



COPY

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DEPARTMENT OF ECOLOGY

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May 23, 2018

The Honorable Patty Murray
United States Senate
950 Pacific Avenue, Room 650
Tacoma, WA 98402-4400

Re: Constituent, Vinson Latimore, Case Number 573173

- **Property Address:** 10816 18th Avenue East, Tacoma, Pierce County, WA
- **Site Name:** Gibraltar Senior Living
- **Cleanup Site No.:** 12686
- **Facility/Site No.:** 6607
- **VCP Project No.:** SW1472

Dear Senator Murray:

Thank you for your letter of May 2, 2018, to Maia D. Bellon, Director, Washington State Department of Ecology (Ecology). In your letter you have requested Ecology to follow up on concerns from constituent Mr. Vinson Latimore, case number 573173. Director Bellon has asked me to respond on her behalf.

Mr. Latimore, representing 155 Tremont Avenue LLC, has been enrolled in Ecology's Voluntary Cleanup Program (VCP) since May 3, 2015. Cleanups undertaken under VCP are a type of independent remedial action. These types of actions are authorized under the Model Toxics Control Act (MTCA). These cleanups are conducted voluntarily and not under formal order with Ecology. This means that the cleanup is led by the VCP customer at their pace and their schedule.

In the VCP program, Ecology determines whether the remedial actions completed by the enrollee meet the substantive requirements of MTCA for the site. A site, in the context of MTCA, is anywhere the contaminant has come to be located. This means that a site is defined by the extent of contamination, irrespective of property boundaries.

Ecology determines whether further remedial action or no further action is necessary at the Site in VCP. Ecology may provide non-binding, informal advice and technical assistance in the form of written opinions to persons conducting remedial actions under the VCP Program.

The Honorable Patty Murray
May 23, 2018
Page 3

In summary, Ecology remains concerned that contamination associated with the SW1472 Site is not delineated in a manner compliant with MTCA. Based on the February 1, 2018, letter submitted by Mr. Latimore's attorney, he disagrees with Ecology's recommendations regarding boring EB-16. Ecology is in the process of finalizing an opinion letter in response to Mr. Latimore's attorney's February 1, 2018, letter.

If you have any questions regarding opinions and recommendations at this site, please contact the Toxics Cleanup Program, Southwest Regional Office Manager, Rebecca S. Lawson, PE, LHG at (360) 407- 6241 or rebecca.lawson@ecy.wa.gov.

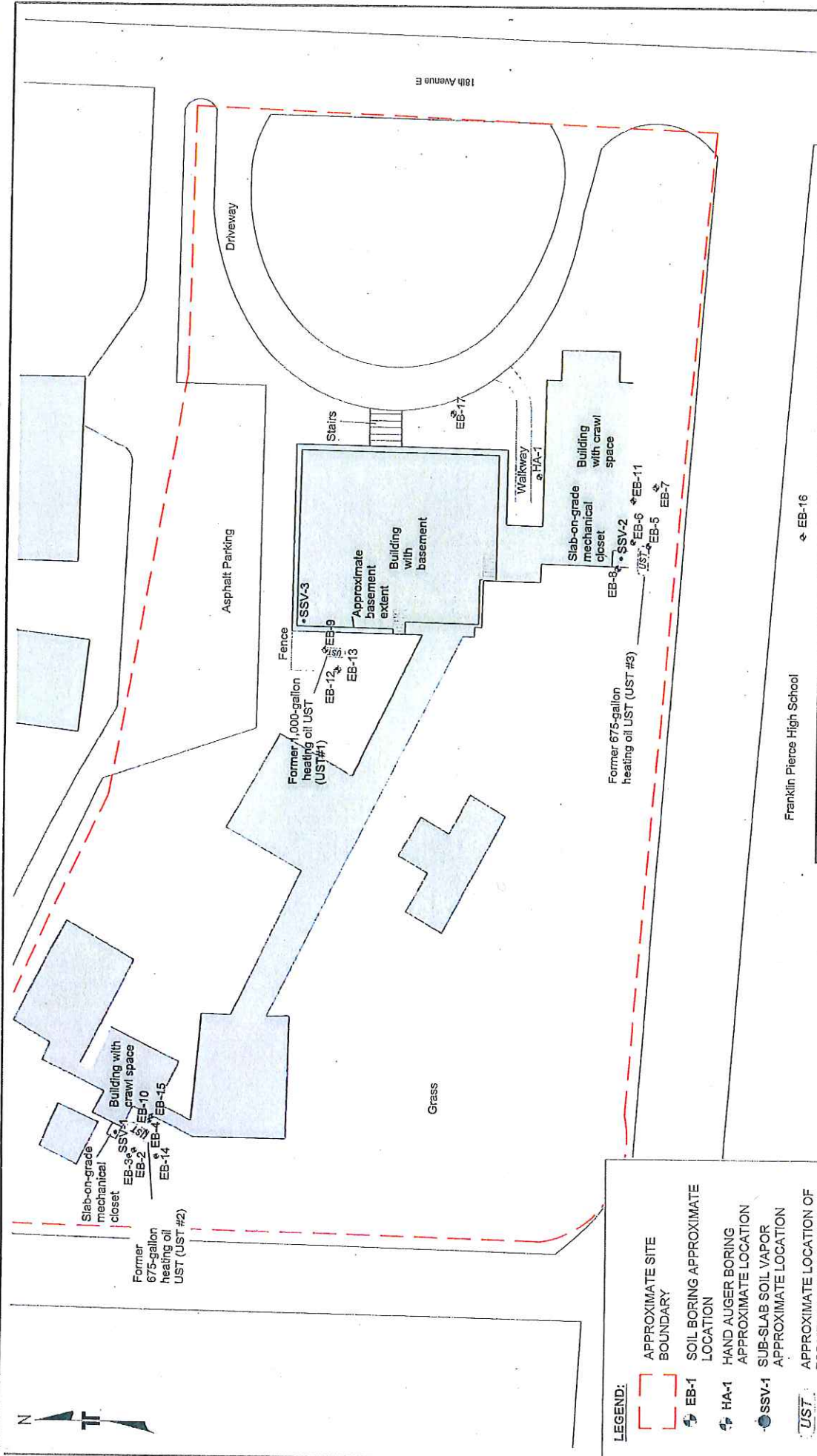
Sincerely,



James J. Pendowski, Manager
Toxics Cleanup Program

Enclosure: A – Exhibit 2 – Site Diagram from Terracon's *Supplemental Limited Site Investigation* dated November 6, 2015
B – Ecology opinion letters dated January 27, 2016 and November 28, 2017

cc: Mary Glenn, State Office of U.S. Senator Patty Murray
Vinson Latimore, 155 Tremont Avenue LLC
Erica Doctor, Vandenberg Johnson & Gandara, LLP
Elizabeth Rachman, Atlas Geosciences Northwest
Maia Bellon, Ecology
Allyson Bazan, Attorney General's Office
Rebecca Lawson, Ecology



Terracon Consulting Engineers and Scientists 2316 65th Avenue NE, Ste. 100 Alaska, Tacoma, WA 98505 PH: (252) 771-2324 FAX: (252) 771-5252		SITE DIAGRAM Gibraltar Senior Living 10816 18th Avenue East Tacoma, Pierce County, Washington	EXHIBIT 2
Project No: E2157004 Scale: Not to Scale Date: *Jing November 2015	Prepared by: EJD Drawn by: HRG Checked by: EJD Approved by: MYW	Franklin Pierce High School ← EB-16	

Exhibit 2 from Terracon's Supplemental Limited Site Investigation report, dated November 6, 2015.

Enclosure B

Ecology opinion letters dated January 27, 2016 and November 28, 2017



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January 27, 2016

Mr. Vinson Latimore
4200 Guide Meridian, Suite 101A
Bellingham, Washington 98226

Re: Further Action at the following Site:

- **Site Name:** Gibraltar Senior Living
- **Site Address:** 10816 18th Avenue East, Tacoma, Pierce County
- **Cleanup Site No.:** 12686
- **Facility/Site No.:** 6607
- **VCP Project No.:** SW1472

Dear Mr. Latimore:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Gibraltar Senior Living facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

Is further remedial action necessary to clean up contamination at the Site?

YES. Ecology has determined that further remedial action is necessary to clean up contamination at the Site.

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

Description of the Site

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following releases:

- Total Petroleum Hydrocarbons Diesel-Range (TPH-Dx) & Total Petroleum Hydrocarbons Heavy Oil-Range (TPH-HO) into the Soil, Groundwater, & Air.

In October 2011, Seattle Tank Services was contracted by the Gibraltar Senior Living facility to decommission and remove three underground storage tanks (USTs) located on the Gibraltar Senior Living property. According to Seattle Tank Services, groundwater was not encountered in any of the three excavations in 2011. Seattle Tank Services additionally reported several data gaps with respect to soil characterization/PCS (Terracon, July 2015).

On May 14 & 20, and October 8, 2015, Terracon conducted additional subsurface investigations, to further characterize the Site. Soil and groundwater results are summarized for each UST area, as well as sub-slab soil vapor findings. These findings are briefly summarized below:

- UST #1: Terracon collected two soil samples and one groundwater sample, all of which exhibited contaminants of concern (CoCs) concentrations below the practical quantitation limits (PQLs).
- UST #2: Terracon collected four soil samples and one groundwater sample. The soil samples exhibited CoC concentrations below the laboratory PQLs. The groundwater sample exhibited concentrations of TPH-Dx above the laboratory PQLs, but below the respective MTCA Method A CUL (87 micrograms per liter [$\mu\text{g/L}$]).
- UST #3: Terracon collected eight soil samples and one groundwater sample. Soil sample analytical results exhibited TPH-Dx concentrations between 1,300 to 3,000 milligrams per kilogram (mg/Kg). The groundwater analytical result exhibited a concentration of 55 $\mu\text{g/L}$.
- The Tier I Sub-Slab Soil Vapor sampling results exhibited detections of naphthalene and chloroform exceeding both the screening and cleanup levels. Chloroform was detected in soil vapor sample SSV-2 (in the vicinity of UST#3/southernmost out building) and naphthalene in SSV-1 (in the vicinity of UST#2/northernmost out building). Concentrations for chloroform and naphthalene were 70.1 micrograms per cubic meter ($\mu\text{g/m}^3$) and 39.9 $\mu\text{g/m}^3$, respectively (Figures 1, 3, & 4).
- Groundwater collected from the off-Site temporary well point (EB-16) exhibited detections of TPH-Dx (690 $\mu\text{g/L}$) and TPH-HO (1,300 $\mu\text{g/L}$). Groundwater collected on-Site from EB-8 (located in close proximity to UST#3) and EB-13, & 14, all exhibited TPH detections below the respective MTCA Method A CULs or laboratory PQLs.

Based on the review of the information provided to date, Ecology has the following comments:

1. Ecology requests further vapor assessment and sampling of air within the on-Site crawl spaces associated with the two smaller, single-story structures. Terracon collected sub-slab soil vapor samples at SSV-1 & SSV-2, where naphthalene and chloroform vapor concentrations exceeded the applicable screening levels and/or reporting limits. Please analyze air samples utilizing EPA Method TO-15, and

Mr. Vinson Latimore

January 27, 2016

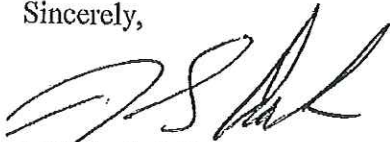
Page 7

Contact Information

Thank you for choosing to clean up the Site under the Voluntary Cleanup Program (VCP). After you have addressed our concerns, you may request another review of your cleanup. Please do not hesitate to request additional services as your cleanup progresses. We look forward to working with you.

For more information about the VCP and the cleanup process, please visit our web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion, please contact me by phone at (360) 407-6528 or e-mail at jason.cook@ecy.wa.gov.

Sincerely,



J.G. Cook, LG

SWRO Toxics Cleanup Program

JGC: knf

Enclosure: A - Description and Diagrams of the Site

By certified mail 91 7108 2133 3939 7039 4044

cc: Elizabeth Rachman, Terracon
 Richelle Perez, Ecology
 Steve Teel, Ecology
 Dolores Mitchell, Ecology

4. Cleanup.

Ecology has determined the cleanup you performed does not meet cleanup standards at the Site because the Site may require further characterization and CUL adjustment.

Cleanup actions conducted to date include the following:

- Removal of one 1,000 gallon UST and two 675 gallon USTs, all of which contained heating oil (Seattle Tank Services, July & September 2011).
- Over-excavation of approximately 302.76 tons of alleged PCS (Seattle Tank Services, July & September 2011).

Limitations of the Opinion

1. Opinion does not settle liability with the state.

Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion does not:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

2. Opinion does not constitute a determination of substantial equivalence.

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

3. State is immune from liability.

The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

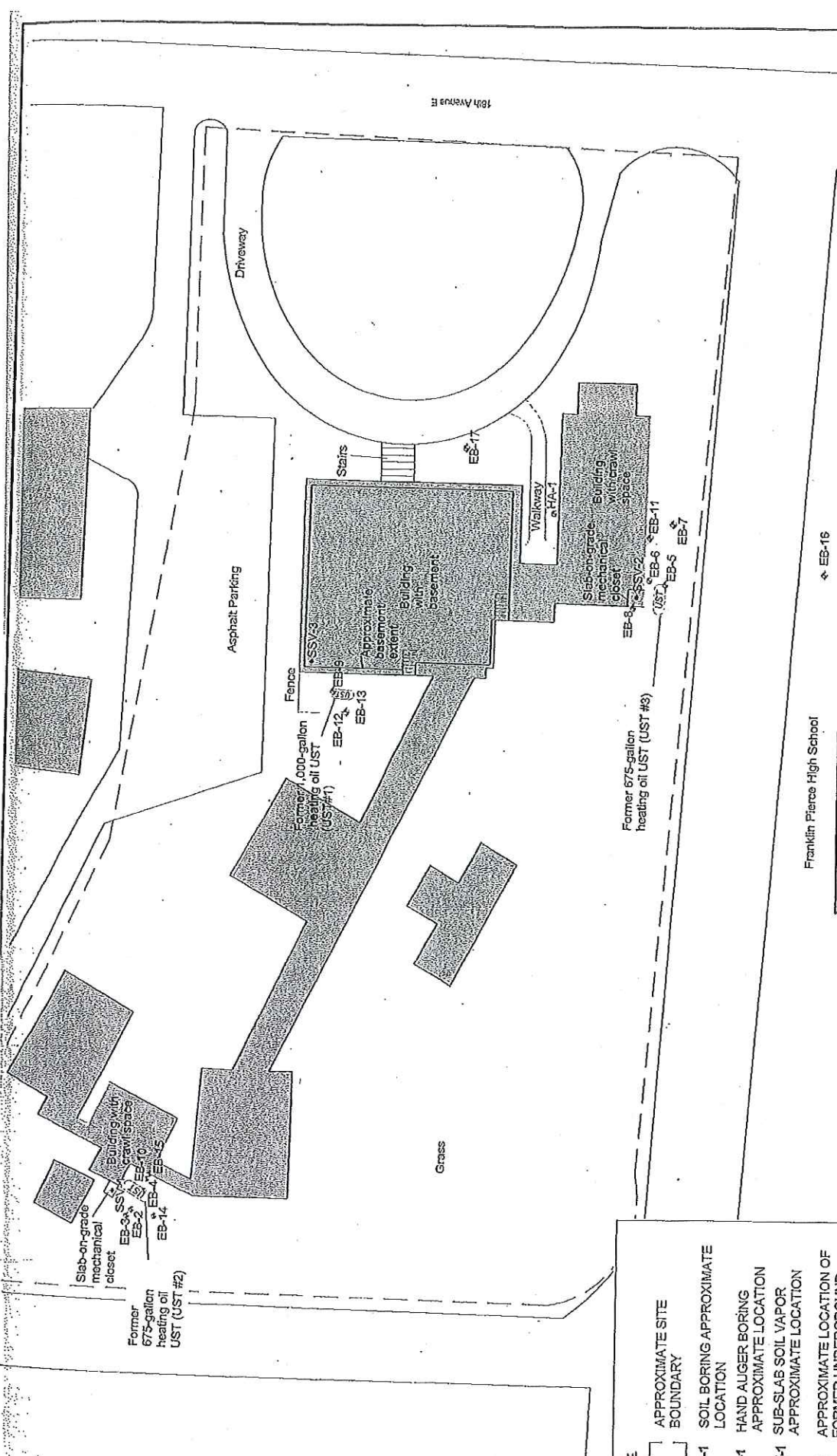
Site Description

The Site is located on a portion of Pierce County, Washington tax parcel no. 0319034012. The Site parcel is improved with three commercial-type buildings, a three-story 7,529 ft² structure, a 2,169 ft² structure, and a 2,170 ft² structure. The Site is currently occupied by an assisted living and mental health facility (Gibraltar Senior Living).

The Site formally contained three operational USTs. The USTs contained heating oil and were situated adjacent to each building's boiler room. One of the USTs was 1,000-gallons in size and the remaining two USTs were 675-gallons.

Soils underlying the Site generally consist of 1 to 5 feet of silty-sand with trace gravel material, underlain by a sandy silt to approximately 15 feet bgs. Groundwater is sporadically distributed throughout the Site and where encountered, observed at depths ranging between 5 to 10 feet bgs.

Site Diagrams



- LEGEND:**
- APPROXIMATE SITE BOUNDARY
 - EB-1
 - HA-1
 - SSV-1
 - UST
 - APPROXIMATE LOCATION OF FORMER UNDERGROUND STORAGE TANK (UST)
 - SOIL BORING APPROXIMATE LOCATION
 - HAND AUGER BORING APPROXIMATE LOCATION
 - SUB-SLAB SOIL VAPOR APPROXIMATE LOCATION



Franklin Pierce High School

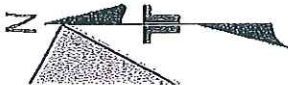
EB-16

Project No.	ES15704
Scale	Not to Scale
File No.	2015
Date	November 2015
Author	MTV

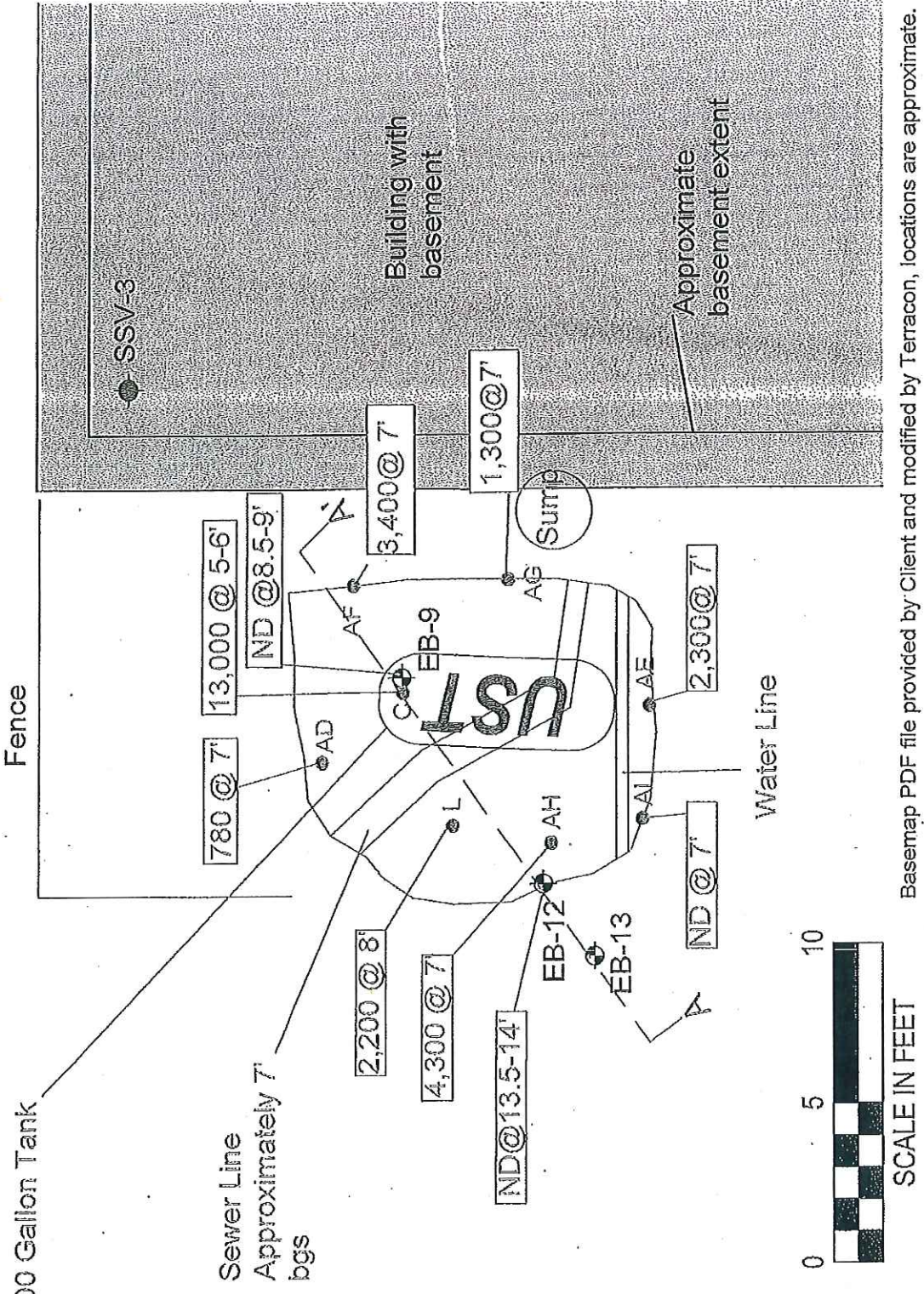
Terracon
 Consulting Engineers and Scientists
 2100 18th Avenue East
 Tacoma, WA 98403
 P: (252) 771-0300
 F: (252) 771-0309

SITE DIAGRAM
 Gibraltar Senior Living
 10816 18th Avenue East
 Tacoma, Pierce County, Washington

EXHIBIT
1

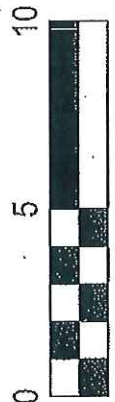


1,000 Gallon Tank



Sewer Line
Approximately 7'
bgs

Water Line



SCALE IN FEET

LEGEND:

- APPROXIMATE UST EXCAVATION (SEATTLE TANK SERVICES-OCTOBER 2011)
- SOIL BORING APPROXIMATE LOCATION WITH DIESEL CONCENTRATION (mg/kg) AND DEPTH OF SAMPLE (feet bgs)
- ND=Not-detect
- Black concentration=below MTCA, site specific cleanup level
- SUB-SLAB SOIL VAPOR APPROXIMATE LOCATION OF FORMER UNDERGROUND STORAGE TANK (UST)
- APPROXIMATE SAMPLE LOCATION WITH DIESEL CONCENTRATION (mg/kg) AND DEPTH OF SAMPLE (feet bgs)- SEATTLE TANK SERVICES (OCTOBER 2011)
- ND=Not-detect
- RED concentration=above MTCA, site specific cleanup level
- Black concentration=below MTCA, site specific cleanup level
- APPROXIMATE CROSS-SECTION LINE AND ORIENTATION

Basemap PDF file provided by Client and modified by Terracon, locations are approximate.

Project No.	B2157002
Scale:	1:5
File No.	*.dwg
Date:	October 2015

Project Mgr:	EAD
Drawn By:	HRG
Checked By:	EAD
Approved By:	MYW

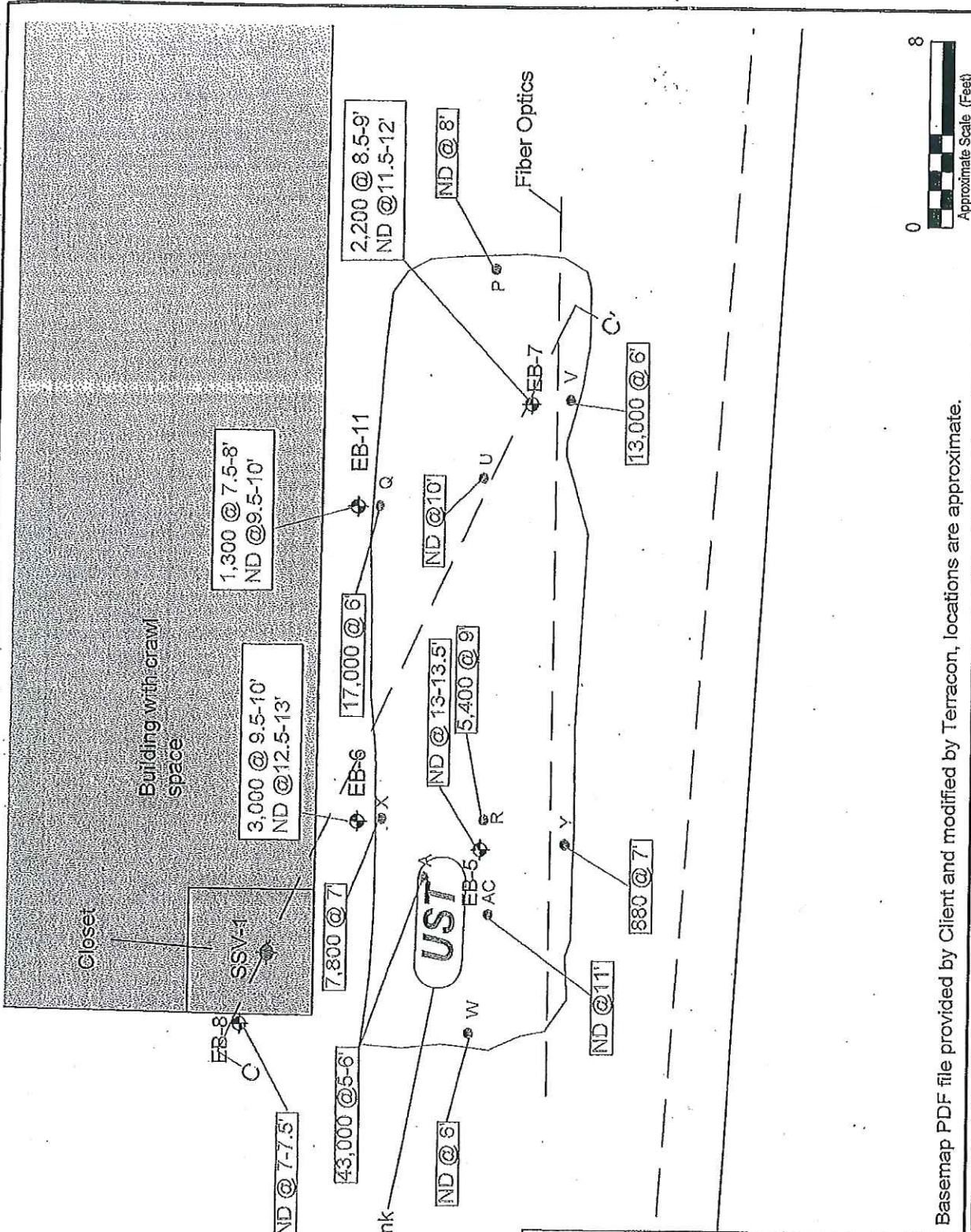
Consulting Engineers and Scientists

21995 84th Avenue W., Ste 100 Mountabo Terrace, WA 98043
PH: (425) 771-3304 FAX: (425) 771-3549

SITE DIAGRAM UST #1

Gibraltar Senior Living
10816 18th Avenue East
Tacoma, Pierce County, Washington

EXHIBIT **3**



EXHIBIT

4

SITE DIAGRAM UST #3

Gibraltar Senior Living
10816 18th Avenue East
Tacoma, Pierce County, Washington

Terracon
Consulting Engineers and Scientists

21505 64th Avenue W., Ste 100
Maple Valley, WA 98043
Ph: (425) 774-3304 Fax: (425) 774-3566

Project No.	EC-157004
Scale	1:8
File No.	*.dwg
Date	November 2015

Basemap PDF file provided by Client and modified by Terracon, locations are approximate.

LEGEND:

- APPROXIMATE UST EXCAVATION (SEATTLE TANK SERVICES-OCTOBER 2011)
- 780 @ 7' SOIL BORING APPROXIMATE LOCATION WITH DIESEL CONCENTRATION (mg/kg) AND DEPTH OF SAMPLE (feet bgs)
- EB-1 ND=Non-detect
- SSV-1 Black concentration=below MTCAs, site specific cleanup level
- UST APPROXIMATE LOCATION OF FORMER UNDERGROUND STORAGE TANK (UST)
- 780 @ 7' APPROXIMATE SAMPLE LOCATION WITH DIESEL CONCENTRATION (mg/kg) AND DEPTH OF SAMPLE (feet bgs)-SEATTLE TANK SERVICES (OCTOBER 2011)
- AH NS= Not Sampled
- RED concentration=above MTCAs, site specific cleanup level
- Black concentration=below MTCAs, site specific cleanup level
- A' APPROXIMATE CROSS-SECTION LINE AND ORIENTATION





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November 28, 2017

COPY

Mr. Vinson Latimore
4200 Guide Meridian, Suite 101A
Bellingham, WA 98226

Re: Further Action at the following Site:

- **Site Name:** Gibraltar Senior Living
- **Site Address:** 10816 18th Ave E, Tacoma, Pierce County, WA 98445
- **Facility/Site No.:** 6607
- **Cleanup Site No.:** 12686
- **VCP Project No.:** SW1472

Dear Mr. Latimore:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Gibraltar Senior Living facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

Ecology has determined that further remedial action is necessary to clean up contamination at the Site.

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

Description of the Site

- This memorandum limits discussion of Site contamination to the off-Property diesel and heavy oil concentrations in groundwater collected from boring EB-16 (Figure 1).

Basis for the Opinion

This opinion is based on the information contained in the following documents:

Mr. Vinson Latimore

November 28, 2017

Page 3

northwest of EB-16. Based on the distance and discontinuous nature of the perched groundwater in the vicinity, this off-site release is not anticipated to be the source of the oil-range TPH detection at EB-16.

The second off-site facility, the Franklin High School site, is the location of a release associated with two former heating oil USTs, located approximately 475 feet southwest of EB-16. Based on the distance and discontinuous nature of the perched groundwater in the vicinity, this off-site release is also not anticipated to be the source of the oil-range TPH detection at EB-16."

On the next page of the memorandum, Terracon stated:

"Terracon cannot identify a potential source of the oil detected in the groundwater grab sample collected at EB-16. However, as stated previously, the product does not appear to be related to the heating oil release at the Site."

- 1) In response to Terracon's memorandum, Jason Cook, former Ecology VCP Site manager, responded via email (see pdf included in Enclosure A) on May 2, 2016: *"In addition, upon review of the chromatograms – comparing the on-Site and off-Site releases, it does not appear the off-Site groundwater release is associated with the release from Gibraltar. However, Ecology (the new Site manager) may require additional data and analysis."*
- 2) The laboratory's comment on the chromatogram for EB-16 included in Terracon's *Supplemental Limited Site Investigation* states "unidentified diesel range product (biased high due to motor oil range produce overlap)."
- 3) The ALS chromatogram for EB-16 appears to show both diesel and heavy oil ranges. A line is provided on the chromatogram which seems to separate the diesel and heavy oil petroleum hydrocarbon ranges.
- 4) Based on the chromatograms for EB-8 and EB-14 provided by Friedman & Bruya, these results appear to elute in the same petroleum hydrocarbon range. In comparison to the standard used, EB-8 and EB-14 groundwater analytical results are likely a diesel range petroleum hydrocarbon, which is consistent with heating oil.
- 5) The diesel and heavy oil standards used by ALS have not been presented to Ecology for comparison to the EB-16 chromatogram.
- 6) The standards and chromatograms presented by Friedman & Bruya and ALS cannot be directly compared as response times for individual components of the analyses are different.
- 7) The type of heavy oil has not been determined.
- 8) No additional analyses have been completed in groundwater (e.g., cPAHs or PCBs) which would inform at EB-16 whether or not the petroleum hydrocarbons in groundwater are diesel range, heavy oil range, or both.

- i. The purpose of this well, presuming an inferred groundwater gradient to the north-northeast, would be to establish an upgradient point in order to determine if a groundwater plume is encroaching upon the Gibraltar Senior Living Property.
 - ii. Ecology recommends sampling groundwater at this well for TPH-Dx, TPH-HO, and naphthalenes.
 - iii. Though qualitative, Ecology suggests analyzing groundwater samples using TPH-HCID, which would identify which specific petroleum hydrocarbon range(s) are present.
 - iv. Ensure the well installation gives sufficient clearance to utilities (particularly the fiber optic line) in the vicinity of the former UST #3.
 1. Ecology recommends coordinating with any affected utilities prior to any well installation.
 - b. Ecology recommends installing a second monitoring well at former grab groundwater sample location EB-16.
 - c. Ecology suggests installing a third monitoring well in the vicinity of UST #2 in order to calculate a groundwater gradient for the Site and potentially for the purposes of long term groundwater monitoring under any potential environmental covenant at the Site.
 - i. A third monitoring well would necessary to be able to calculate a groundwater flow direction for the Site.
 - d. If installed, the third monitoring well should be advanced at a location in order to provide the "triangle" of wells necessary to be able to calculate groundwater flow direction and gradient.
 - e. Ecology recommends using a drilling method which minimizes the chances for refusal and allows for installation of a groundwater monitoring well(s) of sufficient diameter and screen length to produce representative groundwater samples.
 - f. Should field screening of soils during drilling indicate contamination, Ecology requests analyzing soil consistent with WAC 173-340-900, Table 830-1.
 - i. If any exceedances of the MTCA Method A cleanup levels are identified in soil, sample groundwater from the monitoring well(s) consistent with WAC 173-340-900, Table 830-1.
 - ii. In order to reduce the potential for suspended soil particles from the drilling potentially increasing turbidity in groundwater samples, Ecology recommends waiting at least two weeks after well installation and development before sampling.
- 13) Ecology concurs with the use of low flow groundwater sampling methodology at the Site.
- 14) Record the depth to water for each event prior to sampling.
- 15) Sample any wells consistent with section 10.3 of Ecology Publication no. 10-09-057,

Mr. Vinson Latimore
November 28, 2017
Page 7

For more information about the VCP and the cleanup process, please visit our web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion, please contact me by phone at 360-407-6265 or e-mail at tmul461@ecy.wa.gov.

Sincerely,



Tim Mullin, LG
SWRO, Toxics Cleanup Program

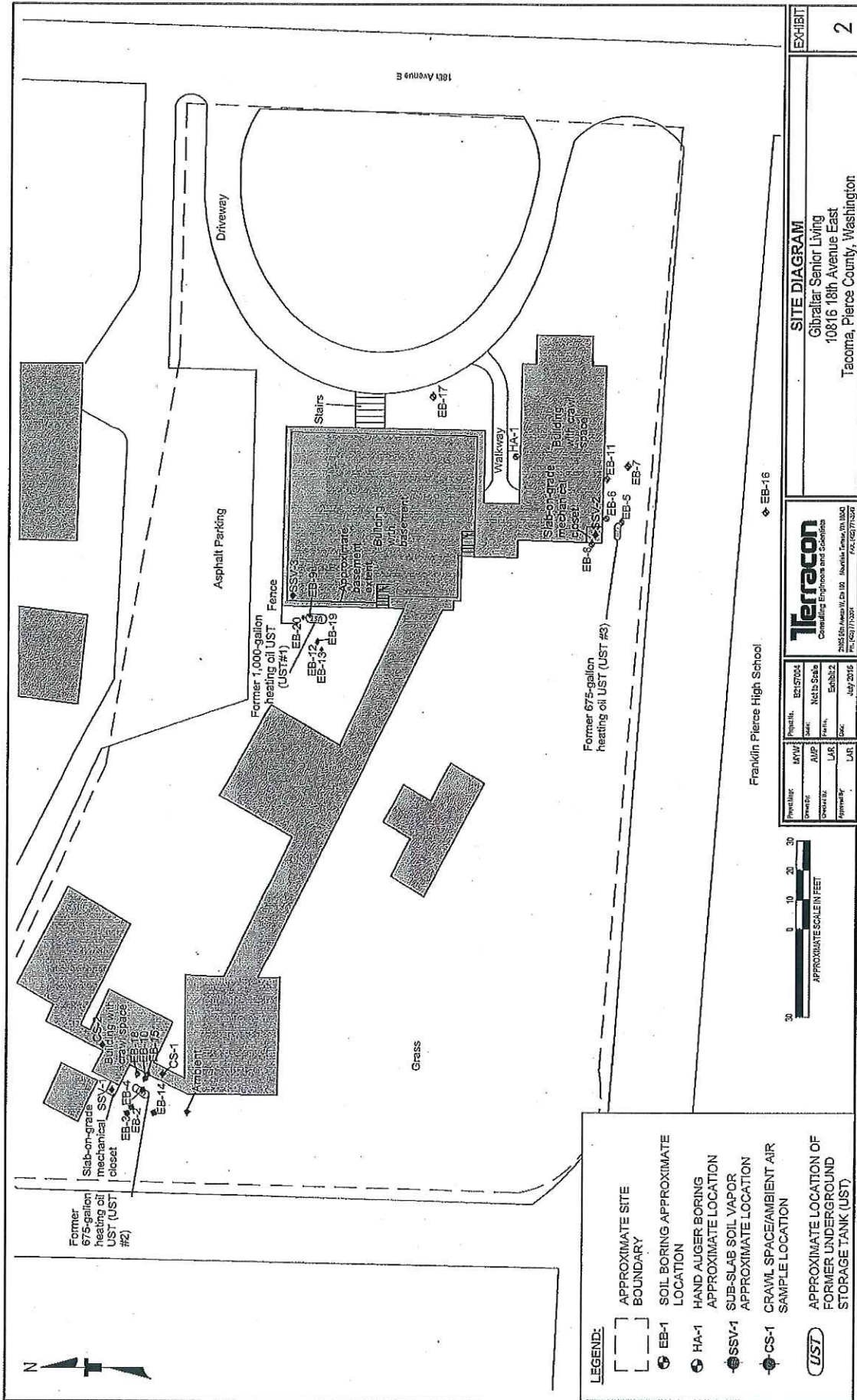
TCM: kb

By Certified Mail: [91 7199 9991 7037 7462 2200]

Enclosures (A): A – Figure and Email Correspondence

cc: Elizabeth Rachman, Atlas Geosciences Northwest
Rob Olsen, TPCHD
Nick Acklam, Ecology
Stephanie Bussell, Ecology

Figure 1



Elizabeth Rachman, L.G., L.Hg.
Senior Project Manager | Environmental

Terracon

3006 South 96th Street | Lakewood, WA 98499
D (253) 382 3820 | F (253) 573 9959 | M (206) 715 2136
liz.rachman@terracon.com | terracon.com

From: Cook, Jason (ECY) [<mailto:ASCO461@ECY.WA.GOV>]
Sent: Monday, April 25, 2016 4:19 PM
To: Rachman, Liz A <Liz.Rachman@terracon.com>
Cc: Acklam, Nicholas (ECY) <nack461@ECY.WA.GOV>
Subject: Gibraltar Senior Living

Dear Liz:

Ecology has reviewed the Terracon *Responses to Ecology Further Action Opinion Letter*, dated April 12, 2016.

Ecology concurs with the proposed work plan outlined in the above-referenced document, entailing further vapor assessment and characterization.

Once the work is completed, please supply Ecology with a deliverable for review under the VCP Program. Also, assure that Terracon supplies the Ecology Site Manager with a scaled plume map and associated cross-sections, illustrating the magnitude and extent of subsurface contamination.

Thank you

Jason G. Cook, LG
Hydrogeologist 3
Washington Department of Ecology
SWRO/TCP/VCP
360.407.6528

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