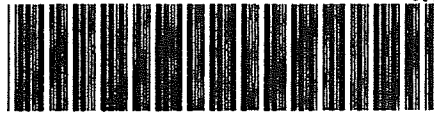


**Exhibit F:**  
**Environmental Covenant**

RECEIVED

JUN 20 2008

DEPT. OF ECOLOGY  
TCP-NWRO



20080606001208

MITSUNAGA  
PAGE 001 OF 019 COV  
06/05/2008 14:47  
KING COUNTY, WA

After Recording Return to:  
Ching-Pi Wang  
Department of Ecology  
3190 - 160<sup>th</sup> Avenue SE  
Bellevue, Washington 98008-5452

ORIGINAL

JUN 26 2008

ATTORNEY GENERAL'S OFFICE  
Ecology Division

**Title of Document:** Environmental Covenant

**Grantors:** Conner Homes at Barbee Mill, LLC, a Washington Limited Liability Company;  
and City of Renton

**Grantee:** State of Washington, Department of Ecology

**Legal Description:** The Plat of Barbee Mill, recorded under King County recording no.  
20080208000182, Volume 246, pages 25 to 39 of Plats, records of King County, Washington

**Tax Parcel Nos.:** 322405-9034-00

#### ENVIRONMENTAL COVENANT

Grantors, Conner Homes at Barbee Mill, LLC, and the City of Renton, hereby bind Grantors, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this day of April 17, 2008 in favor of the State of Washington Department of Ecology, and its successors and assigns ("Ecology"). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Law ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Conner Homes at Barbee Mill, LLC, its successors and assigns, the City of Renton, its successors and assigns, and Ecology.

An interim remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property was designed and constructed as described in the documents listed in attached Exhibit E-5:

The Remedial Action will also be the subject of a proposed Agreed Order No. 5396, a copy of which will be on file at Ecology's Northwest Regional Office located at 3190 160<sup>th</sup> Avenue SE, Bellevue, WA 98008. The Agreed Order will describe the Remedial Action in detail and provide for ongoing remedial actions at the Site.

This Covenant is required to protect the integrity of the Remedial Action on the property, because the Remedial Action may have resulted in concentrations of the following remaining at the Barbee Mill Site:

- Confirmed arsenic in ground water exceeding the MTCA preliminary cleanup level protective of surface water.
- Suspected arsenic in soil exceeding the Model Toxics Control Act (MTCA) preliminary cleanup level for protection of ground water.
- Suspected arsenic in sediment located West and Northwest of the Conner at Barbee Mill uplands exceeding the preliminary freshwater sediment criterion.
- Suspected zinc in ground water exceeding the MTCA preliminary cleanup level protective of surface water
- Suspected diesel-range petroleum hydrocarbons in ground water exceeding the MTCA preliminary cleanup level protective of potable use

The undersigned, Conner Homes at Barbee Mill, LLC, is the fee owner of real property (hereafter "Property") in the County of King, State of Washington, that is subject to this Covenant. The additional undersigned, City of Renton, possesses a street easement in the dedicated rights of way. The Property is legally described in E-1 of this Covenant and made a part hereof by reference. Exhibit E-2 also includes a figure showing Property boundaries.

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

#### Section 1.

- A. No groundwater may be taken for any use from the Property.
- B. Soil exceeding MTCA Method A cleanup level for unrestricted use for arsenic remains on the Property at a depth approximately eighteen feet below the ground surface as of December, 2007, at elevations of approximately between 8 and 10 feet North American Vertical Datum 1988 (NAVD878), within the area of the original arsenic excavation as shown in Exhibit E-2. This contamination is below the depth at which direct contact exposure would typically be expected. However, Ecology recommends refraining from conducting any activity in these areas that would disturb the contamination at depth, such as: drilling, digging, bulldozing or earthwork or otherwise altering the soil below a depth approximately eighteen feet below ground surface at time of home construction as of December 2007 with grade elevations of approximately between 26 through 30 NAVD88.
- C. Groundwater, and soil exceeding potential cleanup levels for protection of groundwater remains on the Property at or below the maximum groundwater elevation of approximately between 19 and 23 feet NAVD88, within, around, and downgradient of the area

of the original arsenic excavation as shown in E-2. Any activity on the Property that may result in the release or exposure to the environment of this contaminated soil or groundwater, or that creates a new exposure pathway, is prohibited. Some examples of activities that are prohibited in these areas include: drilling, digging, bulldozing or earthwork or otherwise altering the soil below the maximum groundwater elevation of approximately between 19 through 23 feet NAVD88. This restriction shall not apply to maintenance or repair work by the City of Renton or its contractors or agents on the existing sewer main located in the easement recorded under King County Recording no. 7212190390, because the sewer line lies hydraulically upgradient of the area of excavated arsenic contaminated soil.

D. A passive attenuation zone (hereafter PAZ) is present on the Property as shown on Exhibits E-2 and E-3. The top of the PAZ is protected with a geotextile layer covered with quarry spalls. The Owner shall not alter, modify, or remove the PAZ or the protective covering, and any activity on the Property that may damage or reduce the effectiveness of the attenuation zone is prohibited. Some examples of activities that are prohibited in the area of the PAZ include: drilling, digging, bulldozing or earthwork, or placing a heavy object or running heavy equipment on the PAZ causing stress beyond load bearing capacity. This restriction shall not apply to normal construction activities required to build structures on Lots 19, 20, 21, 22, 23, and 24 above the PAZ that are installed in accordance with plans on file with and approved by the City of Renton Department of Community Development, provided that this construction activity does not disturb the PAZ or its protective covering other than through the installation of driven pin piles. Landscaping within the top two feet of existing grade (as of December 2007) shall be allowed above the PAZ.

E. A network of ground water extraction wells linked by piping to a remediation system vault ("hereafter Extraction System") is present on the Property as shown on Exhibits E-2 and E-3. The Extraction System has been designed to pump arsenic-contaminated ground water from beneath the Property and discharge it directly to the sanitary sewer. Any activity that may damage or reduce the effectiveness of the Extraction System is prohibited. Some examples of prohibited activities include digging around the well locations and along the Extraction System pipe runs, blocking the discharge of the Extraction System to the sanitary sewer, or allowing the Extraction System to discharge to Lake Washington, the storm water detention pond, Mill Creek, or any other surface location.

F. A network of ground water monitoring wells is present on the Property as shown on Exhibits E-2 and E-3. Any activity that may damage or reduce the ability of the monitoring wells to be used for their intended purpose is prohibited. Some examples of prohibited activities include covering, sealing, or otherwise obscuring the tops of monitoring wells to reduce access, placing any solid or liquid into a well except as necessary for authorized sampling, digging or otherwise piercing the ground around well locations, storing or placing heavy loads near or on the monitoring wells, or allowing surface water to collect in standing pools of water over monitoring well locations.

G. A storm water detention pond is present within the Property to collect and discharge storm water runoff. The base of the pond is close to the water table, and has a protective liner to prevent mixing of ground water with surface water and loss of surface water. The location and design of the protective liner is presented in Exhibit E-2. Any activity that may damage or reduce the effectiveness or longevity of the protective liner is prohibited.

Some examples of prohibited activities include piercing or otherwise driving objects through the liner, using backhoes or other heavy equipment for excavation purposes near the liner, or placing sharp heavy objects at the base of the pond. Conner Homes at Barbee Mill, LLC and its successors in interest and assigns shall be responsible for future maintenance and any repairs or upgrades for the pond liner.

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. The written notice shall be in substantially the form attached as Exhibit E-4. WAC 173-340-440(9)(c) provides that "no conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for the continued monitoring, operation, and maintenance of the cleanup action". At the time of signature to this Environmental Covenant, it is expected that the necessary ongoing remedial actions required by Ecology for this Site, other than those described in this Environmental Covenant, will be implemented by named potentially liable persons under an Order or Decree with Ecology. It is further expected that financial assurances intended to ensure the ongoing remediation will be posted by the named potentially liable parties. The requirement for "adequate and complete provision" in this Section shall be deemed to have been satisfied by compliance with the terms of the Order or Decree and this Environmental Covenant. Nothing in this Section shall be construed to require Ecology's approval of any conveyance of title, easement, lease, or other interest in the Property.

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

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 Covenant. Ecology may approve any 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, such as from monitoring and extraction wells and from sediments; to inspect remedial actions conducted at the Property; to determine compliance with this Covenant; to inspect records that are related to the Remedial Action; and to take any other action necessary under MTCA. Ecology does not anticipate needing internal access to residential buildings or other residential structures on the Property.

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

Section 9. The remediation at this Site is still in progress, and thus certain contaminants are listed above as "suspected" rather than "confirmed." As the remediation progresses, if Ecology concludes that the list of "confirmed" or "suspected" contaminants at the Site has changed, the Owner or the Owner's representative may request in writing that Ecology issue a written notification of such new information. Upon written request, Ecology will issue a written notice to the Owner confirming the updated information. The Owner may seek to file Ecology's written notice with the county auditor's office, and may, in such a filing, cross reference this Environmental Covenant. However, such notice shall have no effect on the Owner's obligations in this Environmental Covenant, and the terms of this Environmental Covenant shall remain in effect unless Ecology consents, after public notice and comment, to amend or terminate the Covenant pursuant to WAC 173-340-440 and in accordance with the procedure described in RCW 64.70.100.

CONNER HOMES AT BARBEE MILL, LLC

Charles F. Conner

Charles F. Conner

Title: President

Dated: 4-17-08

CITY OF RENTON

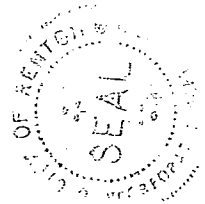
Denis Law  
Title: Denis Law, Mayor  
Dated: 4/18/08

Attest:

Bonnie I. Walton  
Bonnie I. Walton, City Clerk

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Robert Warren  
Robert Warren  
Section Manager  
Toxics Cleanup Program  
Northwest Regional Office  
Dated: 5-6-08



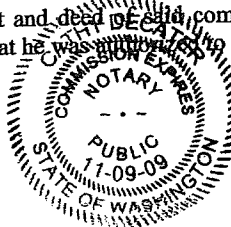
STATE OF WASHINGTON )

) ss.

COUNTY OF KING )

On this 17th day of April, 2008, I certify that Charles Conner personally appeared before me, acknowledged that he is the President of Conner Homes at Barbee Mill, LLC, the limited liability company that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument for said company.

Cathy Decater  
Notary Public in and for the State of  
Washington, residing at Sammamish.  
My appointment expires 11.9.09.



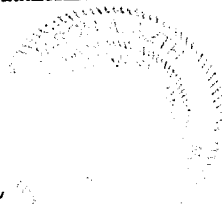
STATE OF WASHINGTON )

) ss.

COUNTY OF KING )

On this 18th day of April, 2008, I certify that Denis Law personally appeared before me, acknowledged that he/she is the Mayor of the City of Renton, the municipal corporation that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument for said corporation.

Janna Sato  
Notary Public in and for the State of  
Washington, residing at Renton.  
My appointment expires 6-29-09.



STATE OF WASHINGTON )

) ss.

COUNTY OF KING )

On this 6 day of May, 2008, I certify that Robert Warren personally appeared before me, acknowledged that he/she is the Section Manager of the Washington State Department of Ecology, the public agency that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said agency, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument for said agency.

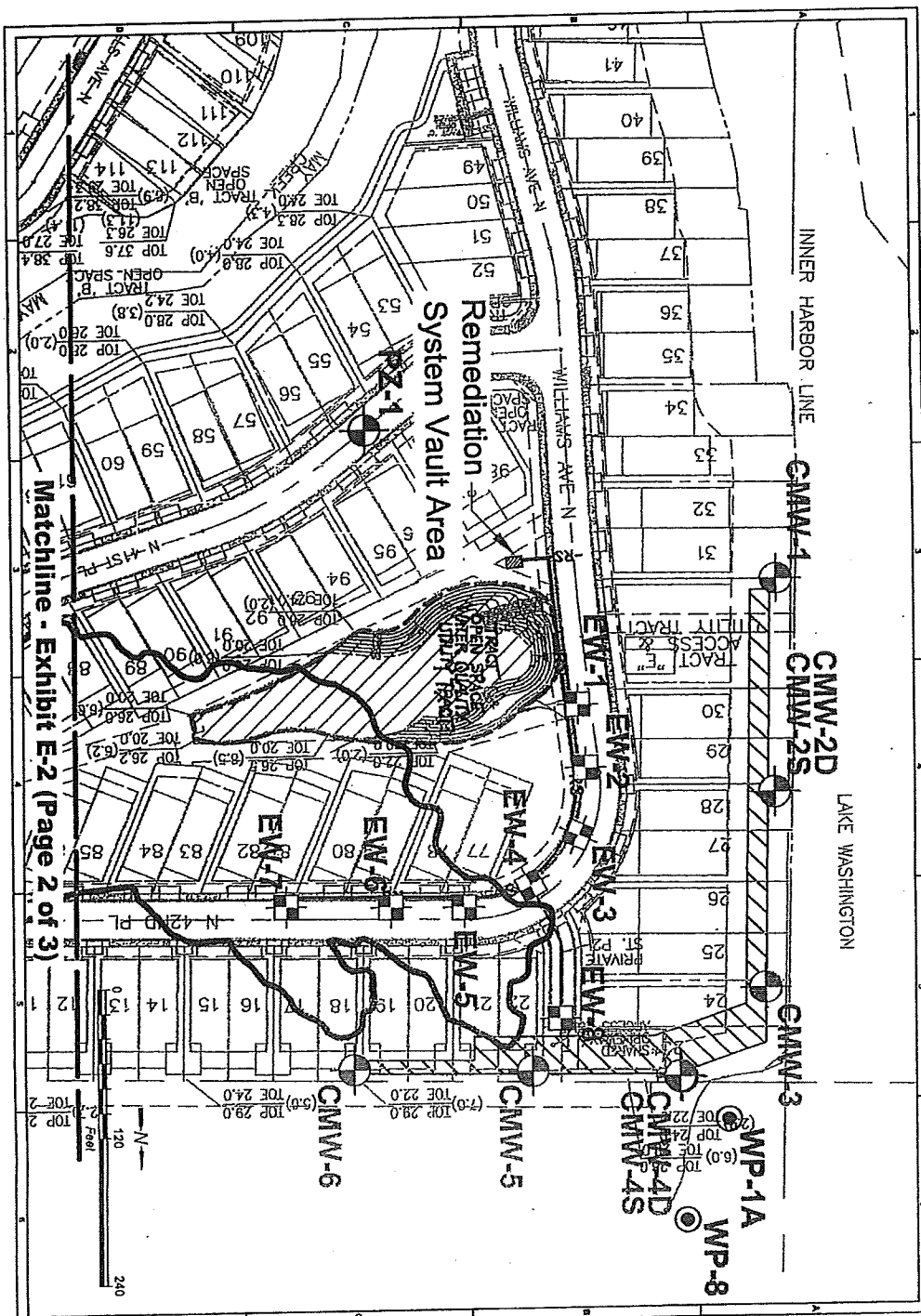
Susan M. Winter  
Notary Public in and for the State of  
Washington, residing at King.  
My appointment expires 11.10.2008.


**EXHIBIT E-1**

**LEGAL DESCRIPTION OF PROPERTY**

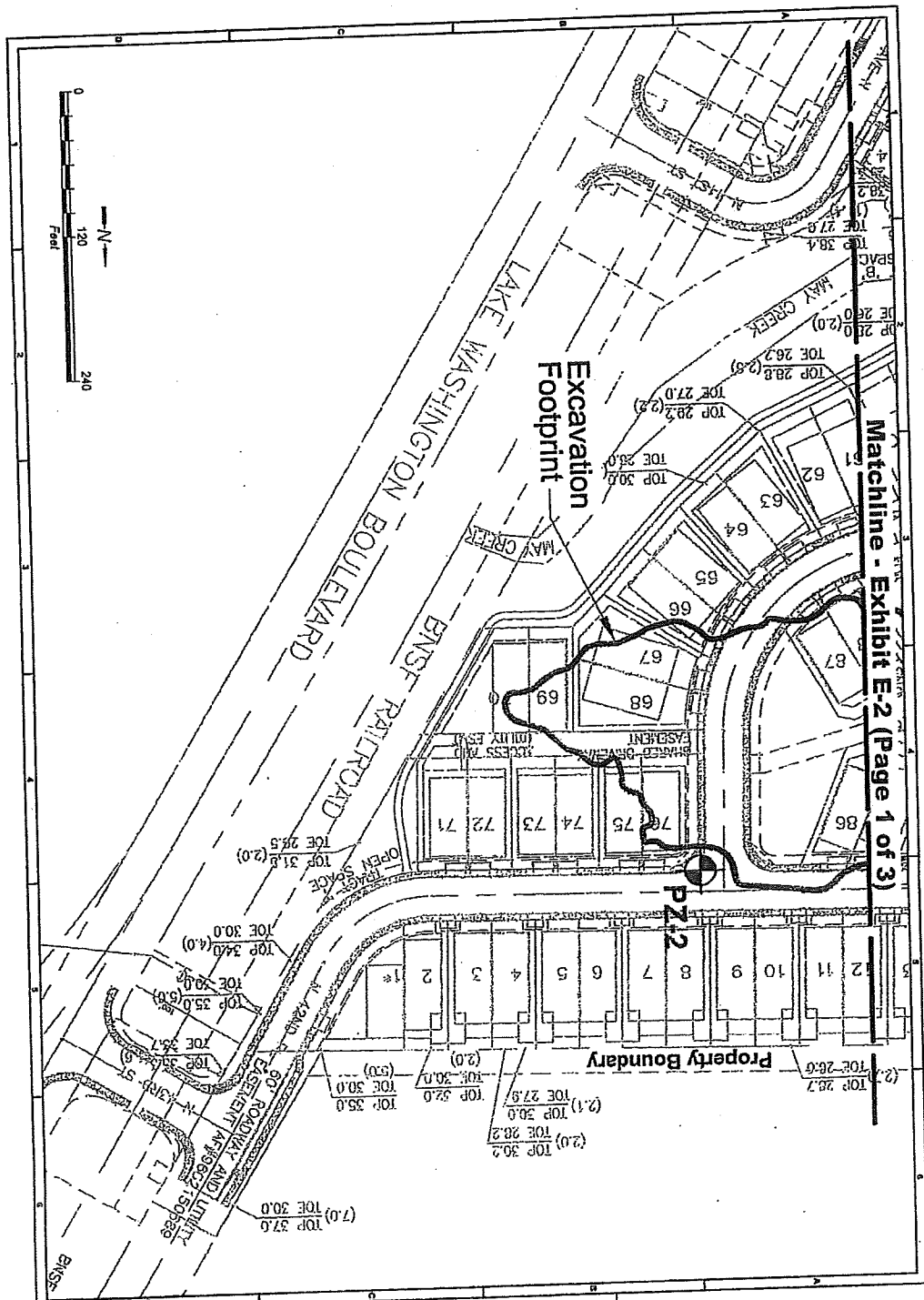
he Plat of Barbee Mill, recorded under King County recording no.  
20080208000182, Volume 246, pages 25 to 39 of Plats, records of King County,  
Washington





SHEET REFERENCE NUMBER: <b>3</b> SHEET 3 OF 3	<b>Barbee Mill</b> <b>Passive Attenuation Zone</b> <b>Monitoring Well Location Plan</b> 4101 Lake Washington Blvd. North Seattle, Washington		 <b>Aspect consulting</b> earth+water <a href="http://www.aspectconsulting.com">www.aspectconsulting.com</a> a limited liability company			
			DATE:	PROJECT NUMBER:	DESIGNED BY:	DRAWN BY:
			May 2008	050004	JJP	PMB

File Name & Path: Q:\Barbee Mill\Soil Remediation\2007-10 PAZ As Built\050004-03.dwg



SHEET  
3 OF 3

3

SHEET  
REFERENCE  
NUMBER:

# **Barbee Mill Passive Attenuation Zone Monitoring Well Location Plan**

4101 Lake Washington Blvd. North  
Seattle, Washington

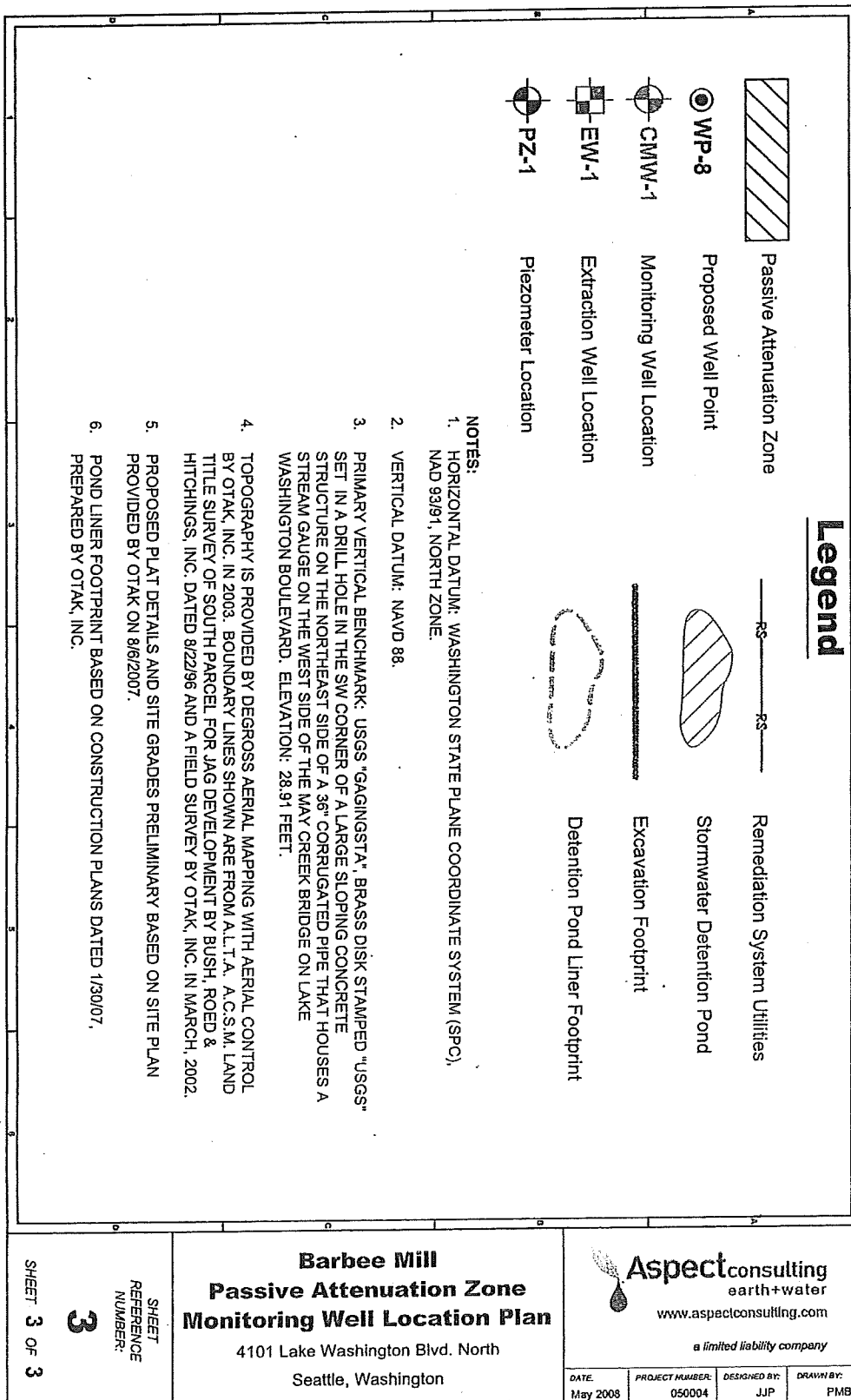
**Aspect**consulting  
earth+water  
www.aspectconsulting.com

a limited liability company

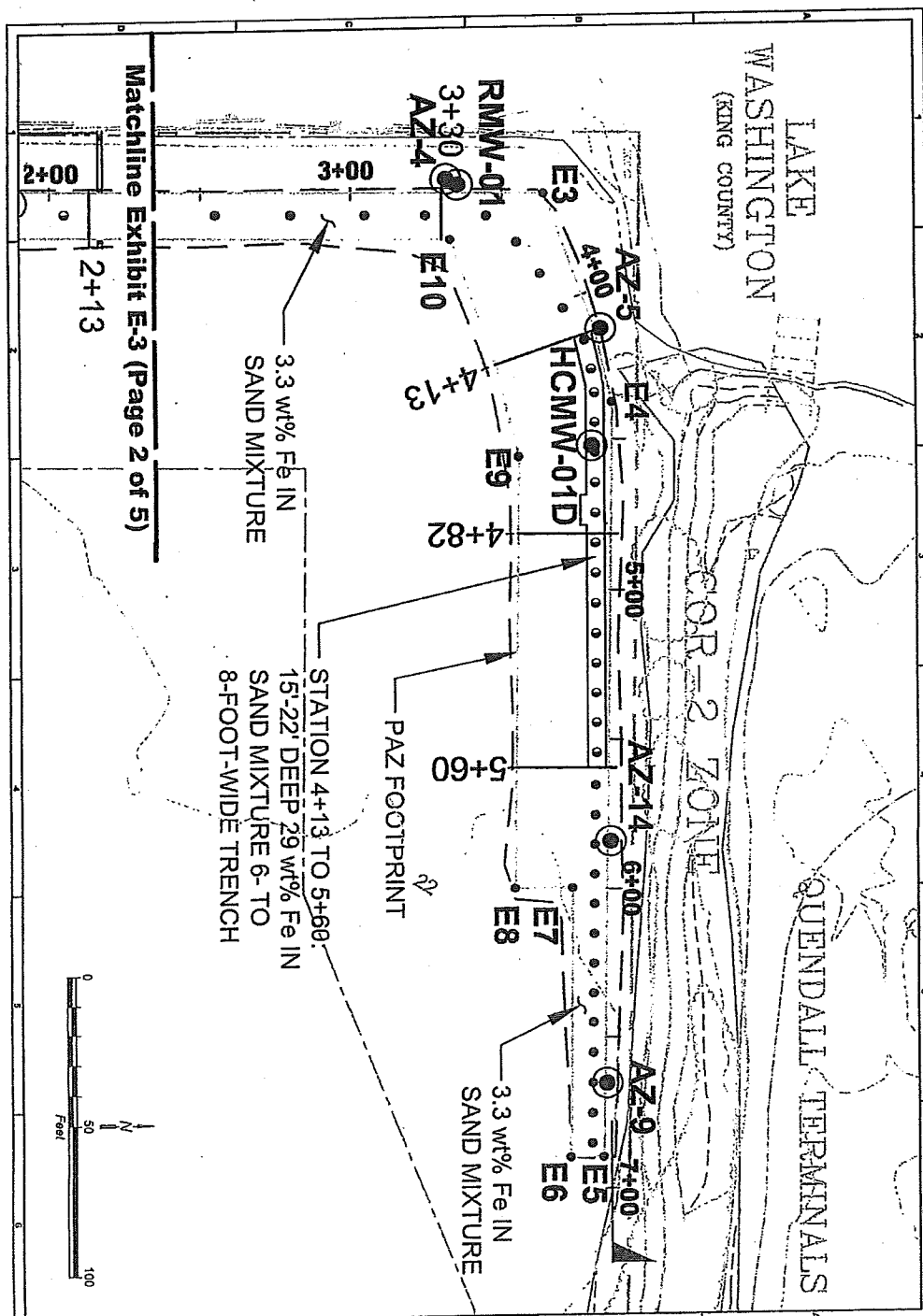
DATE: May 2008	PROJECT NUMBER: 050004	DESIGNED BY: JJP	DRAWN BY: PMB
-------------------	---------------------------	---------------------	------------------

File Name & Path: Q:\Barbee Mill\Soil Remediation\2007-10 PAZ As Built\050004-03.dwg

**Exhibit E-2 (Page 2 of 3)**



File Name & Path: O:\Barbee Mill\Soil Remediation\2007-10 PAZ As Built\1050004-03.dwg



SHEET  
2 OF 3

2

SHEET  
REFERENCE  
NUMBER

### Barbee Mill Passive Attenuation Zone As-Built Construction Details

4101 Lake Washington Blvd. North  
Seattle, Washington



**Aspect**consulting  
earth+water

www.aspectconsulting.com

a limited liability company

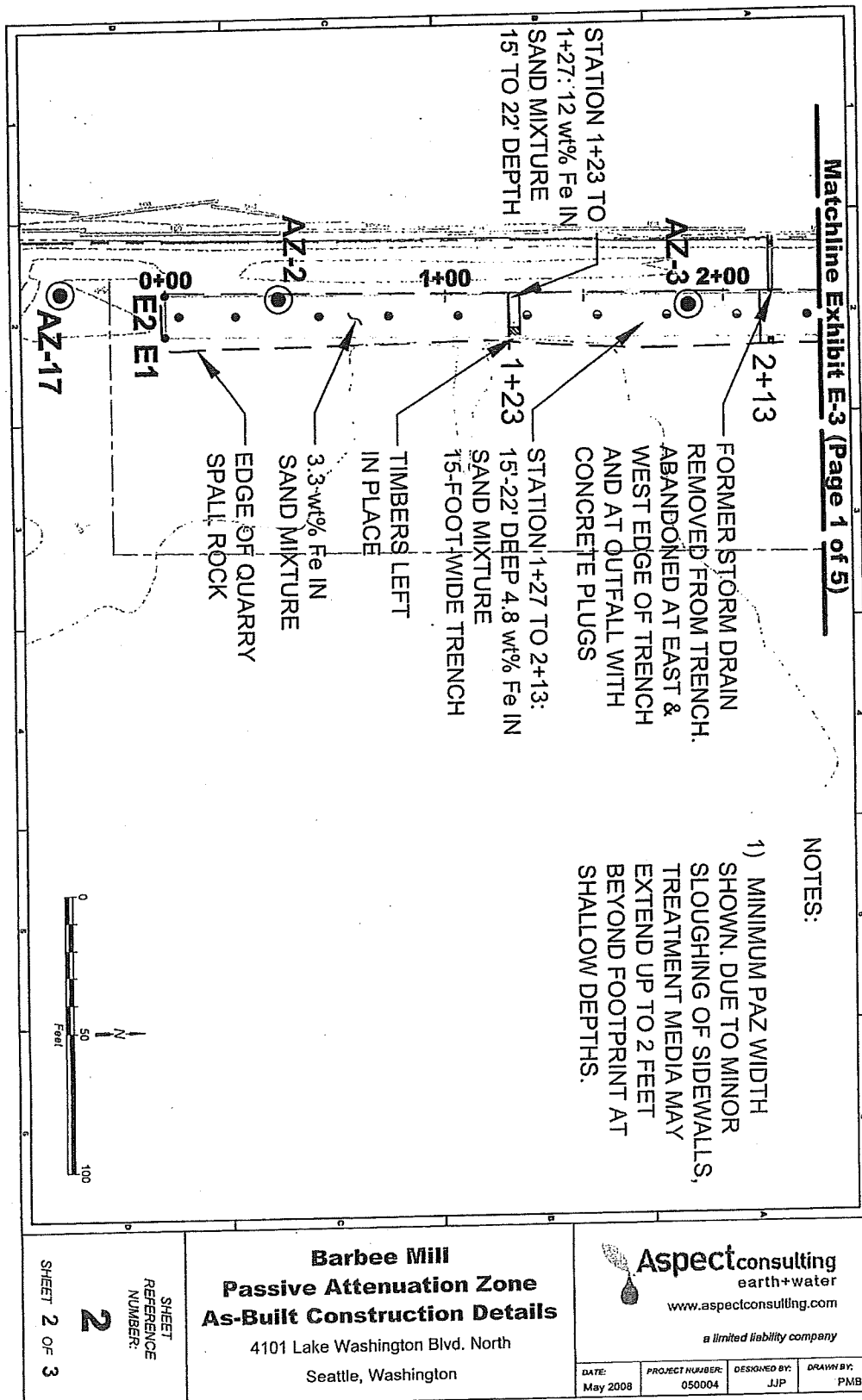
DATE:  
May 2008

PROJECT NUMBER:  
050004

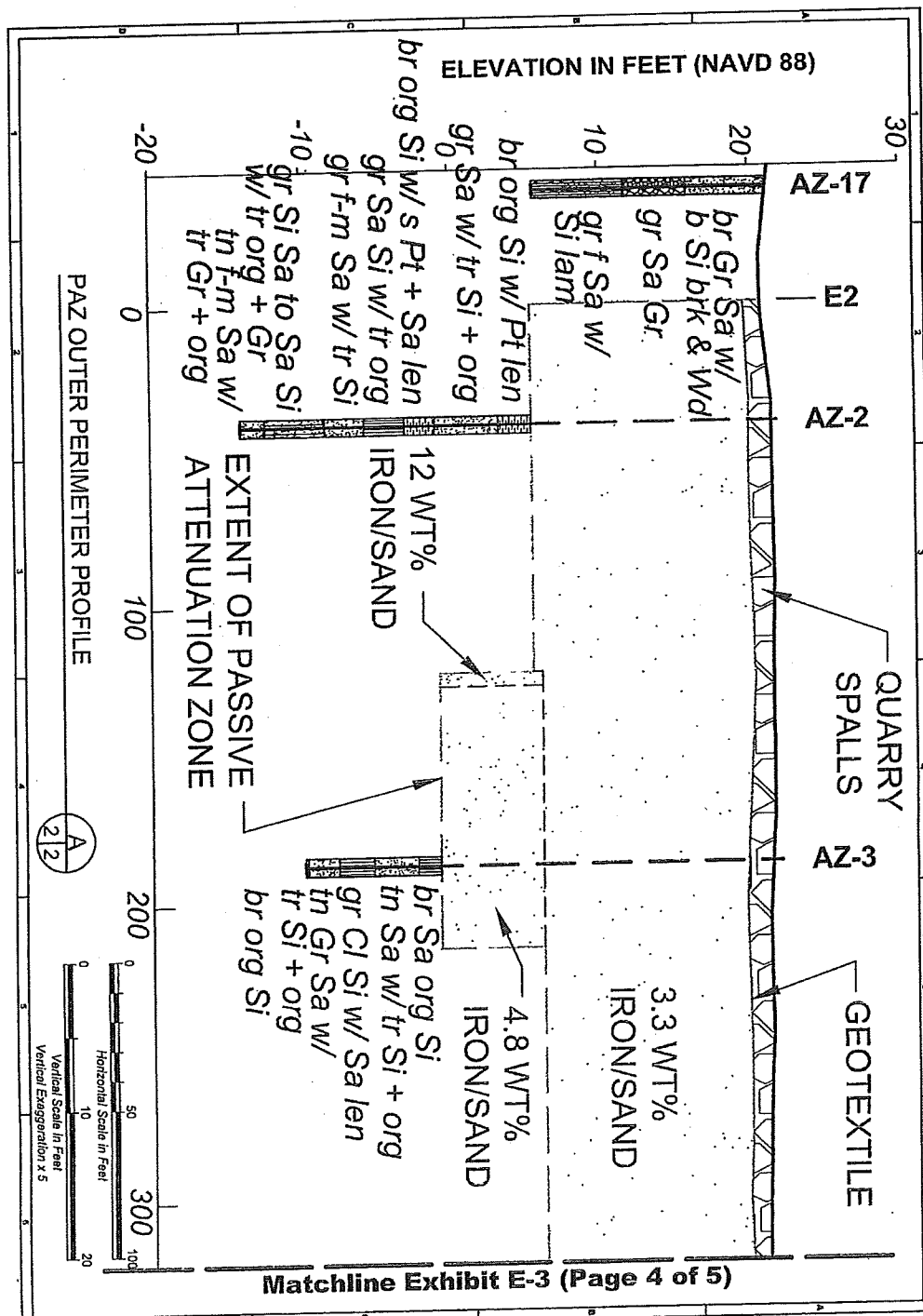
DESIGNED BY:  
JJP

DRAWN BY:  
PMB

File Name & Path: Q:\Barbee Mill\Soil Remediation\2007-10 PAZ As Built\050004-02.dwg



**Exhibit E-3 (Page 2 of 5)**



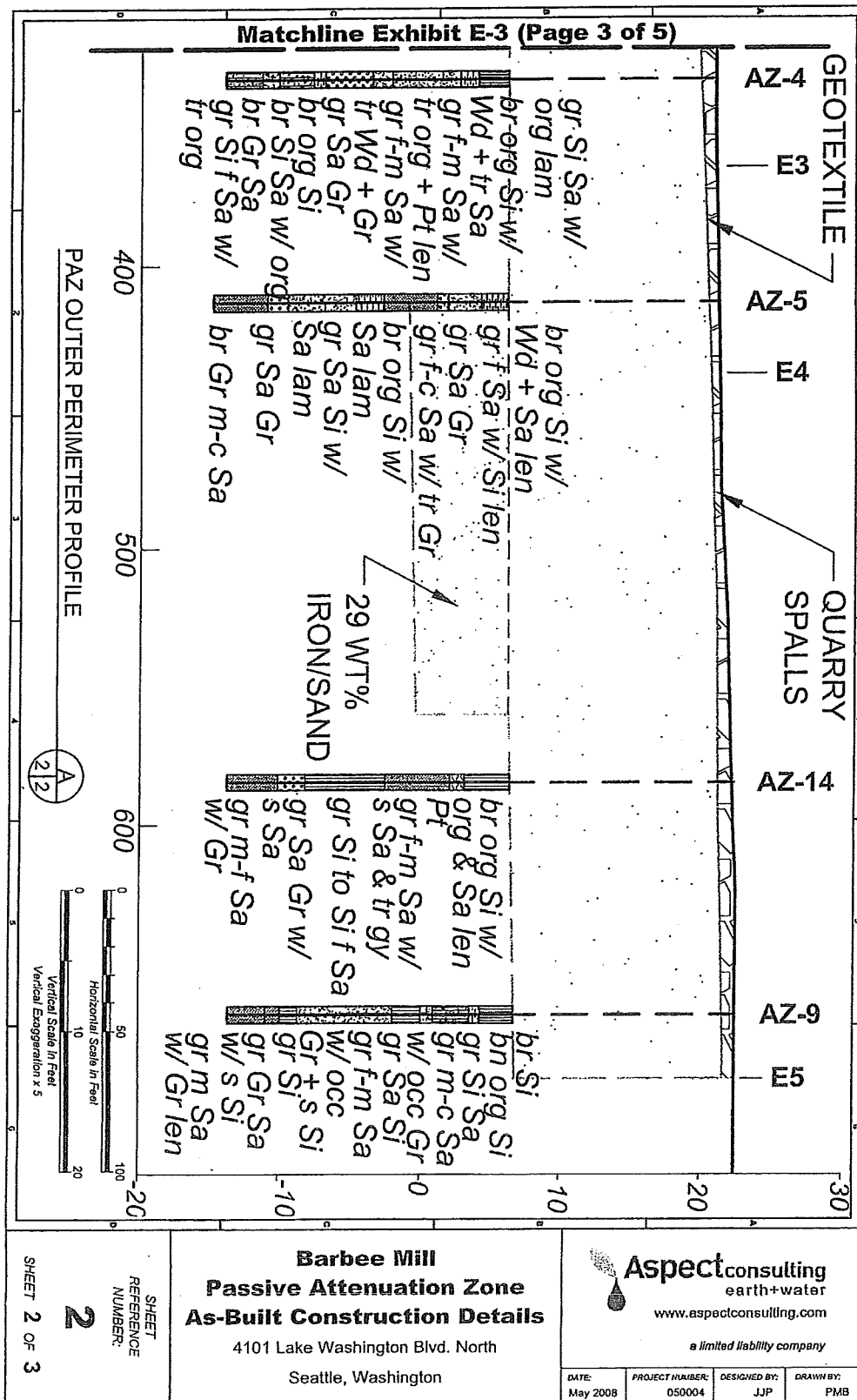
SHEET  
REFERENCE  
NUMBER:  
**2**  
SHEET 2 OF 3

**Barbee Mill**  
**Passive Attenuation Zone**  
**As-Built Construction Details**  
4101 Lake Washington Blvd. North  
Seattle, Washington

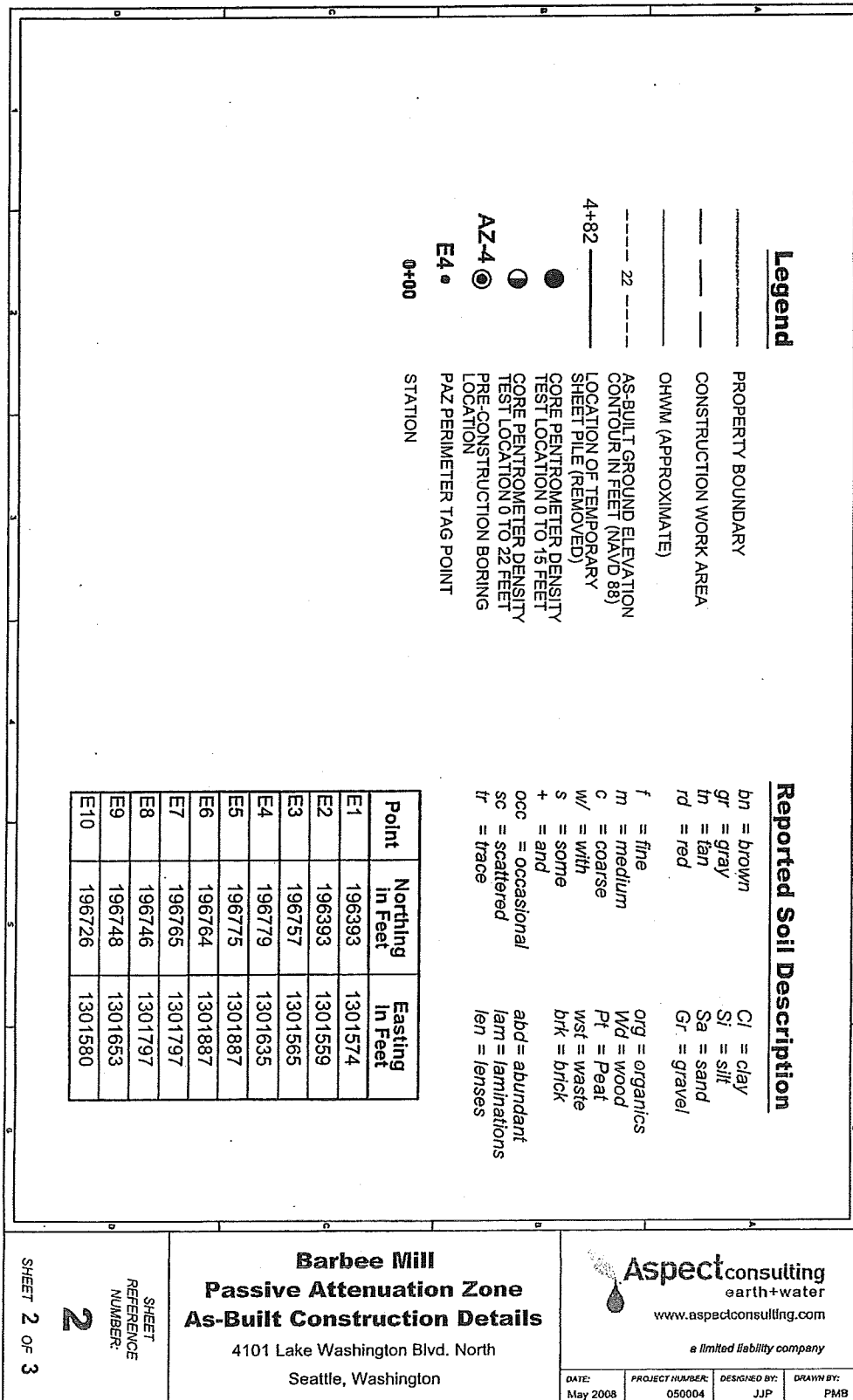
**Aspect consulting**  
earth+water  
www.aspectconsulting.com  
a limited liability company

DATE: May 2008	PROJECT NUMBER: 050004	DESIGNED BY: JJP	DRAWN BY: PMB
-------------------	---------------------------	---------------------	------------------

File Name & Path: C:\Barbee Mill\Soil Remediation\2007-10 PAZ As Built\050004-02.dwg



**Exhibit E-3 (Page 4 of 5)**



File Name & Path: Q:\Barbee Mill\Soil Remediation\2007-10 PAZ As Buils\050004-02.dwg

**Barbee Mill**  
**Passive Attenuation Zone**  
**As-Built Construction Details**  
 4101 Lake Washington Blvd. North  
 Seattle, Washington

**Aspect consulting**  
 earth+water  
 www.aspectconsulting.com  
 a limited liability company

DATE: May 2008	PROJECT NUMBER: 050004	DESIGNED BY: JJP	DRAWN BY: PMB
-------------------	---------------------------	---------------------	------------------

SHEET  
 REFERENCE  
 NUMBER:  
**2**  
 SHEET 2 OF 3



**EXHIBIT E-4**

**NOTICE OF INTENT TO CONVEY INTEREST**

**[Insert Date]**

Send To:  
Current Site Manager, Barbee Mill Company Site  
Toxics Cleanup Program, Northwest Regional Office  
Washington State Department of Ecology  
3190 – 160<sup>th</sup> Avenue SE  
Bellevue, Washington 98008-5452

**Re:**           *Notice of Intent to Convey Property Interest  
Barbee Mill Company Facility  
Facility/Site #76716221, Renton, Washington*

**Parcel No.:**   *[Insert Parcel Number for property subject to conveyance]*

**Address:**     *[Insert Address for property subject to conveyance]*

In accordance with the Environmental Covenant recorded on the title of my property, I, **[Insert Name of Current Owner]**, am hereby informing the Washington State Department of Ecology that I intend to convey **[Insert a short description of type of property interest you are conveying – for example: “title of my property” or “a leasehold interest in my property”]** to **[Insert name of intended recipient of property interest]**. The anticipated effective date of the conveyance is **[Insert Date of Conveyance]**.

For more information, I can be reached at **[Insert contact information for current owner]**. **[Insert name of intended recipient of property interest]** can be reached at **[Insert contact information for intended recipient of property interest]**.

Sincerely,

**[Insert Signature of Current Owner]**

## **EXHIBIT E-5**

### **EPA and Department of Ecology Letters and Remedial Action Documents**

#### **Ecology and EPA Letters**

1. January 11, 1999, Ecology letter to Mr. Carl Einberger, Hart Crowser, Inc., Subject: Waste Designation at the Barbee Mill Site, Renton, Washington; Re: Hart Crowser, Inc. letter report J-4946-10 dated November 17, 1998
2. November 5, 1990 (1999?), Ecology letter to Mr. Robert Cugini, Barbee Mill Company, Inc., Re: Sediment Analysis of Dredge Spoils from Mill Creek, Barbee Mills, Renton,
3. September 12, 2000, Ecology letter to Mr. Carl Einberger, Hart Crowser, Inc., Re: Independent Remedial Action Plan, Upland Areas, Barbee Mill Company, Renton, Washington, Revised September 6, 2000
4. March 1, 2001, Ecology letter to Mr. Carl Einberger, Hart Crowser, Inc., Re: Dangerous Waste Designation - F035, Barbee Mill Site, Renton, Washington
5. February 27, 2003, Ecology letter to Mr. Robert Cugini, Barbee Mill Co., Re: Independent Remedial Action, Barbee Mill Co.
6. April 3, 2003, Ecology letter to Mr. Robert Cugini, Barbee Mill Co., Re: Stockpiled Sediment Materials, Independent Remedial Action, Barbee Mill Co.
7. September 6, 2005, Ecology letter to Mr. Robert Cugini, Barbee Mill Company, Re: Joint Aquatic Resources Permit Application (JARPA) for Barbee Mill Shoreline Restoration Project, Lake Washington, King County, Washington
8. May 17, 2006, Ecology letter to Mr. Robert Cugini, Vice President, Barbee Mill Company, Re: Opinion pursuant to WAC 173-340-515(5) on Proposed Remedial Action for the following Hazardous Waste Site: Barbee Mill
9. June 1, 2006, EPA Region 10 memorandum to Lynda Priddy, Project Manager, from Rene Fuentes, Hydrogeologist, Office of Environmental
10. Assessment, Subject: Barbee Mill Company Arsenic Plume Independent Remedial Action Plan Addendum, February 8, 2006

#### **Remedial Action Documents**

11. November 17, 1998, letter report from Hart Crowser, Re: Updated Summary of Soil and Groundwater Data, Barbee Mill
12. November 17, 1998, letter from Hart Crowser, Re: Waste Designation at the Barbee Mill Site

13. December 17, 1998, letter report from Hart Crowser, Re: Supplemental Report, Additional Site Data, Barbee Mill
14. January 25, 1999, memorandum from Hart Crowser, Re: Review of Facility areas at Barbee Mill
15. May 10, 1999, letter report from Hart Crowser, Re: Review of Site History and Characterization Data, and Proposed Additional Investigation Work, Barbee Mill Company
16. July 16, 1999, transmittal from Hart Crowser, Barbee Mill Co. Site and Exploration Plan, Tables 1-9: Soil and Groundwater Samples
17. November 9, 1999, Draft Remedial Investigation and Focused Feasibility Study for the Quendall Terminals Property, Exponent
18. January 17, 2000, letter from Hart Crowser, Re: Future Use of Dredged Bark and Wood Debris - Barbee Mill Co.
19. September 6, 2000, revised, Independent Remedial Action Plan, Upland Areas, Barbee Mill Company, Hart Crowser
20. January 25, 2001, letter from Hart Crowser, Re: Dangerous Waste Designation at the Barbee Mill Site
21. May 2004, Draft Risk Assessment/Feasibility Study, Port Quendall Terminals Site, Anchor Environmental, L.L.C.
22. February 8, 2006 Draft Independent Remedial Action Plan Addendum, Upland Areas, Aspect Consulting, LLC
23. May 16, 2006, letter from Aspect Consulting, Re: Supplemental Information for IRAP Addendum, Barbee Mill (VCP Site #NW0182)
24. June 21, 2006, Construction Report, Barbee Mill Arsenic Remediation, Aspect Consulting, LLC
25. June 21, 2006, Construction Report, Barbee Mill TPH and PCP Remediation, Aspect Consulting, LLC
26. December 15, 2006, memorandum from Aspect Consulting, Re: Passive Attenuation Zone Pilot Test Results, Barbee Mill Arsenic Remediation Project
27. August 2, 2006, draft Engineering Design Report, Barbee Mill Groundwater Remediation, Aspect Consulting, LLC
28. March 5, 2007, Construction and Performance Monitoring Plan, Barbee Mill Groundwater Remediation Project, Aspect Consulting, LLC, received March 5, 2007, undated Construction Specifications, Barbee Mill Passive Attenuation Zone, Aspect Consulting, LLC

29. received March 5, 2007, undated Remedial Action Management Plan, Project: Barbee Mill PAZ, Clearcreek Contracting Company
30. July 12, 2007, letter from Clearcreek Contractors, Re: Spill #561806
31. August 4, 2007, email from John Funderburk, Sound Environmental Strategies, Re: Barbee Mill
32. October 5, 2007, Construction Report – Passive Attenuation Zone, Barbee Mill Arsenic Remediation, Aspect Consulting, LLC
33. December 3, 2007, Partial Sufficiency and Further Action Determination letter to Mr. Robert Cugini from Mr. Mark Adams

