



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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October 24, 2018

Dennis Wagner  
P.O. Box 5648  
Everett, WA 98206

**Re: Opinion on Proposed Cleanup of a Property associated with a Site:**

- Property Address: 2207 Everett Avenue, Everett, WA 98201
- Facility/Site No.: 20004
- VCP Project No.: NW3143

Dear Dennis Wagner:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your proposed independent cleanup of a Property associated with the Downtown Dennis 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.

**Issues Presented and Opinion**

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1. Upon completion of the proposed cleanup, will further remedial action likely be necessary at the Property to clean up contamination associated with the Site?

**NO. Ecology has determined that no further remedial action will likely be necessary at the Property to clean up contamination associated with the Site.**

2. Upon completion of the proposed cleanup, will further remedial action likely still be necessary elsewhere at the Site?

**YES. Ecology has determined that further remedial action will likely still be necessary elsewhere 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 Property and the Site**

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This opinion applies only to the Property and the Site described below. This opinion does not apply to any other sites that may affect the Property. Any such sites, if known, are identified separately below.

### **1. Description of the Property.**

The Property includes the following tax parcels in Snohomish County, which were affected by the Site and will be addressed by your cleanup:

- 00562660601001
- 00562660601002
- 00562660601600
- 00562660601700

**Enclosure A** includes a legal description of the Property. **Enclosure B** includes a diagram of the Site that illustrates the location of the Property within the Site.

### **2. Description of the Site.**

The Site is defined by the nature and extent of contamination associated with the following releases:

- Total gasoline-range petroleum hydrocarbons (TPHg), total diesel-range petroleum hydrocarbons (TPHd), total oil-range petroleum hydrocarbons (TPHo), benzene, toluene, ethylbenzene, and xylenes (BTEX) in Soil.
- TPHg, TPHd, TPHo, BTEX, and naphthalene in Ground Water.

**Enclosure B** includes a detailed description and diagram of the Site, as currently known to Ecology.

### **3. Identification of Other Sites that may affect the Property.**

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information that the Property is affected by other sites.

## **Basis for the Opinion**

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

1. ProTank, *Letter of Certification, ProTank-USA, Inc. Job #3527 (2207 Everett Avenue, Everett, WA 9820)*, January 22, 2004.
2. Apollo Geophysics Corporation, *2207 Everett Avenue Underground Storage Tank Locate, Everett, Washington*, March 10, 2004.
3. ProTank, *Letter of Certification, ProTank-USA, Inc. Job #3527 (2207 Everett Avenue, Everett, WA 9820)*, October 26, 2004.
4. Adept Geoscience & Environment, Inc., *Limited Phase II Environmental Site Assessment and Independent Remedial Action (missing Figure 2), 2207 Everett Avenue, Everett, Washington*, December 2004.
5. Terracon Consultants, Inc., *Limited Site Investigation, Snohomish county Tax Parcels 0056266060-1001, -1002, -1600, -1700, 2207-2213 Everett Avenue, Everett, Washington*, May 10, 2012.
6. Riley Group, *Preliminary Phase II Subsurface Investigation, Proposed QFC 853 Offsite Fuel Facility, 2201 2207, and 2213 Everett Avenue, Everett, Washington 98201, RGI Project No. 2014-106B*, January 15, 2015.
7. CJ<sup>2</sup> Inc., *Phase II Environmental Assessment and Site Remediation, 2207 Everett Ave., Everett, WA*, April 2015.
8. Stratum Group, *Ground Water Investigation, 2207 Everett Avenue, Everett, Washington*, April 28, 2015.
9. Department of Ecology, *Opinion pursuant to WAC 173-340-515(5) on Proposed Remedial Action, Downtown Dennis Site, VCP No. NW2604*, July 29, 2015.
10. HWA GeoSciences, Inc., *Remedial Investigation, Downtown Dennis Property, 2207 Everett Avenue, Everett, Washington*, May 12, 2017.
11. Department of Ecology, *Further Action Opinion Letter, Downtown Dennis Site, VCP No. NW3143*, September 21, 2017.
12. Aspect Consulting, *Feasibility Study and Cleanup Action Plan, Downtown Dennis Property*, July 25, 2018.

13. Aspect Consulting, *Groundwater Results Summary and Lab Reports, December 2017 and March 2018, Downtown Dennis Property*, August 31, 2018.

Those documents are kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. You can make an appointment by completing a Request for Public Record form (<https://www.ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>) and emailing it to [PublicRecordsOfficer@ecy.wa.gov](mailto:PublicRecordsOfficer@ecy.wa.gov), or contacting the Public Records Officer at 360-407-6040. A number of these documents are accessible in electronic form from the Site web page (<https://fortress.wa.gov/ecy/gsp/Sitepage.aspx?csid=11881>).

This opinion is void if any of the information contained in those documents is materially false or misleading.

## **Analysis of the Cleanup**

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### **1. Cleanup of the Property located within the Site.**

Ecology has concluded that, upon completion of your proposed cleanup, **no further remedial action** will likely be necessary at the Property to clean up contamination associated with the Site. That conclusion is based on the following analysis:

#### **a. Characterization of the Site.**

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards for the Site and select a cleanup for the Property. The Site is described above and in **Enclosure B**.

The sources of contaminant releases on the Property were associated with a former gasoline service station and automotive repair facility. Two 1,000-gallon gasoline underground storage tanks (USTs), four hydraulic hoists, and 26 tons of petroleum-contaminated soil were removed from the Site in 2004. The lateral and vertical extent of impacted soil and ground water remaining at the Site have been sufficiently delineated to support selection of a cleanup for the Property.

Soil and ground water sampling data for this Site have not been entered into the Ecology Environmental Information Management (EIM) database. Submittal of all sampling data into EIM is a requirement in order to receive an Ecology No Further Action opinion for this Property. Erica Fot (email [efot461@ecy.wa.gov](mailto:efot461@ecy.wa.gov);

telephone 360-407-6692) is Ecology's contact and resource on entering data into EIM.

**b. Establishment of cleanup standards for the Site.**

**Soil**

**Cleanup Levels.** The Site does not meet the MTCA definition of an industrial property; therefore, soil cleanup levels suitable for unrestricted land use are appropriate. The MTCA Method A cleanup levels for TPHg, TPHd, TPHo, and BTEX are considered appropriate for soil at the Site. The Method A soil cleanup levels are based on protection of ground water, per WAC 173-340-900, Table 740-1.

Soil cleanup levels protective of terrestrial ecological receptors are not necessary because the Site meets the Terrestrial Ecological Evaluation (TEE) exclusion criteria (WAC 173-340-7491). Therefore, protective cleanup levels based on TEE factors are not required for this Site.

**Point of Compliance.** As noted above in the soil cleanup level discussion, the Method A soil cleanup levels for chemicals of concern at this Site are based on protection of ground water, per WAC 173-340-900. For soil cleanup levels based on the protection of ground water, the point of compliance is defined as Site-wide throughout the soil profile and may extend below the water table. This is the appropriate point of compliance for soil on the Site.

**Ground Water**

**Cleanup Levels.** MTCA Method A cleanup levels for TPHg, TPHd, TPHo, BTEX, and naphthalene are the applicable ground water cleanup levels for this Site.

**Point of Compliance.** The standard point of compliance for ground water is throughout the Site from the uppermost level of the saturated zone extending vertically to the lowest depth that could potentially be affected.

**c. Selection of cleanup for the Property.**

Ecology has determined the cleanup you proposed for the Property meets the substantive requirements of MTCA. Your proposed cleanup meets minimum cleanup requirements and will not exacerbate conditions or preclude reasonable cleanup alternatives elsewhere at the Site. The proposed cleanup was described in

the July 2018 *Feasibility Study and Cleanup Action Plan*, which included a Disproportionate Cost Analysis, and consists of the following:

- Prior interim actions
  - Removal of two 1,000-gallon gasoline USTs and four hydraulic hoists from the Site
  - Excavation and off-Site disposal of soil associated with removal of the USTs and hoists
  - Excavation and off-Site disposal of soil around borings P-1r and B-4
- Proposed cleanup during Property redevelopment
  - Property development: four-story self-storage building that covers most of the Property
  - Following demolition of all presently existing building on the Property (street addresses 2201, 2207, and 2213 Everett Avenue), excavation of soil with COCs above MTCA cleanup levels and collection of confirmation soil samples in excavation sidewalls and bottom
  - Placement of an environmental covenant on the Property to address residual contamination that cannot be removed during redevelopment

In order to be eligible for a Property NFA opinion, the cleanup must also include the following:

- Decommissioning, per WAC 173-160, of any existing monitoring wells that could be damaged or destroyed during construction of the Property redevelopment project
- Documentation of volumes and chemical quality of ground water removed incidental to soil excavation during Property redevelopment
- Installation of new monitoring wells, per WAC 173-160, at a sufficient number of locations to:
  - Confirm ground-water flow directions in the uppermost zone of saturation

- Document concentrations of COCs in ground water remaining after Property redevelopment, including the extent of any off-Property ground water with COCs above MTCA cleanup levels
- Provide a well network for conducting confirmational ground water monitoring

If soil or ground water with concentrations above MTCA cleanup levels remain in place on the Property after implementation of the cleanup, an environmental covenant will be necessary to assure that the selected cleanup actions remain protective of human health and the environment. Covenants must meet the requirements of Procedure 440A, *Establishing Environmental Covenants under the Model Toxics Control Act, Toxics Cleanup Program Publication Number 15-09-054, revised December 22, 2016*. Once the Covenant has been approved by Ecology and signed (by Ecology, the Property owner, and parties who have interests in the Property that affect the cleanup), the Covenant will be recorded with Snohomish County and attached as an enclosure to the NFA opinion letter.

The Covenant will include the following components:

- A legal description and a map of the Property showing the parcel number(s)
- A map and cross section(s) illustrating the location of soils and ground water with concentrations of COCs above MTCA cleanup levels
- Subordination agreements signed by entities holding interests in the Property that could affect maintenance of the integrity of the cleanup action
- A confirmational ground water monitoring plan to assess concentrations of COCs remaining in ground water
- An operation, maintenance, and contingency plan to assure that the building and pavement that prevent access to the contaminated soils provide ongoing protection to human health and the environment

## 2. **Cleanup of the Site as a whole.**

Ecology has concluded that **further remedial action** will still be necessary elsewhere at the Site upon completion of your proposed cleanup. In other words, while your proposed cleanup may constitute the final action for the Property, it will constitute only an

“**interim action**” for the Site as a whole.

## **Limitations of the Opinion**

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### **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**:

- Change the boundaries of the Site.
- 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 proposed will be substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

### **3. Opinion is limited to proposed cleanup.**

This letter does not provide an opinion on whether further remedial action will actually be necessary at the Property upon completion of your proposed cleanup. To obtain such an opinion, you must submit a report to Ecology upon completion of your cleanup and request an opinion under the VCP.

### **4. 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).

Dennis Wagner  
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### **Contact Information**

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Thank you for choosing to clean up your Property under the Voluntary Cleanup Program (VCP). As you conduct your cleanup, please do not hesitate to request additional services. 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](http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm). If you have any questions about this opinion, please contact me by phone at 425-649-7257 or by e-mail at michael.warfel@ecy.wa.gov.

Sincerely,

A handwritten signature in blue ink that reads "Michael R. Warfel". The signature is written in a cursive style with a large, looped 'M' and 'W'.

Michael R. Warfel, Site Manager  
NWRO Toxics Cleanup Program

Enclosures (2):   A – Legal Description of the Property  
                          B – Description and Diagrams of the Site (including the Property)

cc:     Jeremy Porter, Aspect Consulting

## **Enclosure A**

### **Legal Description of the Property**

Parcel 00562660601001

RUCKERS 3RD PLAT BLK 606 D-01 - THE S 70FT OF LOTS 10 TO 13 INCLTGW PTN  
VAC MCDOUGALL ST PER CITY OF EV ORD 1894-92 REC AF NO 9301220047

Parcel 00562660601002

RUCKERS 3RD PLAT BLK 606 D-02 - TH N 50FT OF LOTS 10-13 INCL ALSO ALL OF  
LOTS 14 & 15TGW PTN VAC MCDOUGALL ST & PTN VAC ALLEYPER CITY OF EV  
ORD 1894-92 REC AF NO 9301220047

Parcel 00562660601600

RUCKERS 3RD PLAT BLK 606 D-00 - ALL OF LOT 16 TGW PTN VAC ALLEY PER CITY  
OF EV ORD1894-92 REC AF NO 9301220047

Parcel 00562660601700

RUCKERS 3RD PLAT BLK 606 D-00 - ALL OF LOTS 17 & 18 TGW PTN VAC ALLEY  
PER CITY OF EV ORD1894-92 REC AF NO 9301220047

## **Enclosure B**

### **Description and Diagrams of the Site (including the Property)**

## Site Description

*This section provides Ecology's understanding and interpretation of Site conditions, and is the basis for the opinions expressed in the body of the letter.*

**Site:** The Site is defined as TPHg, TPHd, TPHo, toluene, ethylbenzene, xylenes, naphthalene, carcinogenic polynuclear aromatic hydrocarbons (cPAHs), and lead in soil; and TPHg, TPHd, TPHo, benzene, ethylbenzene, xylenes, and naphthalene in ground water. The Site is located on Snohomish County tax parcels 00562660601001, 00562660601002, 00562660601600, and 00562660601700 (the Property), that cover a total of 0.78 acres at 2201, 2207, and 2213 Everett Avenue in Everett, Washington (**Figure 1**).

**Area and Property Description:** The Property is located in the northeast corner of the intersection of Everett Avenue and McDougall Avenue, in an area of mixed commercial and residential properties. The Property includes four single-story, masonry, shared wall, multi-tenant space, commercial buildings that were built in 1926 (4,800 square feet), 1945 (5,760 square feet), 1947 (2,880 square feet), and 1962 (4,080 square feet).

Present land uses adjacent to the Property include:

- North: tennis courts and a parking lot
- East: two-story commercial building (martial arts studio); residences to the east across Rainier Avenue
- South: Everett School District maintenance and operations facility; auto parts store
- West: QFC grocery store

**Site History and Current Use:** The 2207 Everett Avenue portion of the Site was formerly occupied by a gasoline service station/automobile repair facility from approximately 1939 to 1962 (**Figure 2**). Various automotive repair facilities and tire shops were located in the 2201 Everett Avenue building from at least the 1940s to 2001. During the 2001 Property reconnaissance, dismantled motorcycles that were leaking oil and other fluids directly to the soil were observed in the northwest corner of the 2201 Everett Avenue portion of the Site.

The existing 2201 and 2213 Everett Avenue buildings were reportedly heated with oil-fired furnaces; however, no information was identified regarding the locations of any heating oil storage tanks. The adjoining property to the east (2221 Everett Avenue) was occupied by a gasoline service station from approximately 1932 to 1937.

Two 1,000-gallon gasoline USTs and four underground hydraulic hoists were removed from the 2207 Everett Avenue portion of the Property in 2004 (**Figure 2**). The hoists were located within the southwest corner of the existing building footprint. One of the USTs (UST #1) was located in the southwest interior portion of the existing building and the other (UST #2) was located to the west of the existing building.

A variety of commercial tenants has occupied the Site from 1962 until the present day. The current use of the Property is commercial rental and includes a real estate office and multiple retail distributors.

**Sources of Contamination:** The sources of contamination at the Site appear to be historical gasoline service station operations (including the former USTs, associated product piping, former dispensers, and hoists), vehicle repair activities, and former heating oil USTs.

**Physiographic Setting:** The Site is situated at an elevation of approximately 80 feet above mean sea level. The land surface at the Site is relatively flat. The local topography slopes to the southwest, towards the Snohomish River.

**Surface/Storm Water System:** The Snohomish River is located approximately 0.7 miles southeast of the Site. Storm water from the Property and adjoining properties flows to municipal storm drains.

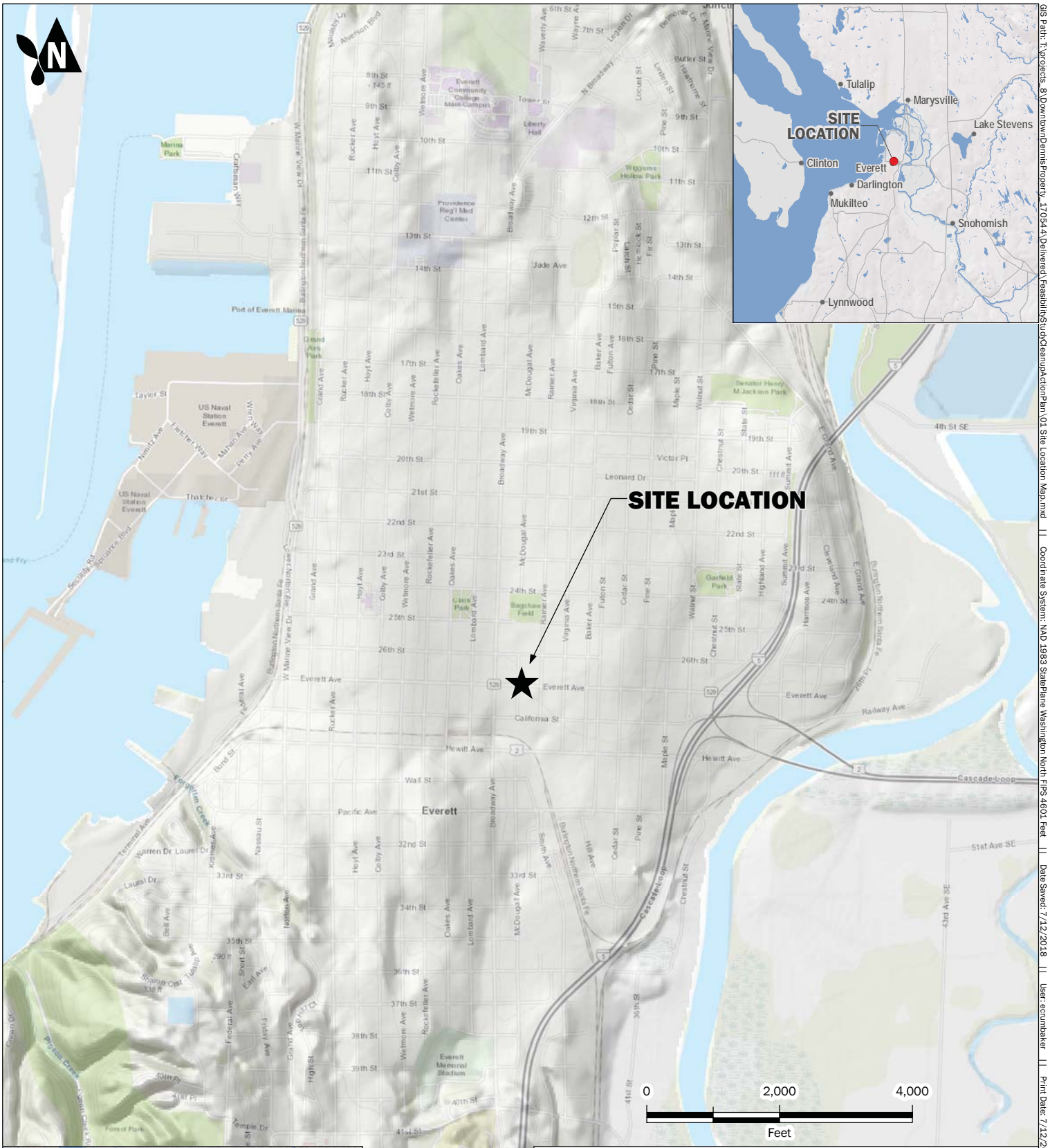
**Ecological Setting:** The Property is located in a developed area, and is surrounded by roadways and commercial properties. Land surfaces are primarily covered by buildings, concrete and/or asphalt pavement, with limited landscaped areas on commercial properties.

**Geology:** Borings and monitoring wells drilled on the Site encountered stiff to hard silts and clays with interspersed lenses of sand and gravel, overlying a sand and gravel zone, to the maximum depth explored of 26 feet below ground surface (bgs). These strata have been interpreted in Site characterization reports as glaciolacustrine deposits on top of Advance outwash deposits.

**Ground Water:** Ground water was encountered at depths ranging from 5 to 22 feet bgs in Site borings and monitoring wells. Additional data is required to assess ground water gradients and flow directions, which are not ascertainable from existing information.

**Release and Extent of Contamination:** Impacts to soil and ground water from historical activities on the Site were documented by investigations conducted from 2004 through 2015. In addition to removal of two USTs and four hydraulic hoists in 2004, remedial excavations were completed in 2015 in the southwest portion of the Site (see **Figure 2**). The estimated extent of soil with COC concentrations above MTCA cleanup levels are shown on **Figure 2**. Ground water chemical data is presented on **Figure 3**.

# Site Diagrams



**Site Location Map**  
 Feasibility Study/Cleanup Action Plan  
 Downtown Dennis Property  
 Everett, Washington

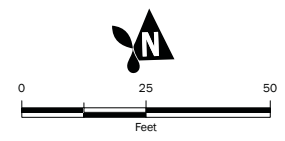
	JUL-2018 <small>PROJECT NO.</small> 170544	<small>BY:</small> JJP / EAC <small>REVISED BY:</small> ---	<small>FIGURE NO.</small> <b>1</b>
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# Enclosure B, Figure 1

GIS Path: I:\projects\_8\DownTownDennisProperty\_170544\Delivered\_FeasibilityStudy\CleanupActionPlan\_V01\_Site Location Map.mxd | Coordinate System: NAD 1983 StatePlane Washington North FIPS 4601 Feet | Date Saved: 7/12/2018 | User: reumaker | Print Date: 7/12/2018



- Explorations**
- Boring
  - ⊕ Monitoring Well
  - ⊕ Test Pit
  - ⊕ Previously Excavated Area
  - Previous Hoist Location
- ⊕ Historic Site Features
  - ⊕ Estimated Extent of COCs Above Soil Cleanup Levels
  - ⊕ Subject Properties
  - ⊕ Snohomish County Tax Parcel



**Site Plan with Current Conditions**  
 Feasibility Study/Cleanup Action Plan  
 Downtown Dennis Property  
 Everett, Washington

	JUL-2018	BY: JJP / EAC	FIGURE NO. <b>3</b>
	PROJECT NO. 170544	REVISED BY: TDR	

**Enclosure B, Figure 2**

P-10				
Date	TPHg	TPHd	TPHo	Naph.
12/17/2014	950	900x	500U	490

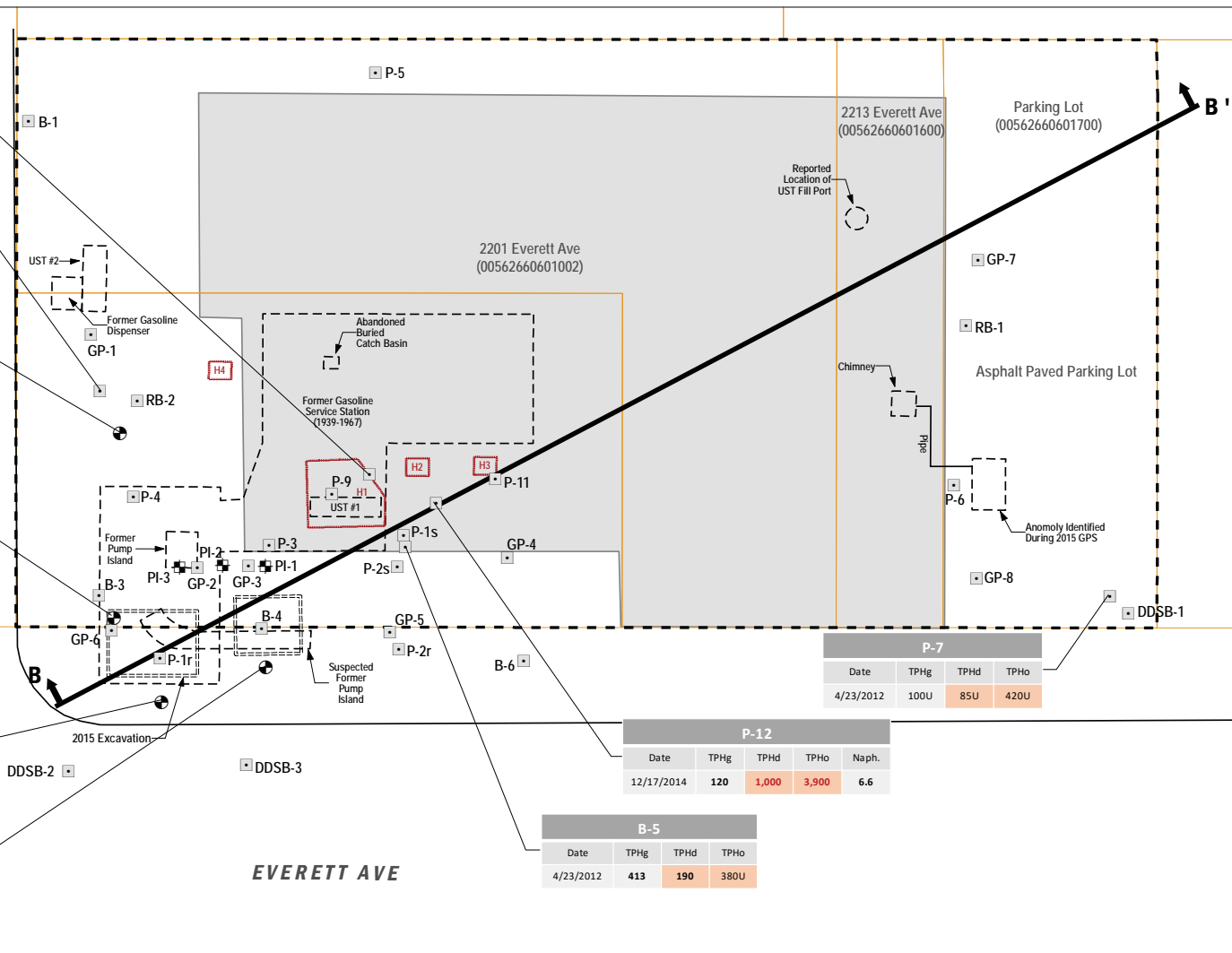
B-2	
Date	TPHg
4/23/2012	50U

MW-2 (BHK7.08)				
Date	TPHg	TPHd	TPHo	Naph.
8/15/2012	50U	-	-	-
11/19/2014	100U	60U	325U	1U
8/2/2016	100U	<100	500U	-
12/1/17	50U	-	-	-
3/20/18	50U	130U	250U	-

MW-4			
Date	TPHg	TPHd	TPHo
4/10/2015	270	370	250U
8/2/2016	260	140x	500U
12/1/17	50U	-	-
3/20/18	50U	130U	250U

MW-3				
Date	TPHg	TPHd	TPHo	Naph.
4/10/2015	1,300	560	250U	-
8/2/2016	310	140	500U	0.06U
12/1/17	50U	-	-	-
3/20/2018	50U	130U	250U	-

MW-1 (BHK7.07)				
Date	TPHg	TPHd	TPHo	Naph.
8/15/2012	560	-	-	-
11/19/2014	630	450x	325U	1U
8/2/2016	640	190x	500U	0.06U
12/1/2017	850	-	-	-
3/20/2018	50U	130	250U	-



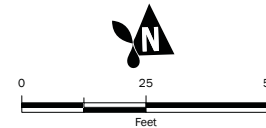
- Explorations**
- Boring
  - ⊕ Monitoring Well
  - ⊕ Test Pit

- ⊔ Previously Excavated Area
- ⊔ Previous Hoist Location
- ⊔ Historic Site Features
- ⊔ Existing Building
- ⊔ Subject Properties

⊔ Snohomish County Tax Parcel

**Notes:**

- **BOLD** text indicates result detected below cleanup levels.
- **BOLD, RED FONT** indicates result exceeded cleanup levels.
- **Orange highlighted cell** indicates TPH-d/o analysis performed with SGC.
- U = Not detected at indicated detection limit.



**Groundwater Analytical Data**  
Feasibility Study/Cleanup Action Plan  
Downtown Dennis Property  
Everett, Washington

Aspect CONSULTING	JUL-2018	BY: JJP / EAC	FIGURE NO. <b>5</b>
	PROJECT NO. 170544	REVIEWED BY: TDR	

**Enclosure B, Figure 3**

S:\Data\170544\Groundwater Analytical Data\CleanUpActionPlan\GIS\Groundwater Analytical Data.mxd 11. Coordinate System: NAD 83 StatePlane Washington North FIPS 5001 Feet 11. Date Shared: 7/13/2018 11. User: jpp 11. Print Date: 7/13/2018