



Second Periodic Review

Marine Fluid Systems
801 Northwest 42nd Street
Seattle, WA 98107

Facility Site ID#: 76266689
Cleanup Site ID#: 573

Completed by:
Washington State Department of Ecology
Northwest Region Office
Toxics Cleanup Program

May 2015

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1.0 INTRODUCTION

This document is the second periodic review conducted by the Washington State Department of Ecology (Ecology) of post-cleanup site conditions and monitoring data to assure that human health and the environment are being protected at the Marine Fluid Systems Site (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA), Chapter 173-340 Washington Administrative Code (WAC).

Cleanup activities at this Site were completed through the Voluntary Cleanup Program (VCP) under VCP No. NW0227. The cleanup actions resulted in residual concentrations of total petroleum hydrocarbons (TPH), carcinogenic polyaromatic hydrocarbons (cPAHs) and metals exceeding MTCA unrestricted cleanup levels for soil. The MTCA cleanup levels for soil are established under Ch. 173-340-740 WAC. As a result of residual contamination, institutional controls were required for the Site to be eligible for a No Further Action (NFA) determination. WAC 173-340-420(2) requires Ecology conduct a periodic review of a site every five years under the following conditions:

1. Whenever Ecology conducts a cleanup action.
2. Whenever Ecology approves a cleanup action under an order, agreed order or consent decree.
3. Or, as resources permit, whenever Ecology issues a no further action opinion
4. And one of the following conditions exists:
 - (a) Institutional controls or financial assurance are required as part of the cleanup.
 - (b) Where the cleanup level is based on a practical quantitation limit.
 - (c) Where, in Ecology's judgment, modifications to the default equations or assumptions using site-specific information would significantly increase the concentration of hazardous substances remaining at the site after cleanup or the uncertainty in the ecological evaluation or the reliability of the cleanup action is such that additional review is necessary to assure long-term protection of human health and the environment.

When evaluating whether human health and the environment are being protected, the factors Ecology shall consider include [WAC 173-340-420(4)]:

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

Ecology shall publish a notice of all periodic reviews in the Site Register and provide an opportunity for public comment.

2.0 SUMMARY OF SITE CONDITIONS

2.1 Site History

The Marine Fluid Systems Site is located in the Ballard neighborhood in the City of Seattle in King County, Washington. The Site consists of an irregular shaped parcel covering approximately 2.53 acres (110,533 square feet) of land located along the north shore of the Lake Washington Ship Canal. Approximately 10,590 square feet of the parcel are inundated by the Lake Washington Ship Canal.

The western-most buildings at the Site are located partially atop a wooden wharf that was reportedly constructed in 1919. In 2001, a new 2-story, 37,785 square foot warehouse/office building was constructed at the Site. Ecology was notified and gave approval for construction of the building as was required by the institutional controls implemented at the Site.

The Site is utilized primarily by Marine Fluid Systems, which became the master tenant in 1997, but has maintained a shop at the property since 1994. Historically, several underground and above-ground heating-oil storage tanks (USTs and ASTs, respectively) were located at the Site. These USTs were removed in 1988, following receipt of the required permits from the Seattle Fire Department.

The Site is predominantly covered with paving of various types. The Site is surrounded primarily by industrial properties. To the north is the former Birmingham Steel Ballard Mill, a former manufacturer of rolled steel and re-bar. This property is now occupied by Alaska Outport Transportation, a dry goods barge company providing services to Southeast Alaska. Bowles Company NW, a plumbing supply company is located across Northwest 42nd Street from the subject Site. Northwest Nut and Bolt formerly occupied the property to the northeast of the Site. Trident Seafoods currently occupies the property to the east and southeast of the subject Site. Salmon Bay Sand and Gravel had a small storage yard east of the northeastern portion of the eastern property line. Located to the south and west of the subject Site is the Lake Washington Ship Canal.

A vicinity map is available as Appendix 6.1 and a Site plan is available as Appendix 6.2.

2.2 Site Investigations

2.2.1 Soil Investigation

Parametrix, Inc. completed a Phase 1 Environmental Site Assessment (ESA) in November 1993 of the Union Bay Shipbuilding Corporation Site (the subject property was occupied by Union Bay Shipbuilding at that time). Surficial and shallow soils, asphalt and concrete in at least five localities were stained with what appeared to be petroleum hydrocarbons. Parametrix opined that elevated metal concentrations from sandblasting grit may also be present at these localities. The recommendation was to excavate and dispose of the soil or treat the soil on-site.

EAI completed five (5) hollow-stem auger soil borings on April 1, 1998, four (4) of which were installed as monitoring wells, (B-1/MW-1, B-2/MW-2, B-3/MW-3, B-4/MW-4 and B-5). Three test pit explorations were completed at the Site on May 4, 1998, following receipt of laboratory analyses of soil samples obtained during hollow stem auger drilling.

Following receipt of laboratory results of samples obtained from the borings and test pit excavations on October 23, 1998, a Geoprobe or direct-push hydraulic soil sampling apparatus (Cascade Probe) was utilized to obtain samples at 13 different locations across the property.

A single grab soil sample (SS-1) was obtained on October 23, 1998 from the vicinity of MW-1 at the northeast corner of the property at a depth of approximately one (1) foot for later analysis for polychlorinated biphenyls. This sample was obtained from close proximity to boring B-1, which contained elevated hydrocarbon concentrations at this depth. Two surficial soil grab samples were obtained from the southeast corner of the property on September 28, 1998, at the locations at the southeast edge of the property identified as containing abundant sandblasting grit. These samples were obtained due to concerns raised by the adjacent Trident Seafoods that debris cleanup activities completed by Marine Fluid Systems in this area and partially involving the Trident property had possibly adversely impacted the Trident Seafoods property. Trident noted that sandblasting grit was present in this area.

TABLE 4: WTPH-Dx/WTPH-D Results (Soil) ¹					
Sample	Depth (feet)	Diesel Result	Oil Result	Diesel PQL	Oil PQL
B-1-1	2.5-4.0	303 ^O	870	10.0	25.0
B-4-1	2.5-4.0	245 ^O	2,440	110	275
B-5-1	2.5-4.0	1,160	Not analyzed	10.0	Not applicable
TP-1-2.25'	2.25	167 ^O	687	10.0	25.0
TP-1-3.25'	3.25	ND ²	ND	10.0	25.0
TP-2-5'	5.0	ND	ND	10.0	25.0
SP-1-1.5'	1.5	76 ^A	1,200	26	52
SP-3-2'	2.0	49 ^A	220	28	57
SP-4-5.5'	5.5	ND	ND	30	61
SP-5-1.5'	1.5	150 ^A	510	27	55
SP-6-8"	0.66	ND	ND	31	62
SP-7-1'	1.0	1,600 ^{A, S}	1,700	29	58
SP-8-6"	0.5	ND ^{A, D}	540	150	120
SP-9-1'	1.0	200 ^{A, D}	1,100	130	110
MTCA Cleanup Guideline ³		200	200	Not applicable	Not applicable
Note: Bold typeface and gray shading indicate an exceedance of the Method A cleanup guideline. 1 - All results, practical quantitation limits (PQLs) and cleanup levels given in milligrams per kilogram (mg/kg). 2 - ND indicates that the analyte was not detected above the stated Practical Quantitation Limit (PQL). 4 - Method A soil cleanup levels are published in the Model Toxics Control Act (MTCA), Chapter 173-340 WAC. O - The laboratory reports that the diesel result is elevated due to overlap from oil-range hydrocarbons. A - The laboratory reports that the sample underwent acid cleanup procedures. S - The laboratory reports that surrogate recovery data not available due to coelution of target compounds. D - The laboratory reports that surrogate recovery data not available due to necessary dilution of the sample.					

The laboratory testing results of the submitted soil samples, as summarized in the table above confirm that concentrations of diesel and oil range petroleum hydrocarbons were present in several samples above the historical Ecology Method A cleanup level:

- Samples obtained from the unpaved northeast corner of the property contain concentrations of diesel and oil range hydrocarbons (samples B-1-1, TP-2-5', and SP-5-1.5') from the ground surface to a maximum depth of 5 feet. These soils are predominantly impacted by oil range petroleum hydrocarbons, with concentrations less than approximately 2,500 milligrams per kilogram (mg/kg).
- Samples obtained from the unpaved northwest corner of the property (TP-1-2.25, TP-1 - 3.25', SP-1-1.5' and SP-3-2') contain oil range hydrocarbons only at depths shallower than approximately 3.25 feet, with concentrations not exceeding approximately 1,400 mg/kg.
- Results of analysis of soils obtained from the vicinity of the heating oil UST (Samples B-5-1 and SP-4-5.5') detected diesel-range contamination in the upper 5 feet of soil.
- The results of analysis of soil samples obtained from the southern portion of the property (samples B-4-1, SP-7-1', SP-8-6", and SP-9-1) detected a combination of diesel and/or oil range petroleum residues are present in shallow soil across this portion of the property at concentrations above the Method A cleanup level.

It should be noted that though concentrations MTCA Method A cleanup levels at the time, only B-5-1 contained contamination at concentrations exceeding current MTCA Method A cleanup levels.

The consultant recommended Ecology's risk-based approach for setting cleanup levels (please see Section 2.4 below). Several samples were obtained during a subsequent soil probe sampling were submitted to the project laboratory for extended and volatile petroleum hydrocarbon (EPH/VPH) testing.

Samples submitted for analysis for extractable petroleum hydrocarbon and volatile petroleum hydrocarbon (EPH and VPH, respectively) analyses for hydrocarbons were also analyzed for the presence of PAHs. Several non-carcinogenic PAHs were detected in samples SP-2-3' and SS-1. None of the non-carcinogenic PAHs exceed their respective cleanup guidelines. Similarly, cPAHs were only detected in samples SP-2-3' and SS-1. While several of the cPAHs exceed the Method B cleanup guideline, the total (the summation) of the cPAHs in each sample is well below the Method A Industrial cleanup guideline.

Additionally, these samples were also analyzed for PAHs. Additionally, the total concentration of PCBs in these samples was below the Method A (residential and industrial) cleanup levels. No additional characterization for PCBs at the Site appeared to be warranted.

Based upon EPH/VPH/PAH laboratory analyses and Ecology published evaluation of the samples as summarized above, the surficial petroleum impacted soil at the Site required no further cleanup or assessment under an industrial land use. This methodology does not take into account the vapor pathway for potential impacts. Considering that no enclosed basements are located on or near the subject Site, and the contaminants are not volatile, the vapor pathway was

not considered to be an issue at this cleanup. Also, considering that almost the entire Site is paved, the potential for impacts to surface water were low.

Several soil samples obtained from across the property were submitted to the project laboratory for analysis for total metals including arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver (RCRA Metals). None of the samples analyzed contain concentrations of metals in excess of the applicable MTCA Method A Industrial or Method B cleanup levels.

2.2.2 Groundwater Investigation

On May 6, 1998, groundwater samples were obtained from each of the four Site wells and submitted to the laboratory for WTPH-Dx analysis, since only diesel and oil range petroleum hydrocarbons were detected in soil samples at the Site. Groundwater at monitoring wells MW-1 and MW-3 did not contain detectible concentrations of petroleum hydrocarbons in the diesel and oil boiling ranges. Groundwater at MW-2 and MW-4 do not contain detectible concentrations of oil boiling range hydrocarbons; however, petroleum hydrocarbons as diesel were detected at concentrations below the MTCA Method A cleanup level. Based upon these results, it was determined that groundwater at the Site has not been significantly impacted by petroleum hydrocarbons in the diesel and/or oil ranges.

Metals groundwater samples obtained on May 6, 1998 were submitted to the laboratory for analysis for total and dissolved metals including arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver (RCRA Metals). Groundwater at all four monitoring wells on the property did not contain detectible concentrations of cadmium, lead, mercury, and silver, either total or dissolved. Dissolved chromium was consistently detected at very low concentrations in all four samples, but was not detected in the unfiltered total metals analysis. Selenium was detected only in the sample obtained from MW-1, and similar to chromium, was only identified in the dissolved sample, however, the dissolved concentration is well below the MTCA Method B cleanup level. Arsenic and barium were consistently detected in almost all wells. Excluding the total arsenic concentration in groundwater at MW-3, none of the total or dissolved concentrations of arsenic and barium reported exceed the respective cleanup levels for arsenic and barium. The total concentration of arsenic at MW-3, 7.59 micrograms per liter (ug/l), is only slightly in excess of the cleanup level (5.0 ug/l); however, the dissolved concentration is below the current 5.0 ug/l MTCA Method A cleanup level.

A draft "no further action" (NFA) determination letter dated June 14, 1999 was presented by Ecology contingent on recording a restrictive covenant with local government (King County) identifying the presence of diesel, heavy oil, cPAHs and metals in soil at the property, and the completion of semi-annual groundwater monitoring for the presence of diesel- and oil-range petroleum hydrocarbons for a period of one year. The restrictive covenant has been filed by Ballard Land Management with King County/City of Seattle.

In 2000, the semi-annual sampling events were conducted. Results from those events confirmed that the four (4) subject Site wells were in compliance with MTCA Method A cleanup levels.

2.3 Cleanup Levels and Point of Compliance

WAC 173-340-704 states that MTCA Method A may be used to establish cleanup levels at sites that have few hazardous substances, are undergoing a routine cleanup action, and where numerical standards are available for all indicator hazardous substances in the media for which the Method A cleanup level is being used. MTCA Method B cleanup levels may be used for substances where a MTCA Method A table value is not available, or where specific exposure pathways can be eliminated.

Site-specific MTCA Method B cleanup levels were used for the Marine Fluid Services Site. TPH fractionation data (EPH/VPH) was collected for Site soils that allowed TPH concentrations to be evaluated for cancer risk, direct contact risk, and protection of groundwater. It was determined that concentrations of petroleum hydrocarbons, CPAHs and metals at the Site did not pose a risk to human health or the environment under an industrial land use exposure scenario.

For soil, the point of compliance is the area where the soil cleanup levels must be attained. For this Site, the point of compliance is established as soils throughout the Site.

2.4 Institutional Controls

No active remediation was conducted at the Site. Ecology determined that the Site would be eligible for a NFA determination if institutional controls were implemented in the form of a restrictive covenant to prevent exposure to contaminated groundwater. In December 1999, a restrictive covenant was recorded with King County for the Site and Ecology issued a NFA letter in March 2000. The restrictive covenant contains the following restrictions:

1. The Property shall be used only for traditional industrial uses, as described in RCW 70.1050.020(23) and defined in and allowed under the City of Seattle's zoning regulations codified in the Municipal Code of the City of Seattle, Title 23, Land Use Code, as of the date of the Restrictive Covenant.
2. 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.
3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology .
4. The owner of the Property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.
5. The owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.
6. The owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve and inconsistent use only after public notice and comment.

7. 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 inspection Remedial Actions conducted at the property, and to inspect records that are related to the Remedial Action.
8. The owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

The restrictive covenant is available as Appendix 6.3.

3.0 PERIODIC REVIEW

3.1 Effectiveness of completed cleanup actions

3.1.1 Site Conditions

Based upon the Site visit conducted on February 18, 2015, the buildings and asphalt cover at the Site continue to eliminate the exposure to soils with concentrations that exceed residential cleanup standards, but are below industrial cleanup standards. The Site surfaces appear in satisfactory condition and no repair, maintenance or contingency actions have been required. The Site continues to operate as a commercial office building campus. A photo log is available as Appendix 6.4.

Soils remain at the Site with TPH concentrations that exceed MTCA Method A cleanup levels, but are below industrial and Site-specific cleanup levels which require industrial land use. The structures and asphalt surface further reduce human exposure to any residual contaminated soils, however the restrictive covenant does not require the maintenance of these structures and surfaces.

Soil concentrations are below Site-specific Method B cleanup levels for the protection of groundwater; additionally, groundwater data was used to give an empirical demonstration that groundwater quality was no longer being impacted by concentrations of TPH in soil. Groundwater quality is discussed in Section 3.1.2 below.

3.1.2 Groundwater

Consecutive semi-annual sampling events were conducted in 2000. Contamination was not detected at concentrations exceeding MTCA Method A cleanup levels in either of the events. Additionally, concentrations of metals in soil do not pose a leaching threat to groundwater, and concentrations of TPH in soil are well below residual saturation screening levels.

Potential TPH sources at the Site were removed in 1988 when heating oil USTs and ASTs were decommissioned. This information, combined with the impermeable surfaces at the Site would indicate that TPH releases to soil occurred prior to 1988. Based on this age of potential TPH releases and the shallow depth to groundwater, the groundwater data collected in 2000 represents an adequate empirical demonstration that groundwater is not likely to be impacted by concentrations of TPH in soil at the Site.

3.1.3 Institutional Controls

The restrictive covenant for the Site was recorded with King County and remains active and enforceable. There is no evidence that another instrument has been recorded that limits the applicability or effectiveness of the covenant. The restrictive covenant prohibits the use of groundwater from the Site, as well as activities that will result in the release of contaminants contained as part of the cleanup without Ecology's approval, and prohibits any use of the property that is inconsistent with the covenant. This restrictive covenant serves to assure the long term integrity of the remedy.

3.2 New scientific information for individual hazardous substances for mixtures present at the Site

There is no new scientific information for the petroleum contaminants related to the Site.

3.3 New applicable state and federal laws for hazardous substances present at the Site

The cleanup at the Site was governed by Chapter 173-340 WAC (1996 ed.). WAC 173-340-702(12) (c) [2001 ed.] provides that,

“A release cleaned up under the cleanup levels determined in (a) or (b) of this subsection shall not be subject to further cleanup action due solely to subsequent amendments to the provision in this chapter on cleanup levels, unless the department determines, on a case-by-case basis, that the previous cleanup action is no longer sufficiently protective of human health and the environment.”

Although cleanup levels changed for gasoline, diesel, and volatile organic compounds as a result of modifications to MTCA in 2001, the Site-specific cleanup levels that were calculated for the Site are still applicable and the cleanup action is still protective of human health and the environment.

3.4 Current and projected Site use

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

3.5 Availability and practicability of higher preference technologies

The remedy implemented included containment of hazardous substances, and it continues to be protective of human health and the environment. While higher preference cleanup technologies may be available, they are still not practicable at this Site.

3.6 Availability of improved analytical techniques to evaluate compliance with cleanup levels

The analytical methods used at the time of the remedial action were capable of detection below MTCA Method A cleanup levels. The presence of improved analytical techniques would not affect decisions or recommendations made for the Site.

4.0 CONCLUSIONS

This periodic review has resulted in the following conclusions:

- The remedy implemented at the Site appears to be protective of human health and the environment.
- Industrial cleanup levels were applied at the Site which require the implementation of institutional controls in the form of a restrictive covenant.
- The Restrictive Covenant for the property is in place and continues to be effective in protecting public health and the environment from exposure to contaminated groundwater beneath the Site and protecting the integrity of the cleanup action.

Based on this periodic review, the Department of Ecology has determined that the requirements of the Restrictive Covenant continue to be met. No additional cleanup actions are required by the property owner. It is the property owner's responsibility to continue to inspect the Site to assure that the integrity of the remedy is maintained.

4.1 NEXT REVIEW

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

5.0 REFERENCES

Environmental Associates, Inc. *Subsurface Environmental Study, Marine Fluid Systems, 801 Northwest 42nd Street, Seattle (Ballard), Washington.* March 17, 1999;

Parametrix, *Phase 1 Environmental Site Assessment, Union Bay Shipbuilding Corporation Site.* November 1993.

King Co. Property Records. *Restrictive Covenant 19991217001233.* December 17, 1999.

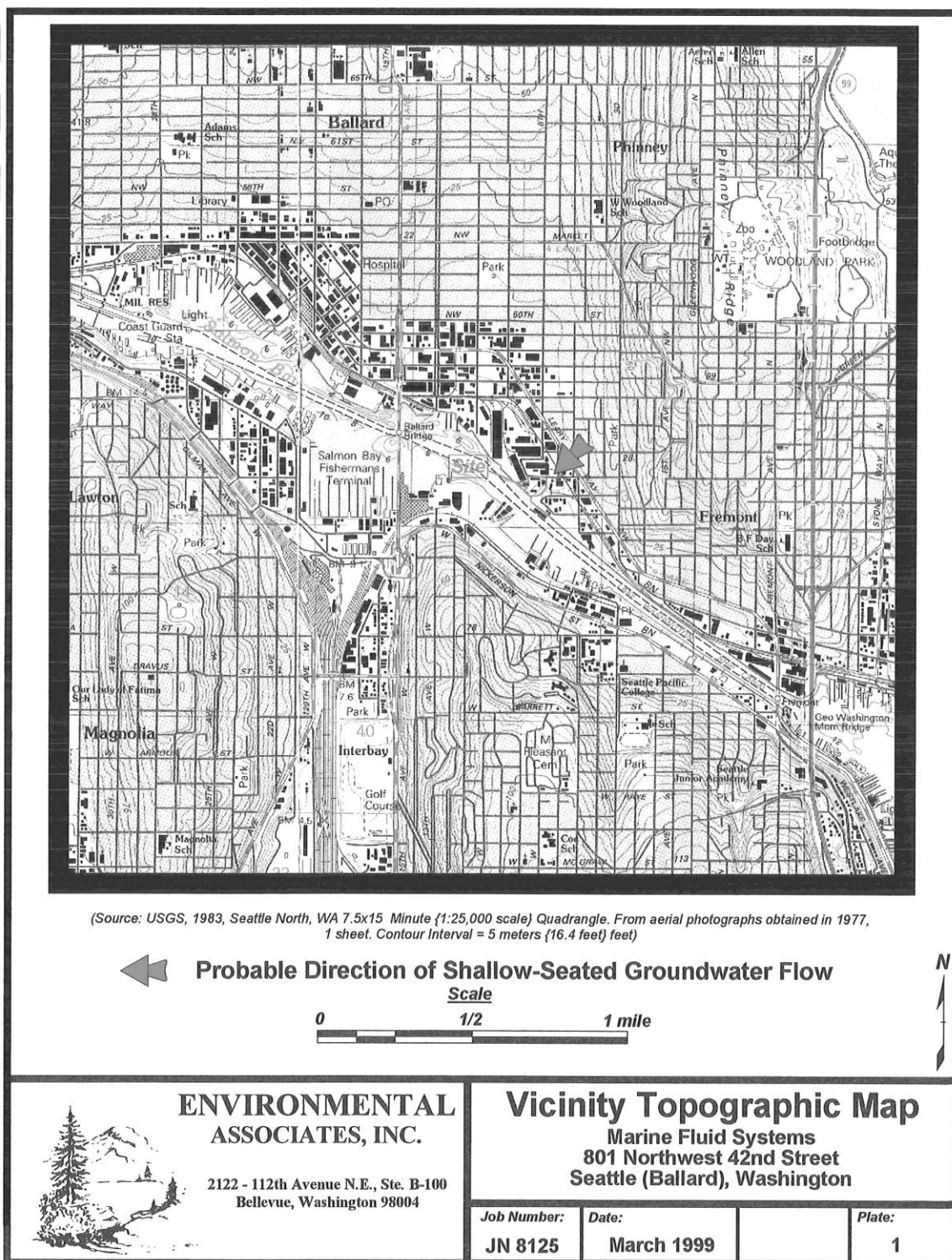
Ecology. *No Further Action Determination Letter.* September 21, 2000.

Ecology. *Periodic Review.* May 10, 2010.

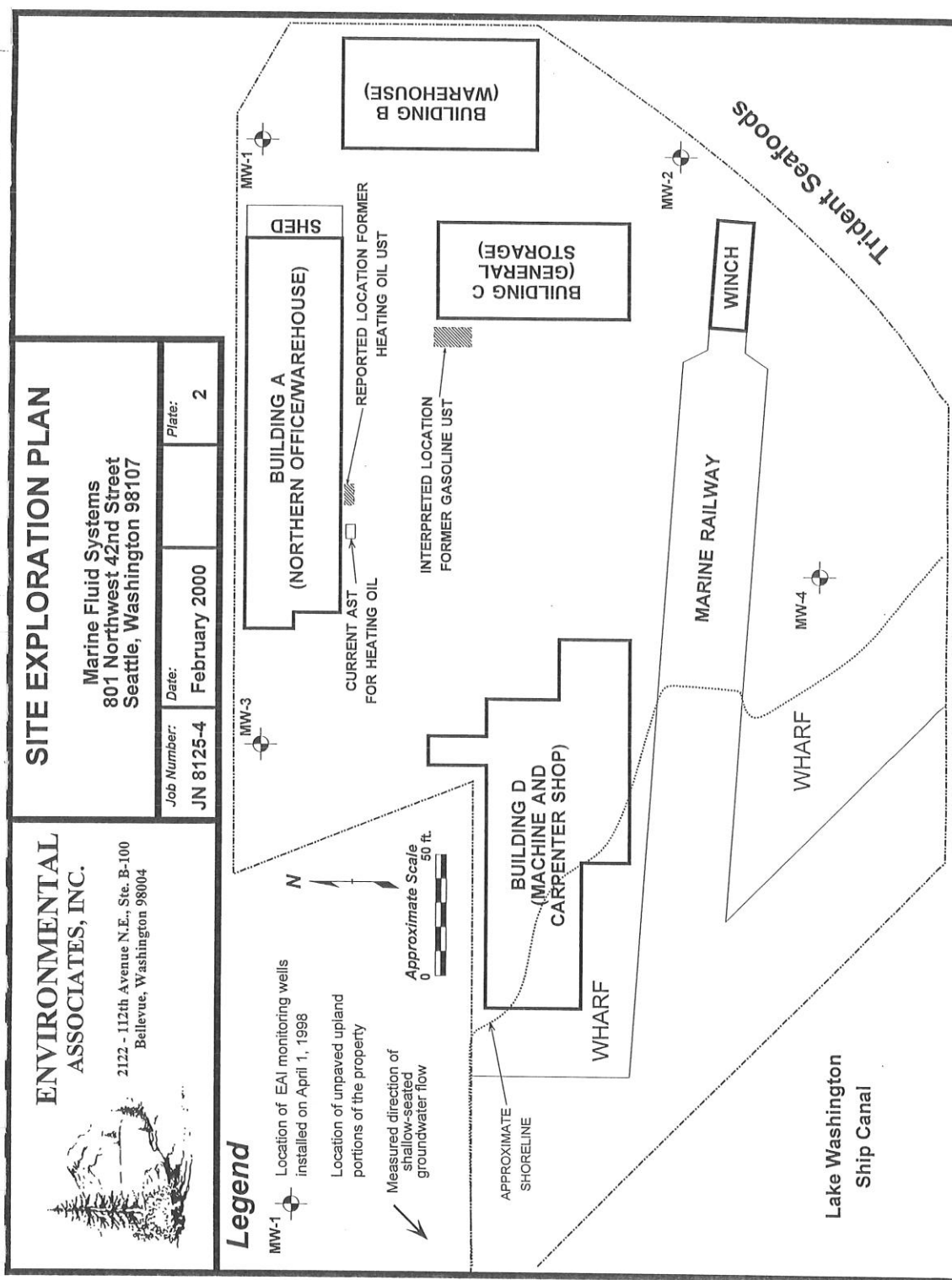
Ecology. *Site Visit.* February 18, 2015.

6.0 APPENDICES

6.1 Vicinity Map



6.2 Site Plan



6.3 Restrictive Covenant

WHEN RECORDED RETURN TO:
ROBERT L. DENORMANDIE JR.
YOUNG, DENORMANDIE & OSCARSSON
1191 2ND AVENUE, SUITE 1901
SEATTLE, WA 98101



CHICAGO TITLE INSURANCE COMPANY

1999 121 7001233

DOCUMENT TITLE(S)	
1 RESTRICTIVE COVENANT	FILED BY CHICAGO TITLE INSURANCE CO. Number: 000490175
2	
3	REF.# 490175-60 6 th
4	13
REFERENCE NUMBER(S) OF DOCUMENT ASSIGNED OR RELEASED:	
☐ Additional reference numbers on page ____ of document	
GRANTOR(S) :	
1 FLORENCE J. EVANS	
2	
3	
☐ Additional names on page ____ of document	
GRANTEE(S) :	
1 STATE OF WASHINGTON DEPT. OF ECOLOGY	
2	
3	
☐ Additional names on page ____ of document	
ABBREVIATED LEGAL DESCRIPTION:	
LOTS 3-6, BLOCK 1, SEATTLE TIDE LANDS AND A PORTION OF GOVERNMENT LOT 3 IN THE NORTHWEST QUARTER OF 13-25-3, TGW VAC STREETS ADJ.	
☐ Complete legal description is on page ____ of document	
ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBER(S) :	
132503-9001-03	
Additional Tax Accounts are on page ____ of document	
Note: This cover sheet is prepared to conform to the requirements of Chapter 143, Laws of 1996. Nothing on this sheet alters the names, legal description or other information in the attached document. The only purpose of this cover sheet is to assist the auditor in indexing the document in conformance with statute.	
The Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.	

COVER2/RDA/0999

RESTRICTIVE COVENANT

Florence J. Evans

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1) (f) and (g) and WAC 173-340-440 by Florence J. Evans, her successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter referred to as "Ecology").

An independent remedial action (hereafter referred to as "Remedial Action") occurred at the property that is the subject of this restrictive covenant (hereafter referred to as "Restrictive Covenant"). The Remedial Action conducted at the property is described in the following documents:

1. Phase 1 Environmental Site Assessment; Union Bay Ship Building Corporation Site, prepared for Ms. Billie Adams, Tippet Marine Services, Seattle, WA. by Parametrix, Inc., Kirkland, WA., November, 1993.
2. Subsurface Environmental Study, Marine Fluid Systems, 801 Northwest 42nd Street, Seattle (Ballard), Washington, prepared for Dana Bostwick, Ballard Land Management, Roy, WA., by Environmental Associates, Inc., Bellevue, WA., March 17, 1999.

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

This Restrictive Covenant is required because a Remedial Action has determined that the property contains diesel, heavy oil and carcinogenic polynuclear aromatic hydrocarbons, and metals, in soils which exceed the Model Toxics Control Act Method A Residential Cleanup Levels for soil established under WAC 173-340-740. *RB*

(1)

1999 121 7001233

The undersigned, Florence J. Evans, is the fee owner of the real property in the County of King, State of Washington (hereafter referred to as "Property"), that is subject to this Restrictive Covenant. The Property is legally described as follows:

1999 121 7001233

Lots 3, 4, 5, and 6, Block 1, Seattle Tide Lands; ALSO, that portion of Section 13, Township 25 North, Range 3 East, W.M. in King County, Washington, described as follows; Beginning at the northeast corner of Government Lot 3 of said Section 13; thence south 50°24'29" east along the northerly line of that portion of 8th Avenue Northwest vacated by Ordinance No. 76354 of the City of Seattle, 39.50 feet to the northwest corner of Lot 1, Block 1, Ross Home Addition, according to plat recorded in Volume 11 of Plats, page 25, King County, Washington; thence southerly along the west line of said Lot 1, to an intersection with the southeasterly line of that certain tract of land dedicated to the City of Seattle by the Northern Pacific Railway Company by deed recorded in Volume 871 of Deeds, page 242, under Auditor's File No. 915617, and later vacated by Ordinance No. 75290 of said City; thence southwesterly along the southeast line of said tract, as vacated by said Ordinance No. 76290 to an intersection with the east line of Burns Avenue Northwest (formerly Ewing Street) as established by Ordinance No. 14267 of said City; thence continuing southwesterly along the southeasterly line of that portion of said Burns Avenue Northwest, as vacated by Ordinance No 76354 of said County, to an intersection with the northeasterly line of Block 1, Seattle Tide Lands; thence north 21°47'24" west along the said northeast line of Block 1, Seattle Tide Lands, being also the southwesterly line of that portion of said Burns Avenue Northwest, as vacated by Ordinance Nos. 76354 and 72347 and 69210 of said City, to an intersection with the south line West 42nd Street; thence north 89°58'31" east along south line to the point of beginning.

Florence J. Evans, makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including

(2)

all current and future owners of any portion of or interest in the Property
(hereafter referred to as "Owner").

Section 1. The Property shall be used only for traditional industrial uses, as described in RCW 70.105D.020(23) and defined in and allowed under the City of Seattle's zoning regulations codified in the Municipal Code of the City of Seattle, Title 23, Land Use Code, as of the date of the Restrictive Covenant.

Section 2. 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 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

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

Section 5. The owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property. *JB*

(3)

1999 121 / 001233

1999 121 7001233

Section 6. The owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve and inconsistent use only after public notice and comment.

Section 7. 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 inspection Remedial Actions conducted at the property, and to inspect records that are related to the Remedial Action.

Section 8. The owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

APPROVED BAIRD LAND MANAGEMENT
[Signature]

Dated at Seattle, Washington, this 15 day of December, 1999

By

Florence J. Evans
Florence J. Evans, Owner

Date 12-15-99

(4)

1999 121 7001233

1999 121 7001233

SIGNATURE PAGE

Florence Evans
FLORENCE EVANS

STATE OF WASHINGTON

SS

COUNTY OF KING

ON THIS 15TH DAY OF DECEMBER, 1999 9 BEFORE ME, THE UNDERSIGNED,
A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED
AND SWORN, PERSONALLY APPEARED FLORENCE EVANS KNOWN TO ME TO BE THE
INDIVIDUAL(S) DESCRIBED IN AND WHO EXECUTED THE WITHIN INSTRUMENT AND
ACKNOWLEDGED THAT SHE SIGNED AND SEALED THE SAME AS HER FREE AND
VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES HEREIN MENTIONED.

Scott Smouse

NOTARY SIGNATURE

PRINTED NAME: Scott Smouse

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

RESIDING AT Bremerton

MY COMMISSION EXPIRES ON 3/2/2001



xpages/rlm/4-9-97

6.4 Photo Log

Photo 1: Marine Fluid Systems Entrance – from the north



Photo 2: Shop and West Side of Site - from the north



Photo 3: New Building and Parking Lot – from the west



Photo 4: New Parking Lot and Restricted Access Shipyard – from the north

