment at the site. TCE is a degradation product of PCE and was also detected at the site. PCE and TCE behave similarly in the environment and are remediated using the same remedial technologies. PCE and TCE are selected at the chemicals of concern (COCs) at the former Barg French dry cleaning site.

- PCE in soils was encountered at concentrations up to 2,600 mg/kg adjacent to the concrete pad that supported the former dry cleaning machine. No other soil samples exceeded the cleanup level of 19.6 mg/kg (see section 5.6 below). PCE in soils generally decreased with increasing distance from the pad and with increasing depth.

- Concentrations of PCE in the shallow perched water table were reported up to 4,200 µg/L beneath the concrete pad, with decreasing concentrations with increasing distance from the pad (see Figure 2).

- Dense non-aqueous phase liquid (DNAPL) was not observed in any of the soil or groundwater samples collected at the site.

- Testing of air inside the building that housed the former dry cleaning operation showed concentrations of PCE at 12.2 and 21.1 $\mu g/M^3$, which exceeded the Method B formula cleanup level of 4.3 $\mu g/M^3$ (SECOR 2003). Concentrations of TCE did not exceed the Method B cleanup level.

- The contamination identified at the site does not present risk to ecological receptors because the groundwater, soil, and air contamination are contained beneath and within the existing building. There are no known discharges of contaminated groundwater attributable to the site to ground surface or surface water bodies.

- Data from the site investigations conducted to date have sufficiently defined the nature and extent of contamination from the PCE release. The data was collected in accordance with procedures specified in the MTCA regulations, supports the selection of the cleanup action, and meets the substantive requirements of a remedial investigation per the MTCA regulations.

5 Cleanup Levels and Points of Compliance

5.1 Specification of Cleanup Standards

Cleanup standards for an environmental medium of concern (i.e., soil, groundwater, surface water, sediment, or air) consist of the following components:

- Cleanup levels (hazardous substance concentrations that protect human health and the environment)

- The points of compliance where cleanup levels must be attained

Additional regulatory requirements also apply to a cleanup action because of the nature of the hazardous substances, type of action, location of the site, or other circumstances at the site. These requirements include legally applicable requirements promulgated under state or federal law and relevant and appropriate requirements that, while not legally applicable, address problems or situations sufficiently similar to those encountered at the site such that their use is well suited to the particular site. These "applicable or relevant and appropriate requirements" are usually referred to by the acronym ARARs.

5.2 Soil

The MTCA Method B cleanup level for PCE is 19.6 mg/kg and is based upon direct human contact. This is the appropriate soil cleanup level to apply, since shallow

groundwater beneath the site is not potable (per the following section of this CAP). The point of compliance for soil will be soils throughout the site from the ground surface to the uppermost groundwater saturated zone, per Chapter 173-340-740(6)(c).

5.3 Groundwater

Groundwater beneath the site that has been impacted by PCE occurs in a shallow perched water-bearing zone within 20 feet of ground surface. Geologic data from the site and nearby properties indicate that the perched groundwater is laterally discontinuous, low-yielding (less than 0.5 gallons per minute), not a current or potential future source of drinking water, and separated from potential drinking water aquifers by a well-documented confining unit consisting of dense silt and clay. For these reasons, the perched zone beneath the site is classified as non-potable groundwater, per the requirements of WAC 173-340-720(2).

Given that the perched groundwater beneath the site is non-potable, cleanup of groundwater is only required to the extent that concentrations of PCE in groundwater do not cause unacceptable risks to potential receptors via pathways other than potable groundwater. SECOR (2001) calculated Method B groundwater cleanup levels for the site as follows:

Type of Protection	Calculated Groundwater Cleanup Levels, mg/L	
	PCE	TCE
Indoor Ambient Air	0.485	0.247
Outdoor Air	19.469	9.468
Excavation Workers	0.196	1.277

The lowest calculated cleanup levels are selected as the groundwater cleanup levels for the site: 0.196 mg/L for PCE and 0.247 mg/L for TCE.

The point of compliance for groundwater (per Chapter 173-340-720(8)(b) will be groundwater throughout the site, from the uppermost level of the saturated zone extending vertically to the lowest most depth which could potentially be affected by the site. The hydrogeologic information collected for the site (see section 3 above) indicates that the shallow perched water table is bounded below and separated from the regional water table by the dense silt unit.

5.4 Air

The MTCA regulations do not specify Method A cleanup levels for air; therefore, Method B cleanup levels are appropriate for the former Barg French dry cleaning site. SEACOR (2003) calculated the following Method B cleanup levels for air: 4.31 $\mu g/M^3$ for PCE and 0.515 $\mu g/M^3$ for TCE.

6 Evaluation of Cleanup Actions

6.1 Criteria for Selection of Cleanup Actions

Cleanup actions under the MTCA regulations must meet the following requirements, per Chapter 173-340-360(2) and (3): threshold requirements; the requirement to select cleanup actions that are permanent to the maximum extent practicable; provide for a reasonable restoration time frame; and consider public concerns.

The threshold requirements specify that the cleanup action shall:

- Protect human health and the environment,
- Comply with cleanup standards,
- Comply with applicable state and federal laws, and
- Provide for compliance monitoring.

6.2 Summary of Cleanup Action Alternatives

6.2.1 Excavation of Soil and Extraction of Groundwater

This option was evaluated because it would provide a permanent solution in a short time frame. This alternative would consist of removal of the existing flooring, excavation of soil down to the water table, off-site treatment of soil, collection of groundwater with sumps and well points, on-site treatment of groundwater, discharge of treated groundwater to the sanitary sewer system, backfilling of the excavation with clean and compacted fill material, and installation of a new floor slab.

6.2.2 Dual-Phase Vacuum Extraction System

The dual-phase vacuum extraction (DPVE) system was proposed in the remediation prepared by SECOR (2001). This system would involve equipping of all existing monitoring wells and SVE probe casings with vacuum piping for extracting groundwater and soil vapor. These two waste streams would then be separated in the treatment system and treated with carbon. The treated water and air would be discharged into the sanitary sewer and an effluent stack, respectively. Time for cleanup was estimated by SECOR at approximately 18 months. The 1925 Third Avenue building would remain unoccupied until the remediation was completed.

6.2.3 Air Sparging and Vapor Extraction

The interiors and existing flooring material in the first-floor areas of the building formerly occupied by the dry cleaner and book store would be demolished and removed. Approximately 2 feet of soil beneath the floor would be excavated over the footprint of these two rooms. The excavated soil would be stockpiled, tested, and transported offsite for remediation. New vertical wells for air sparging (AS) and vapor extraction (SVE) would then be drilled from the bottom of the excavation. AS wells would be screened at the bottom of the shallow perched water table to facilitate volatilization of PCE and TCE in groundwater. SVE wells would be screened above the shallow perched water table to extract volatile organics present as soil vapor and freed by the AS wells. Piping from the AS and SVE wells would be placed in the 2-foot-deep excavation.

Horizontal SVE piping would be installed in the 2-foot-deep excavation and backfilled with fine gravel, followed by a plastic liner and a new concrete slab. Existing and new wells and probes would be finished at grade with sealed meter boxes.

The discharge from the AS/SVE system would be treated with carbon and discharged via a stack. The system would operate coincident with development and occupation of the building space. Occupancy would not be approved until indoor air quality standards have been met.

7 Selected Cleanup Action

7.1 Description of Selected Cleanup Action

The AS/SVE system is proposed as the selected cleanup action for the former Barg French dry cleaning site. The proposed remedial design is shown conceptually in Figures 2 and 3. The design uses air sparging to volatilize PCE and other volatile organic compounds (VOCs) in the groundwater layer. VOCs released from the groundwater, as well as PCE present in the unsaturated soil column, are recovered in a vacuum extraction system. Extracted vapors are removed from the soil by vacuum, heated to room temperature to reduce relative humidity, and then adsorbed and removed in activated carbon canisters.

The vapor extraction system consists of vertical wells screened in the unsaturated soil zone. As an added level of protection, vapor extraction pipes are also located horizontally, just below the floor slab, to ensure unwanted vapors do not enter the building space. All piping is routed beneath the building floor slab and into mechanical room where equipment and instrumentation are housed. Thus, the remediation system is designed to be functional while the building is occupied.

Additional design information is provided below:

SVE Vertical Wells

Projected Radius of Influence (ROI) = 40 feet
Total Depth = 15 feet
Screened Interval = 5 to 15 feet below ground surface (bgs)
Well Diameter = 2 inches
Material = Schedule 40 polyvinyl chloride (PVC), slotted
Total Number of Wells = 2
Air flow per well = 16 standard cubic feet per minute (SCFM)

AS Vertical Wells

Projected ROI = 20 feet
Total Depth = 20 feet
Screen Interval = 15 to 20 feet bgs
Well diameter = 2 inches
Material = Schedule 40 PVC, slotted
Total Number of Wells = 2
Pressure = 5 pounds per square meter gage (psig)
Air flow per well = 8 SCFM

SVE Horizontal Collection Pipes

Spacing = 12 feet on center
Number of runs = 3
Length of run = 60 feet
Material = 2-inch diameter PVC, slotted
Air flow per run = 16 SCFM

7.2 Technical Justification of Selected Cleanup Action

The air sparging and soil vapor extraction system presented in the conceptual design is proposed for the following reasons:

- This technology has proved to be effective in remediating PCE contamination in shallow groundwater and soil, especially in hydrogeologic settings like those beneath the 1925 Third Avenue site (shallow groundwater bounded below by a confining unit; sufficient depth to groundwater to allow vapor extraction; reasonably permeable geologic materials).

- Combining vertical vapor extraction wells with horizontal extraction pipes immediately below the floor slab provides an alternate method to extract soil

vapors during the later stages of the cleanup, and also creates an added safety factor for prevention of PCE vapor migration into the occupied building space.

- The conceptual system is compatible with building renovation, and can be operated and monitored as the building is occupied. When the cleanup has been completed, the system can be decommissioned with a minimum of disturbance to the occupied building space.

- Building foundation characteristics were also considered with respect to potential impacts of the total soil excavation alternative (see section 6.2.1) on building stability. An initial structural engineering evaluation indicated that an excavation depth on the order of 2 feet below the existing earth floor is a practical depth limit, to minimize adverse impacts to the spread footings of the building. A 2-foot depth would also provide removal of the limited area of soil that exceeds the soil cleanup level for PCE of 19.6 mg/kg, near the former dry cleaning machine.

- Excavation of soil beneath the footings would require replacement of the footings with new concrete and additional concrete or fill at depth, to re-establish support. On the exterior walls, removal of soil support under the foundation would require a much more extensive and potentially risky shoring system. Such an approach could also endanger the neighboring properties. Considering the potential risks and significant expense associated with deeper excavations, remediation of soil and groundwater by means of further excavation is not recommended.

7.3 Compliance with MTCA Requirements

The cleanup levels will be met at the specified points of compliance by the proposed cleanup actions to be implemented at the former Barg French dry cleaning site, and human health and the environment will be protected. The following discussion relates the analysis and evaluations presented in this Cleanup Action Plan to the requirements for selection of cleanup actions contained in WAC 173-340-360. This discussion is presented in order to show that MTCA requirements will be met by the proposed cleanup actions.

7.3.1 Threshold Requirements

The proposed cleanup action must comply with the MTCA threshold requirements per Chapter 173-340-360(2)(a) WAC. The four threshold requirements are listed and addressed as follows:

7.3.1.1 Protect Human Health and the Environment

The cleanup action proposed for the former Barg French dry cleaning site provides for protection of human health through attainment of cleanup standards that are based on

protection of human health. No pathways to environmental receptors are present at the site.

7.3.1.2 Comply with Cleanup Standards

The proposed cleanup action complies with the cleanup standards summarized in section 5 of this CAP.

7.3.1.3 Comply with State and Federal Laws

Applicable state and federal laws (such as air quality regulations, waste transport and treatment regulations, and the State Environmental Policy Act) have been addressed in this CAP or will be addressed by the design and implementation of the proposed cleanup action.

7.3.1.4 Provide Compliance Monitoring

The compliance monitoring program is described in section 7.5 of this CAP and meets the requirements of the MTCA regulations.

7.4 Compliance with Other Requirements

The proposed cleanup action complies with other requirements listed in Chapter 173-340-360(2)(b) WAC as follows:

7.4.1 Use Permanent Solutions to the Maximum Extent Practicable

The proposed cleanup action provides a permanent solution by removing impacted soil to the extent practicable and treating the residual PCE and TCE contamination in the soil and shallow perched groundwater. The cleanup action will attain the specified cleanup standards.

7.4.2 Provide Reasonable Restoration Time Frame

The estimated operation time for the AS/SCE system described in the CAP is 1 year. This is a reasonable restoration time frame considering the location, extent, and concentrations of PCE and TCE in groundwater and soils at the site.

7.4.3 Consider Public Concerns

This draft CAP will be subjected to a 30-day public comment period, per the requirements of Chapter 173-340-600(14) WAC. Comments will be reviewed and incorporated into the final CAP.

7.5 Compliance Monitoring

Chapter 173-340-410 WAC specifies the following types of compliance monitoring regarding cleanup actions:

- Protection Monitoring: Confirm that human health and the environment are adequately protected during construction, operation, and maintenance of the cleanup action

- Performance Monitoring: Confirm that the cleanup action has attained cleanup standards and other appropriate performance standards.

- Confirmational Monitoring: Confirm the long-term effectiveness of the cleanup action once cleanup standards and other appropriate performance standards have been attained.

A compliance monitoring plan will be prepared as part of the cleanup action design report submittal. This plan will address compliance monitoring for soil, groundwater, and air, and will include a Sampling and Analysis Plan (SAP) and data analysis procedures that meet requirements specified in Chapter 173-340-820, -830, and –840 WAC. Compliance monitoring anticipated for the former Barg French dry cleaning site is described in the following sections.

7.5.1 Soil

Protection monitoring of soil will consist of testing of stockpiled soil from the 2-foot-deep excavation beneath the existing floor of the former dry cleaner and book store and characterization of this material for disposal. Potential air quality issues associated with soil contamination are addressed below in the air section. Performance and confirmational monitoring of soil during and after remediation will be conducted through soil sample access ports located in the new floor slab.

7.5.2 Groundwater

Groundwater produced during development of the new AS wells and sampling of any wells or probes at the site will be contained in labeled drums and tested prior to offsite disposal. Potential air quality issues associated with groundwater contamination are addressed below in the air section. Performance and confirmational monitoring of groundwater during and after completion of the cleanup action will be conducted by sampling of monitoring wells and SVE wells installed during previous site investigations.

7.5.3 Ambient Air and SVE System Air Discharge

Protection monitoring, performance monitoring, and confirmational monitoring of air will consist of testing indoor and outdoor air quality during construction, operation, and

post-operation of the AS/SVE system, to assure protection of onsite workers and the public. Performance and confirmational monitoring of SVE system discharge air (prior to and after treatment) will be conducted to calculate the cumulative mass of PCE and TCE removed from groundwater and soil and to document the decline of the contaminant mass.

8 Implementation of Selected Cleanup Action

8.1 SEPA Checklist

The SEPA checklist for the proposed cleanup action at the former Barg French dry cleaning site is attached as Appendix A to this CAP. This checklist has been prepared in accordance with Chapter 197-11 WAC.

8.2 Design Documents and Contractor Selection

An engineering design report describing the proposed cleanup action at the former Barg French dry cleaning site will be prepared for review and approval by Ecology, per Chapter 173-340-400(4)(a) WAC.

8.3 Project Schedule

The project schedule for CAP approval, Prospective Purchaser Agreement implementation, cleanup system design, system operation and monitoring, and project closeout is presented in Appendix B. This schedule will be updated periodically as the project progresses.

9 References

Clayton Group Services. 2000. Report of Soil and Groundwater Sampling Results – Former Barg French Dry Cleaning Facility, Seattle, Washington. November 20, 2000.

Clayton Group Services. 2001. Report of Monitoring Well Installations and Soil and Groundwater Sampling Results – Former Barg French Dry Cleaning Facility, Seattle, Washington. March 1, 2001.

Kleinfelder Inc. 1999a. Final Report – Environmental Assessment and Phase II Subsurface Soil and Shallow Groundwater Characterization. Havers Trust. The Barg French Dry - Cleaning Facility, Seattle, Washington. File ID No. E99-1414-T. September 7, 1999.

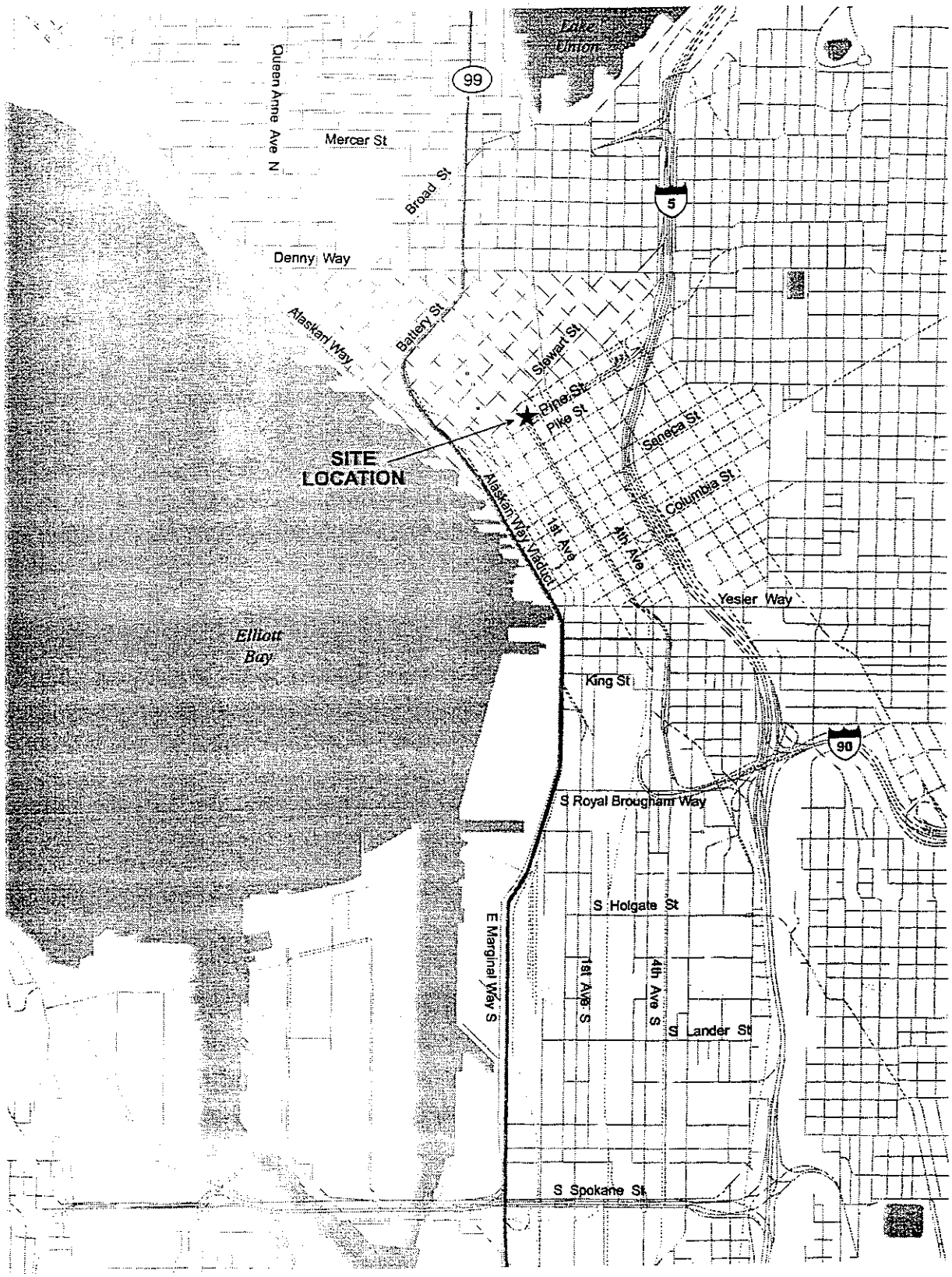
Kleinfelder Inc. 1999b. Final Report. Addendum Phase II Subsurface Soil Characterization. Havers Trust. The Barg French Dry – Cleaning Facility, Seattle, Washington. December 20, 1999.

Kleinfelder Inc. 1999c. Additional Phase II Subsurface Soil Characterization. Havers Trust. The Barg French Dry – Cleaning Facility, Seattle, Washington. December 20, 1999.

SECOR International Incorporated. 2001. Remedial Action Plan Barg French Dry Cleaners 1 Seattle, Washington. SECOR PN: 001.01214.001. June 1, 2001.

SECOR International Incorporated. 2003. Results-Indoor Air Sampling Former Barg French Dry Cleaning Facility Seattle, Washington. SECOR PN: 01OT.13201.01. August 7, 2003.

Webster's Inc. 1999. Environmental Consulting Engineers. Phase I ESA, Limited Phase II ESA, and Asbestos "Good Faith Investigation" of the 1929 3rd Avenue Building, Seattle, WA. June 1, 1999.

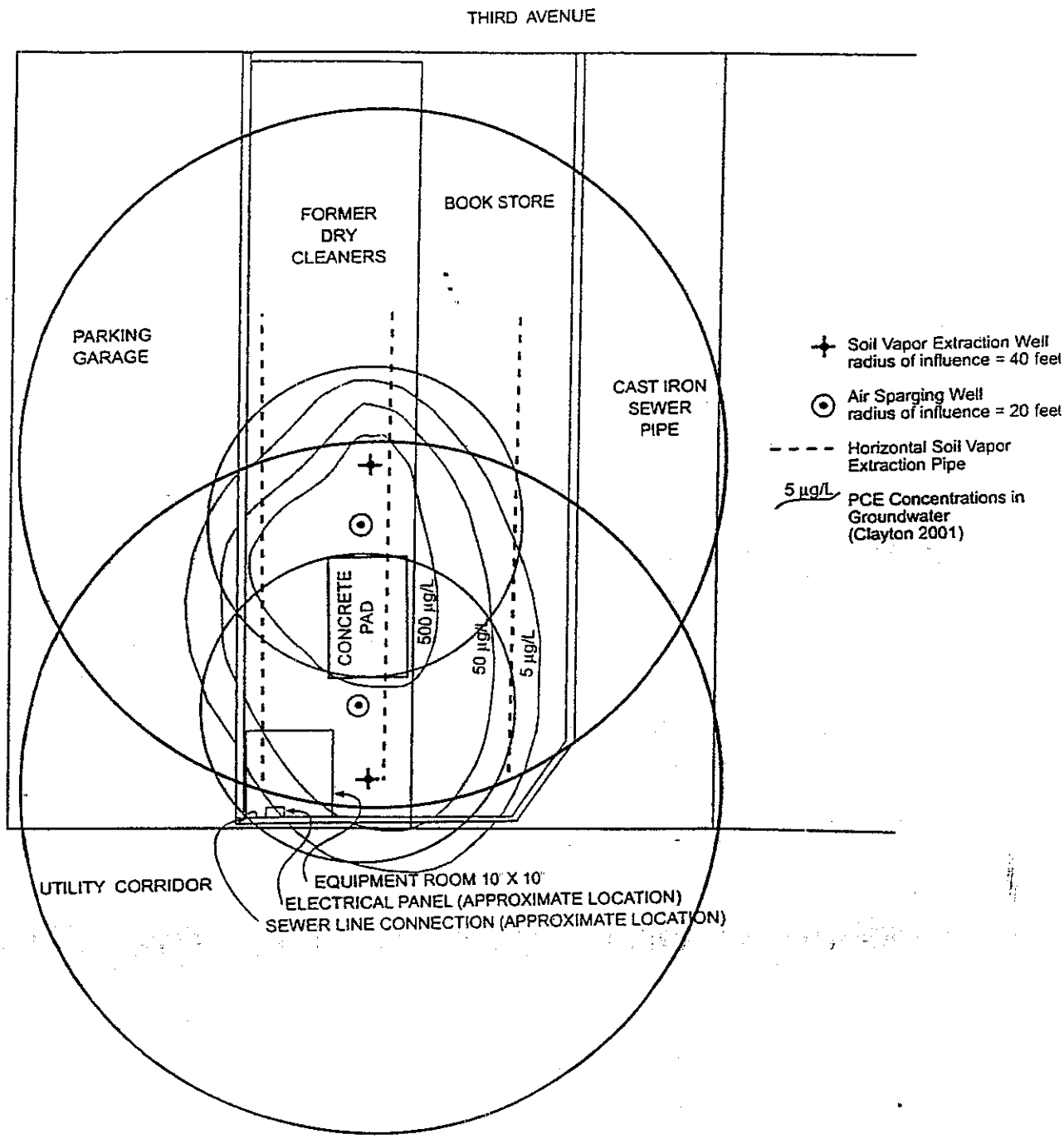


Parametrix 1929 Third Avenue 555-4693-001/1(01) 11/03 (K)

0 2,500
SCALE IN FEET

N

Figure 1
Site Location Map
1925 Third Avenue
Seattle, Washington



Parametrix 1929 Third Avenue 555-4693-001/1(01) 10/03 (K)

APPROXIMATE SCALE IN FEET

0 10 20

N

Figure 2
Proposed Remediation System Plan View
1925 Third Avenue Site
Seattle, Washington

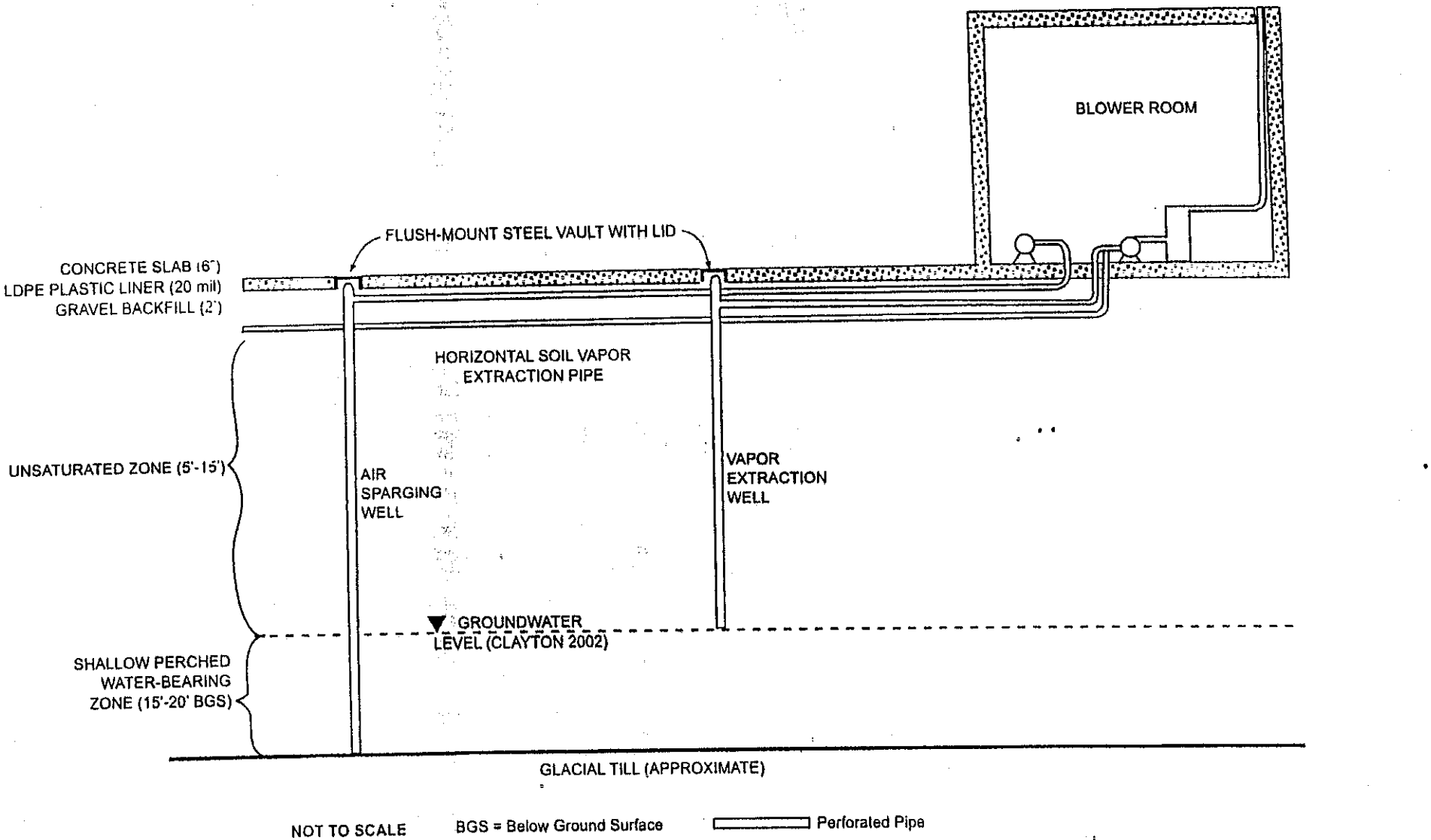


Figure 3
Proposed Remediation System Profile View
1925 Third Avenue Site
Seattle, Washington

APPENDIX A
SEPA CHECKLIST

STATE ENVIRONMENTAL POLICY ACT (SEPA)
ENVIRONMENTAL CHECKLIST

A. BACKGROUND

1. Name of proposed project, if applicable:

Cleanup Action, 1925 Third Avenue, Seattle, Washington

2. Name of applicant:

1925 Third LLC

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

Jerold T. Everard
1925 Third LLC
300 East Pine Street
Seattle, Washington 98122
Telephone: (206) 832-1480

4. Date checklist prepared:

November 6, 2003

5. Agency requesting checklist:

Washington State Department of Ecology

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

The cleanup will be coordinated with remodeling of the existing building.

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

Once the cleanup has been completed, the only future activity related to the cleanup will be monitoring to confirm remediation system performance.

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

Draft Cleanup Action Plan, Former Barg French Dry Cleaning Site, 1925 Third Avenue, Seattle, Washington; November 6, 2003

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.**

There are no such applications pending.

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

Air Contaminant Source Registration/New Source Approval and Notice of Construction (Puget Sound Clean Air Agency)

Demolition Permit (City of Seattle)

Electrical Permit (City of Seattle)

Resource Protection Well Start Card (Department of Ecology)

11. **Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. 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.)**

The proposal involves cleanup of perchloroethylene (PCE) and trichloroethylene (TCE) released to soil and groundwater from a dry cleaning operation that operated on the ground floor of the building from 1951 to 2000. This cleanup action will be conducted under a Prospective Purchaser Agreement between the current property owner (Union Bank of California as Trustee of the Havers Trust) and the prospective purchaser, 1925 Third LLC, which must be approved by the Washington State Department of Ecology (Ecology). The proposed remediation of contamination is described in the draft Cleanup Action Plan (see item 8 above), which also must be approved by Ecology.

The cleanup action will involve installation of an air sparging and vapor extraction system to remove and treat PCE and TCE from the shallow groundwater zone and shallow soil beneath the ground floor of the three-story building. The system will be installed beneath the ground floor prior to installing of a new floor slab. Access to the system will be provided by flush-mounted meter boxes set in the floor slab. Collected vapors will be treated and discharged to the air per the requirements of a permit. Monitoring will be conducted to confirm system performance.

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 building at which the cleanup action will occur is located at 1925 Third Avenue , Seattle, Washington. A legal description is provided in the Prospective Purchaser Agreement, and a site location map and site plan are included in the Cleanup Action Plan.

TO BE COMPLETED BY APPLICANT

B. ENVIRONMENTAL ELEMENTS

1. Earth

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

The building located at the site is built into a hillside that slopes from Third Avenue upward to the west towards Second Avenue.

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

The site is flat; the slope of the hillside into which the building was constructed is approximately 10%.

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.**

Ground surface over the site is totally covered by the building and adjacent paved surfaces (sidewalk and alley). Soils beneath the building floor are composed of fine-grained sand that grades to dense sandy silt at depths of 15 to 20 feet below ground surface.

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

There are no indications or history of unstable soils.

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

The upper 2 feet of soil will be excavated in the vicinity of the former dry cleaning operation (over an area of approximately 4,000 square feet). This soil will be tested and disposed of at an appropriated off-site facility. Vertical and horizontal piping components of the remediation system will be installed below and in the excavation, and clean fine gravel will be used to backfill around the horizontal piping.

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

All construction associated with the cleanup action will be completed inside the building; therefore, erosion will not occur.

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

The entire site is currently covered with impervious surface, which will not change after construction of the cleanup action.

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

No impacts to the earth will occur; therefore, no measures to control erosion or other impacts to the earth are necessary.

2. **Air**

a. **What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.**

Air quality impacts during the construction of the remediation system include exhaust emissions and dust generation associated with the excavation and transport of soil removed from beneath the first floor of the building, drilling of the vertical air sparging and vapor extraction wells, and importation of clean fine gravel for backfill around the horizontal vapor extraction piping.

Treated soil vapor will be discharged from the remediation system during operation, and will be regulated by the requirements of an air discharge permit.

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

There are no off-site emissions or odors that would affect the proposed cleanup action.

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

Truck engines will be run only when needed and will be shut down during standby periods. Loading and unloading of soil will be conducted under controlled conditions inside the building, thus reducing potential impacts outside the building.

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.**

No surface water body is located on or in the immediate vicinity of the site. Elliott Bay, a salt-water embayment of Puget Sound, is located approximately 1/3 mile west of the site.

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.**

The proposed cleanup action will not require any work over, in, or adjacent to any surface water body.

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.**

No fill and dredge material will be placed in or removed from surface waters or wetlands.

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

No surface water withdrawals or diversions will be required.

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

The proposed project does not lie within a 100-year floodplain.

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.**

The proposal does not involve any discharges of waste materials to surface waters.

b. Ground:

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

The proposal does not involve groundwater withdrawal or discharges to groundwater, with the exception of limited groundwater sampling.

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 material will be discharged into the ground.

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.**

The cleanup action will not result in generation of runoff, including stormwater.

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

The cleanup action will not cause waste materials to enter ground or surface water.

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

The cleanup action will not produce runoff with respect to surface water, groundwater, or stormwater.

4. **Plants**

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

deciduous tree: alder, maple, aspen, other NONE
evergreen tree: fir, cedar, pine, other NONE
shrubs NONE
grass NONE
pasture NONE
crop or grain NONE
wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other NONE
water plants: water lily, eelgrass, milfoil, other NONE
other types of vegetation NONE

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

No vegetation will be removed or altered by the proposed cleanup action.

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

No threatened or endangered plant species are known to be on or near the site.

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

The proposed cleanup action will not change the surface status of the site, which is totally covered by the building an paved surfaces.

5. Animals

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

birds: hawk, heron, eagle, songbirds, other (Canadian geese, thrushes, waterfowl) NONE
mammals: deer, bear, elk, beaver, other (raccoons, squirrels, possum, mice, rats) NONE
fish: bass, salmon, trout, herring, shellfish, other: (peamouth, northern squawfish, yellow perch, brown bullhead, black crappie, carp) NONE

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

No threatened or endangered species are known to be on or near the site.

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

The site is not part of a migration route.

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

The proposed cleanup action will not provide the opportunity to preserve or enhance wildlife.

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.**

During operation of the air sparging and vapor extraction system, the sparging and extraction blowers will be powered by electricity.

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

The project will not affect the potential use of solar energy by adjacent properties.

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:**

The electrical equipment associated with operation of the proposed remediation system will be sized an operated to provide the best efficiency possible, based on equipment specifications.

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.**

Without appropriate protective measures, work crews could be exposed to potential health risks during excavation of existing contaminated soils. Exposure could occur via inhalation of soil gases released during excavation, and direct contact and inadvertent ingestion of contaminated soil. Appropriate personal protective measures will be implemented in accordance with a site-specific Health and Safety Plan.

Implementation and completion of the proposed cleanup action will result in reduction of hazards through collection and treatment of residual PCE and TCE that is currently in the shallow soils and groundwater beneath the site.

1) **Describe special emergency services that might be required.**

No special emergency services will be required.

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

During installation of the air sparging system, fencing will be installed around the construction area to prevent public access. A site-specific Health and Safety Plan will be implemented to guide construction activities and reduce potential health hazards to work crews. Mitigation measures could include:

- Dust suppression techniques, such as covering soil stockpiles with tarps;
- Prompt filling and covering of excavated areas; and

- Monitoring emission levels from soil and air sparging/soil vapor extraction system and implementing appropriate occupational health and safety standards.

b. Noise

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

The project will not be affected by existing noise

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 the site.**

Short-term noise will result from operation of earthmoving and drilling equipment and from trucks hauling material to and from the site. Truck and construction equipment operation during soil cover placement and air sparging system installation will be intermittent over the construction period. Maximum noise levels generated by construction equipment range from about 70 to 100 dBA at a distance of 50 feet from the sound source. Actual noise levels will be less than this maximum because construction equipment will be turned off, idling, or operating at less than full power at any time.

Noise will also be generated during the operation of the air sparging/soil vapor evaporation system. Although the noise level will be relatively low, the noise will be continuous the operating period of approximately one year.

No noise will be generated by the completed project.

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

Temporary noise during construction could be mitigated by one or more of the following measures:

- Limiting construction to normal working hours;
- Installing mufflers on all internal combustion engine-driven equipment and pneumatic tools;
- Turning off idling equipment; and
- Constructing noise barriers or curtains around stationary equipment.

8. Land and Shoreline Use

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

The site is a three story commercial building bounded by Third Avenue, a parking garage, a six-story commercial building, and a paved alley.

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

The site has not been used for agriculture.

c. Describe any structures on the site.

The site is occupied by a three-story commercial building that is comprised of brick and masonry walls supported on conventional shallow concrete spread-footings.

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

No structures will be demolished. Focused demolition of interior features will be completed in order to install the proposed remediation system.

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

The site is zoned DOC-300 by the City of Seattle.

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

The comprehensive plan designation for the site is Urban Growth Area.

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

The shoreline master program does not apply to this site.

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

The City of Seattle does not classify the site as environmentally sensitive.

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

The completed cleanup action does not involve permanent employment.

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

No people will be displaced as a result of the proposed cleanup action.

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

Not applicable

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

The proposed cleanup action will comply with all City of Seattle land use regulations and policies. The cleanup action will reduce the risk to human health and the environment posed by onsite contaminants and, therefore, improve the suitability of the site for its designated use as commercial space.

9. **Housing**

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

No housing will be provided by the project.

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

No housing will be eliminated by the project.

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

Not applicable

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?**

The soil vapor extraction system will have an exhaust stack that will be attached to the rear side of the building may extend a few feet above the building roof.

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

The equipment associated with the proposed remediation system will be housed in a separate room inside the building. The vent stack is the only feature of the system that will be visible outside the building and will not obstruct or alter any view.

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

Not applicable

11. **Light and Glare**

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

No light or glare will be produced as a result of the proposal.

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

No light or glare will be created as a result of the proposal.

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

The proposal will not be affected by off-site sources.

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

Not applicable

12. **Recreation**

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

No designated or informal recreational opportunities are know to exist in the immediate vicinity of the proposed cleanup action.

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

The proposal would not displace any existing recreational uses.

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

Not applicable

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 such historic or cultural preservation features are known to exist on or next to the site.

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

No such historic or cultural preservation features are known to exist on or next to the site.

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

Not applicable

14. **Transportation**

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

Third Avenue on the east and a paved alley on the west side of the building provide access to the site. The proposed cleanup action will not alter existing public streets.

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

The proposed cleanup action will not have an effect on, or be affected by, public transit.

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

No parking spaces will be created or eliminated as a result of the project.

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).**

No new roads or streets, or improvements to roads or streets, will be required.

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

The project will not use water, rail, or air transportation.

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

No vehicle trips will be generated by the completed project.

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

The proposed excavation of contaminated soil minimizes the amount of imported fill required for the project, and, therefore, minimizes the number of truck trips to the site.

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.**

The project will not increase the need for public services.

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

Not applicable

16. **Utilities**

a. **Circle (underline) utilities currently available at the site: <u>electricity, natural gas, water, refuse service, telephone, sanitary sewer</u>, 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 the immediate vicinity which might be needed.**

Electrical power will be required to operate the proposed remediation system. The equipment will be connected to existing Seattle City Light service to the building.

C. SIGNATURE

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

Signature: _____

Date Submitted: 11-6-03

APPENDIX B
PROJECT SCHEDULE

Cleanup Action Project Schedule
Former Barg French Dry Cleaning Site
1925 Third Avenue, Seattle, Washington

November 6, 2003

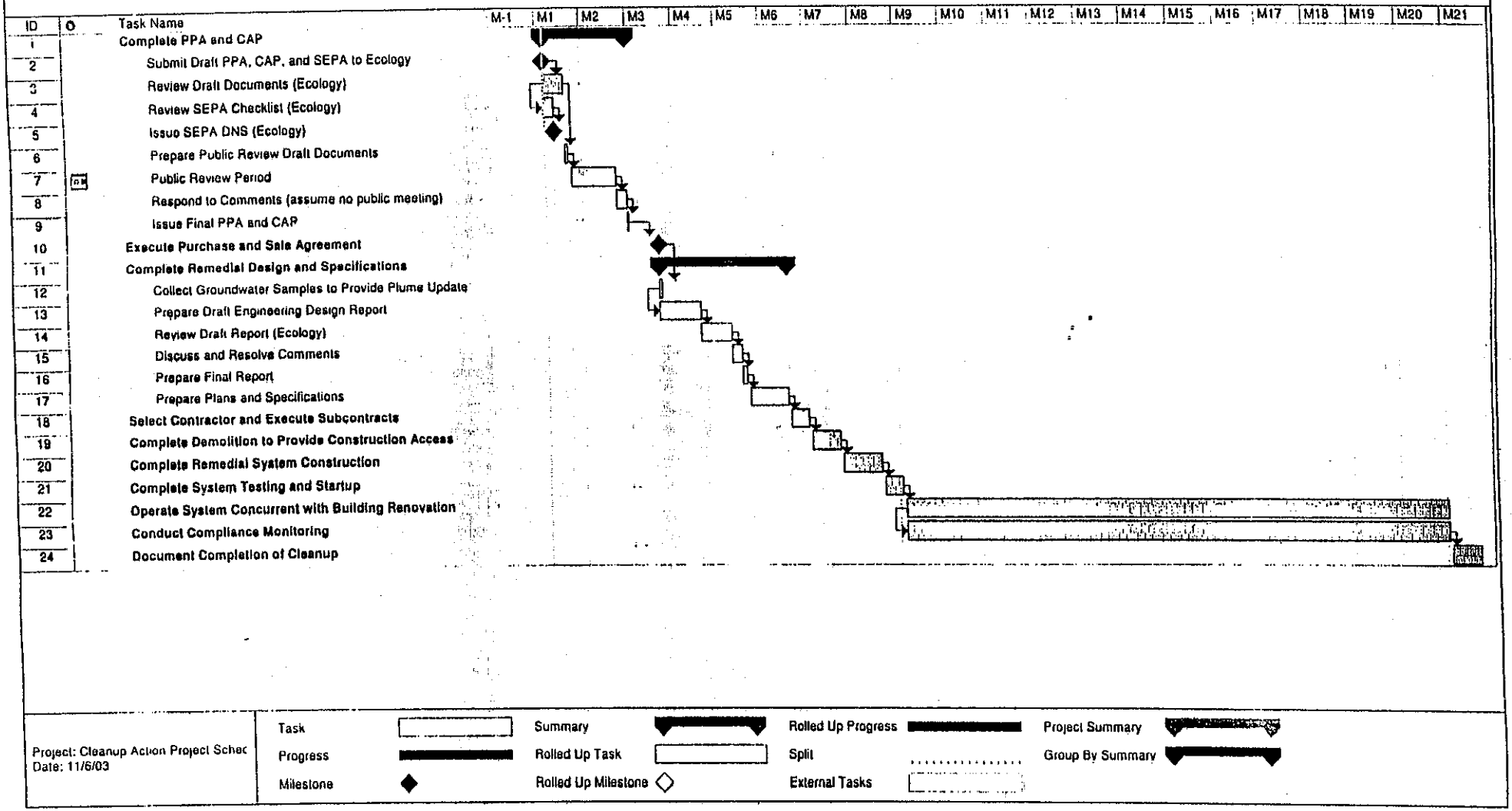
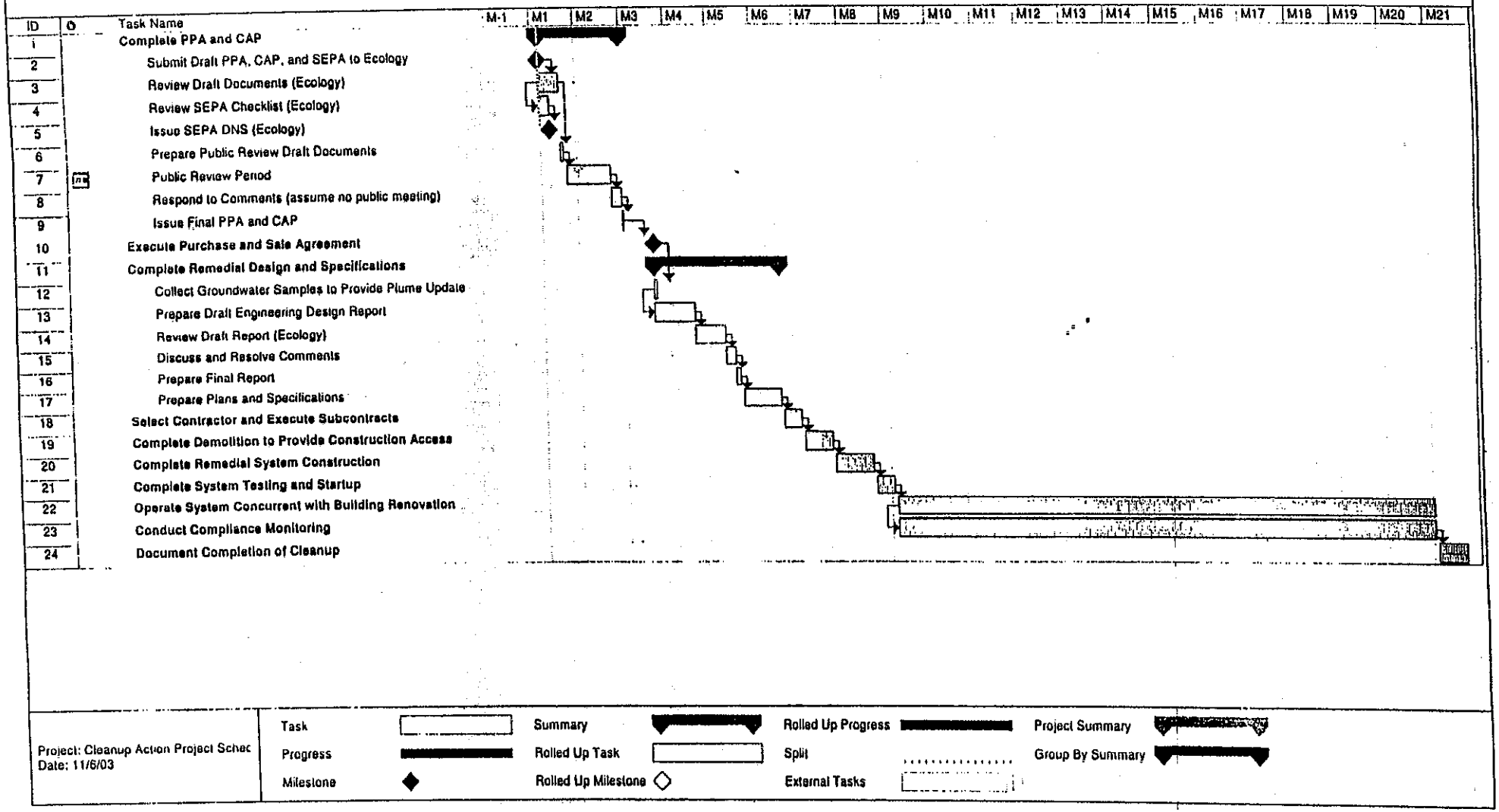


EXHIBIT C

Cleanup Action Project Schedule
Former Barg French Dry Cleaning Site
1925 Third Avenue, Seattle, Washington

November 6, 2003



Project: Cleanup Action Project Schec
Date: 11/6/03

Task
Progress
Milestone
Summary
Rolled Up Task
Rolled Up Milestone
Rolled Up Progress
Split
External Tasks
Project Summary
Group By Summary

EXHIBIT D

Exhibit D

RESTRICTIVE COVENANT

1925 Third Avenue
Seattle, Washington

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) by 1925 Third LLC, its successors and assigns.

A remedial action occurred at the Property that is the subject of this Restrictive Covenant. The remedial action is described in the Cleanup Action Plan attached to the Consent Decree in State of Washington, Department of Ecology v. 1925 Third LLC, King County Cause Number ____. A copy of this document is available at Ecology's NWRO.

This Restrictive Covenant is required because the remedial action undertaken at the Property resulted in residual concentrations of [HAZARDOUS SUBSTANCE(S)] in [LOCATION] that exceed [SPECIFY LEVELS].

The undersigned, 1925 Third LLC, is the fee owner of the real property ("Property") in the County of King, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described as a Lot 3, Block 46, Addition to the Town of Seattle, as laid out by A.A. Denny, except the Northeasterly 12 feet thereof.

1925 Third LLC makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that, unless the subject limitations and restrictions are removed as provided herein, 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. No groundwater may be taken from the Property for domestic use.

Section 2. A portion of the Property contains [HAZARDOUS SUBSTANCE(S)] contaminated soil located [SPECIFICALLY DESCRIBE WHERE THE SOIL IS LOCATED]. Any activity on the Property 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.

Section 3. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 4. The Owner must give thirty (30) days advance written notice to Ecology of the Owner's intent to convey any interest in the Property. The Owner shall not consummate any conveyance of title, easement, lease or other interest in the Property without adequate and complete provision for continued operation, maintenance and monitoring of the cleanup action, and for continued compliance with the Restrictive Covenant.

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

Section 6. The Owner shall include notice of the Restrictive Covenant in any instrument conveying any interest in any portion of the Property.

Section 7. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of the Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment. Approval by Ecology pursuant to this section shall not be unreasonably withheld. The Restrictive Covenant shall be amended to reflect any changes approved by Ecology.

Section 8. 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 any remedial actions taken at the Property, and to inspect records that are related to the remedial action.

Section 9. The Owner reserves the right under WAC 173-340-440 to record an instrument that provides that this Restricted Covenant shall no longer limit uses of the Property or be of any further force and effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

DATED: _____ 1925 Third LLC

By _____
Its _____

STATE OF _____)
) ss:
COUNTY OF _____)

On this _____ day of _____, before me personally appeared _____, to me known to be the _____ of _____, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation as required by law, for the uses and purposes therein mentioned, and

on oath stated that ___ was authorized to execute the said instrument, and that the seal affixed, if any, is the corporate seal of said corporation.

IN WITNESS THEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

_____

Print name: _____

Notary public in and for the State of _____

Residing at _____

My commission expires: _____

EXHIBIT E

EXHIBIT E

1925 Third LLC
SEATTLE, WASHINGTON

NOTICE OF COMPLETION

Date

Mr. Jerold T. Everard
1925 Third LLC
300 East Pine
Seattle, WA 98122

Subject: Notice of Completion at the site located at
1925 Third Avenue, Seattle, King County, Washington

Dear Mr. Everard:

By this letter you are notified that the Washington State Department of Ecology certifies that the cleanup of soils, air and groundwater at the 1925 Third Avenue site in Seattle, Washington, is completed, as set forth in the Prospective Purchaser Consent Decree No. _____ Seattle, dated _____, between the Department of Ecology and 1925 Third LLC of Seattle. The cleanup resulted in the removal of contamination to the specified levels in the Cleanup Action Plan.

No further action is required at the site.

Sincerely,

James J. Pendowski, Program Manager
Toxics Cleanup Program