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February 21, 2019

Danette Brannin  
Mason Transit Authority  
790 E Johns Prairie Rd  
Shelton, WA 98584

**Re: Further Action at the following Site:**

- **Site Name:** Mason County Public Trans Site
- **Site Address:** 536 W Railroad Ave., Shelton, Mason County, WA 98584
- **Cleanup Site ID:** 14444
- **Facility/Site ID:** 69807
- **VCP Project ID:** SW1634

Dear Danette Brannin:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Mason County Public Trans Site facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the [Model Toxics Control Act](#)<sup>1</sup> (MTCA), chapter [70.105D Revised Code of Washington](#)<sup>2</sup> (RCW).

## Issue Presented and Opinion

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**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, Washington Administrative Code (WAC) chapter 173-340 (collectively “substantive requirements of MTCA”). The analysis is provided below.

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<sup>1</sup> <https://fortress.wa.gov/ecy/publications/SummaryPages/9406.html>

<sup>2</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70.105D>

## Description of the Site

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

- Oil range petroleum hydrocarbons (TPH-O) into the soil.
- Barium into the soil.
- Chromium (total of trivalent (Cr III) and hexavalent (Cr VI) chromium combined) into the soil.

**Enclosure A** includes a detailed description and diagram of the Site, as currently known to Ecology. A parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are 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. Materials Testing & Consulting, Inc. (MTC), “Phase II Environmental Site Assessment; MTA Community Center – Proposed Parking Area; 536 West Railroad Avenue (Parcels # 32019-65-03905, #32019-65-03005); Shelton, Washington”, letter, addressed to Danette Brannin, November 30, 2017.
2. Jerome W. Morrisette & Associates Inc., P.S. (JWM&A), “Professional Services Report; PN 12101; Project Site at 536 and 530 West Railroad Avenue, Shelton, WA; Tax Parcel Number 32019-65-03905 and 32019-65-03005; Phase II Soil Sampling – screening for pollutants”, letter, addressed to Mr. Robert Johnson, March 15, 2012.

Those documents are kept in the Central Files of the Southwest Regional Office of Ecology (SWRO) for review by appointment only. Information on obtaining those records can be found on [Ecology’s public records requests web page](https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests).<sup>3</sup> Some site documents may be available on [Ecology's Cleanup Site Search web page](https://fortress.wa.gov/ecy/gsp/SiteSearchPage.aspx).<sup>4</sup>

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

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<sup>3</sup> <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>

<sup>4</sup> <https://fortress.wa.gov/ecy/gsp/SiteSearchPage.aspx>

## Analysis of the Cleanup

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Ecology has concluded that **further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

### 1. Characterization of the Site.

MTC conducted a limited Phase II (PII) Environmental Site Assessment (ESA) in October 2017 (Report). The Report appears to be partially based on work conducted by JWM&A in March 2012. The work completed by JWM&A has insufficiencies, detailed below, that make their findings questionable. Hazardous substances that can potentially be associated with historical land use have not been adequately sampled for at the Site. Because of this, Ecology has determined your characterization of the Site is not sufficient to establish cleanup standards and select a cleanup action.

#### **Previous Investigation by JWM&A**

The investigation conducted by JWM&A in February 2012 has insufficiencies that directly affect Ecology's ability to use this information to assess this Site. The report is not sealed by a licensed geologist, hydrogeologist, or engineer as required under RCW chapters 18.43 and 18.220. Sampling locations are not clearly indicated, and appear to be composite samples from across large horizontal areas or vertical ranges. Composite samples are not allowed by Ecology.<sup>5</sup> Finally, the JWM&A report did not include the Laboratory Analytical Results Reports (Laboratory Reports). Without the Laboratory Reports, Ecology has no available method of validating that sampling was completed or if it was completed correctly, and produced quality quantitative results.

Although the work conducted by JWM&A may be used to guide decisions for including specific hazardous substances in future sampling plans, it should not be considered quantitative and should not be used to remove hazardous substances from future sampling plans. Because the gasoline range petroleum hydrocarbons (TPH-G) results cannot be verified, Ecology does not consider the TPH-G assessment for the Site to be complete.

MTC indicated that JWM&A performed an excavation cleanup in the northwest corner of the Site (MTC's Figure 2a). This cleanup also has not been reported to Ecology, and therefore cannot be verified.

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<sup>5</sup> p. 3, Washington State Department of Ecology Toxics Cleanup Program, *Guidance on Sampling and Data Analysis Methods*, Publication No. 94-49, January 1995.

### **Current Investigation by MTC**

As Ecology currently understands the Site from the Report, there have been five potential contamination sources specifically identified:

- Potentially contaminated imported fill material.
- Use of the Site as an unpaved parking lot and equipment storage lot.
- Use of the Site as a staging and storage yard by Simpson Timber Company.
- Coal present in the upper 6-8 inches.
- A railroad line or lines that either existed historically on the southern end of property or existed adjacent to the southern property boundary.

MTC also indicated that the property had been used for “discarded metals refuse and tailings”<sup>6</sup> though the specifics of this usage are not explained.

Based on past property activities, the Site not been assessed for all potential contaminants. Sampling locations and analysis conducted do not reflect the property’s historical usage. The potential hazardous substances associated with all of the contamination sources listed should be identified and included in any future Site assessments and sampling plans.

In addition to sampling for hazardous substances associated with the identified historical Site use, Ecology would expect sampling that targets contamination associated with the railroad line to be focused along the southern edge of the property or along a specific known route across the property.

It was indicted that contaminated soils may be present beneath the on-Site building.<sup>7</sup> The presence and extent of this contamination will need to be determined and if the contamination is indeed present, a vapor intrusion (VI) assessment will also need to be completed.

It was stated that groundwater was not expected to be encountered within the depth range investigated during the time of year the investigation took place.<sup>8</sup> Avoidance of encountering groundwater does not remove the need to investigate groundwater for a Site. A review of nearby cleanup sites indicates that groundwater in the area can be as shallow as three to four feet below ground surface (bgs).<sup>9</sup> Based on this information, an initial groundwater assessment should be completed.

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<sup>6</sup> Report, p. 14.

<sup>7</sup> Report, p. 15.

<sup>8</sup> Report, p. 16.

<sup>9</sup> [Grove Street Pub, FSID75830.](#)

In accordance with [WAC 173-340-840](#)(5)<sup>10</sup> and Ecology Toxics Cleanup Program Policy 840 (Data Submittal Requirements),<sup>11</sup> data generated for Independent Remedial Actions shall be submitted simultaneously in both a written and electronic format. For additional information regarding electronic format requirements, see Ecology's [website](#).<sup>12</sup> According to the policy, any reports containing sampling data that are submitted for Ecology review are considered incomplete until the electronic data has been entered.

Please ensure that data generated during on-Site activities is submitted pursuant to this policy. **Data must be present in the Environmental Information Management System (EIM) database at the time any report is submitted requesting an opinion on the sufficiency of the action under the Voluntary Cleanup Program (VCP).** Be sure to submit all soil and groundwater data collected to date, as well as any future data, in this format. Data collected prior to August 2005 (effective date of this policy) is not required to be submitted; however, you are encouraged to do so if it is available.

For future reporting to Ecology, laboratory results summary data tables should identify results that are less than the laboratory detection limit using the numerical laboratory detection limit and include the 'U' flag, or the result should be reported as less than (<) the numerical laboratory detection limit, rather than just indicating non-detect results as 'ND' (for example; 0.30U or <0.30). This allows Ecology to easily determine if sampling and analysis conducted at the Site has adequately achieved the Site CULs.

### **Reuse of previously excavated soils**

MTC has indicated that the Site owners would like to reuse previously excavated soils. Reuse criteria for soils that are only contaminated with petroleum related hazardous substances are detailed in Chapter 12 of the Guidance for Remediation of Petroleum Contaminated Sites<sup>13</sup> (The Petroleum Guidance). Because the Site has metal contamination other than lead, and there has not been an assessment of all potential hazardous substances, reuse, as detailed in The Petroleum Guidance, will likely *not* apply.

Permitting of the soil reuse is not established by the VCP. You will need to contact [Ecology's Solid Waste Management](#) program **and** the local Health Department to determine possible reuse options and the necessary analytical sampling requirements. Permitting the reuse of the soils does not remove environmental liability from those soils wherever they may be located.

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<sup>10</sup> <https://apps.leg.wa.gov/wac/default.aspx?dispo=true&cite=173-340-840>

<sup>11</sup> Washington Department of Ecology Toxics Cleanup Program, *Policy 840: Data Submittal Requirements*, Publication No. 16-09-050, Revised April 12, 2016. <https://fortress.wa.gov/ecy/publications/documents/1609050.pdf>

<sup>12</sup> <http://www.ecy.wa.gov/eim>

<sup>13</sup> Washington Department of Ecology Toxics Cleanup Program, *Guidance for Remediation of Petroleum Contaminated Sites*, Publication No. 10-09-057, Revised June 2016.

Because the excavated soils have been stored on unprotected ground without a perimeter berm and left uncovered,<sup>14</sup> the native soils beneath and around the stockpile will need to be sampled to verify that Site contamination has not been transferred to the stockpile location.

## **2. Establishment of cleanup standards.**

Ecology has determined the cleanup levels and points of compliance you established for the Site do not meet the substantive requirements of MTCA. Sampling conducted at the Site has targeted diesel and oil range petroleum hydrocarbons (TPH-D/O) and metals. MTCA Method A screening levels have been applied to the Site except for those metals where there is no established Method A cleanup level (CUL).

Because the Site was not assessed for all possible hazardous substances, cleanup standards will also need to be established for any additional potential hazardous substances.

The soil background concentrations<sup>15</sup> that are being used for barium and selenium were only determined for the Spokane Basin and may not be appropriate for the greater Shelton area. A Site specific natural background concentration for barium and selenium will need to be determined ([WAC 173-340-709](#)). It will also need to be demonstrated to Ecology that the chromium on the Site is trivalent (Chromium III) and not hexavalent (Chromium VI) to use the trivalent chromium CUL.

As long as the number of hazardous substances present on the Site remain “few” in number (WAC 173-340-704), Ecology believes that MTCA Method A CULs could be appropriate for this Site.

Points of compliance were not established for the Site in the Report. Ecology recommends that standard points of compliance are applied.

## **3. Selection of cleanup action.**

Ecology has determined the cleanup action you selected for the Site has the potential to meet the substantive requirements of MTCA.

Because all the identified contamination sources appear to be shallow or surface in origin, excavation of the shallow fill soils has the potential to clean up the Site with the exception of any hazardous substances potentially present beneath or near the on-Site building or that may have migrated beyond the boundaries of either of the two properties that this Site is associated with.

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<sup>14</sup> Report, p. 48. Photo 19 and Photo 20.

<sup>15</sup> Washington State Department of Ecology Toxics Cleanup Program, *Natural Background Soil Metals Concentrations in Washington State*, Publication No. 94-115, October, 1994.

Removal of the shallow fill material would only be considered a cleanup action if confirmation samples are also collected from across the floor of the excavation and from the side walls of the excavation to demonstrate that established CULs have been met. Identification of all potential hazardous substances should be completed before this confirmation sampling is conducted to assure that all hazardous substances are accounted for.

#### **4. Cleanup.**

Ecology has determined the cleanup you performed does not meet any cleanup standards at the Site. MTC indicated that a shallow excavation was conducted in the northwest corner of the Site. Because this remedial action was never reported to Ecology, it cannot be verified

### **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**:

- 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).*

## Contact Information

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Thank you for choosing to clean up the Site under the 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 [Voluntary Cleanup Program web site](#).<sup>16</sup> If you have any questions about this opinion, please contact me by phone at 360-407-6437 or at [aaren.fiedler@ecy.wa.gov](mailto:aaren.fiedler@ecy.wa.gov).

Sincerely,



Aaren Fiedler  
Southwest Regional Office  
Toxics Cleanup Program

AF: tm

Enclosures:        A – Description and Diagrams of the Site

cc:     LeeAnn McNulty, Mason Transit Authority  
       John R. Gillaspy, L.E.G., Materials Testing & Consulting, Inc.  
       Nicholas Acklam, Ecology (by email)  
       Ecology Site File

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<sup>16</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Cleanup-options/Voluntary-cleanup-program>



## **Enclosure A**

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### **Description and Diagrams of the Site**

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## Site Description

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The Site known as Mason County Public Trans Site is located north of the intersection of W Railroad Ave. and S 6th St. in Shelton, Mason County, Washington. The Site is located in a commercial area of the City of Shelton that transitions to mixed commercial and residential as you move north, west, and south of the Site, and commercial/industrial moving east.

The Site is comprised of two parcels, 32019-65-03905 (3905), and 32019-65-03005 (3005). Parcel 3905 has a building located in its south west corner. The remainder of parcel 3905 and the entirety of parcel 3005 are used as a gravel parking lot and storage area. The on-Site building is used by the United Way of Mason County as administrative offices. Adjacent to the Site on the west is a hotel and restaurant. North of the Site, across a city alleyway, are the Mason County Transit Community center and a movie theater. Adjacent to the Site on the east is a Century Link Cable/Internet provider building. Across W Railroad Ave. from the Site are a Credit Union (east of 6th St.) and a Mortgage provider (west of 6th St.).

The source or sources of the contamination have not been specifically determined other than coming from historical property uses and imported fill material. Historical property uses have been identified as a materials staging, storage, and loading area for the Simpson Timber Company and a historical rail road that ran adjacent to the property. From the limited sampling conducted as part of the 2017 Phase II Environmental Site Assessment, there is oil range petroleum hydrocarbons (TPH-O), barium, chromium, and lead present on the Site. The extent of the contamination has not been defined horizontally or vertically in soil and it has not been determined if groundwater has been affected. A Site location map (Ecology Figure 1) is located in the Site Diagrams section of this **Enclosure**.

MTC's boring logs report the Site geology consisting of various sands, silts, and gravels down to a depth of 10 feet with fill material located at shallow depths (0 to 3 feet bgs). Groundwater was not encountered in the interval sampled during the time of sampling. Shelton Creek is located approximately 340 feet north of the Site. Goldsborough Creek is located approximately 900 feet south of the Site. Oakland Bay is located approximately 0.7 miles east of the Site.

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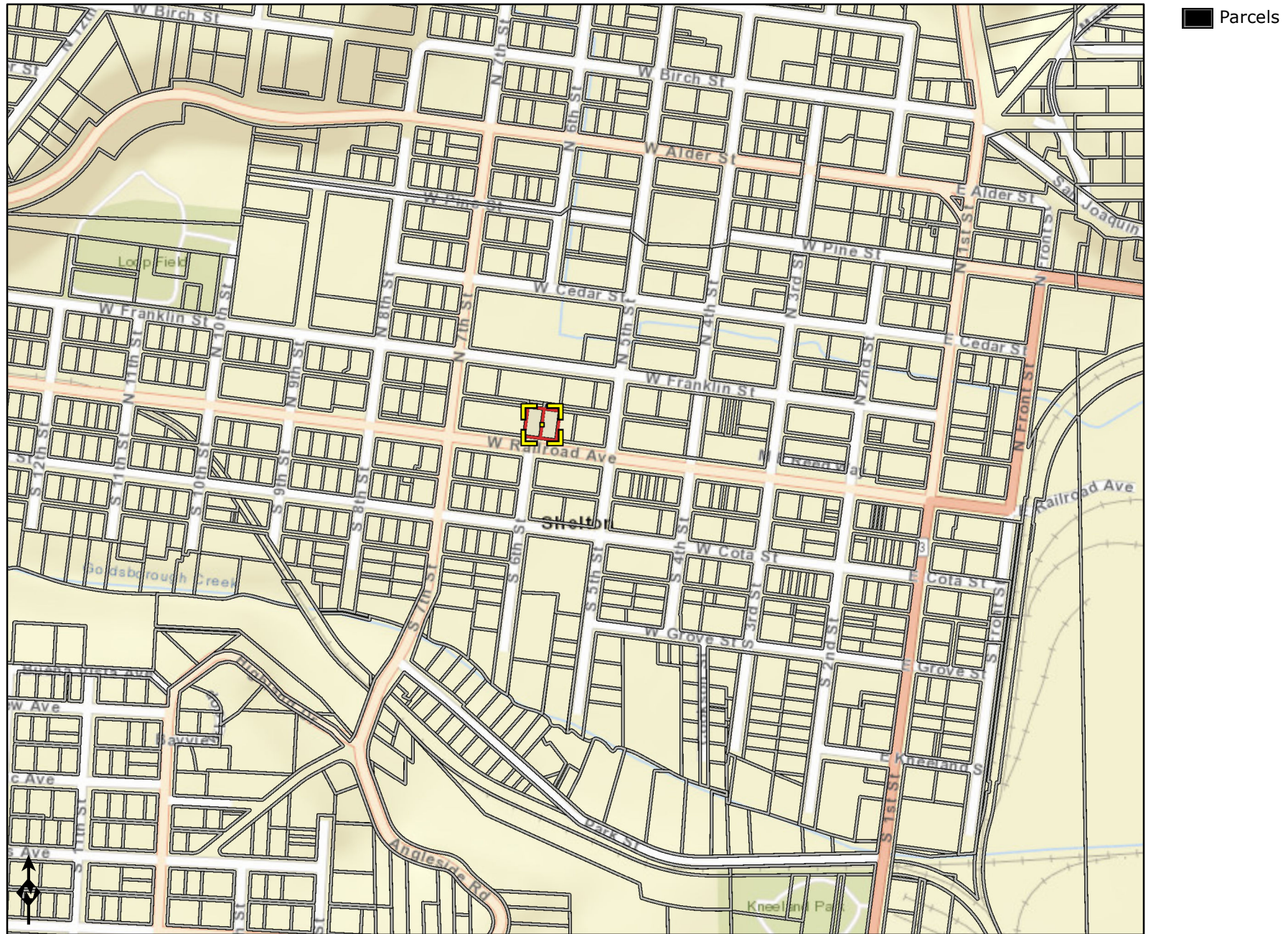
## Site Diagrams

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Ecology Figure 1 .....	Site Location with Parcels
MTC Figure 2a.....	Site Plan with Test Locations

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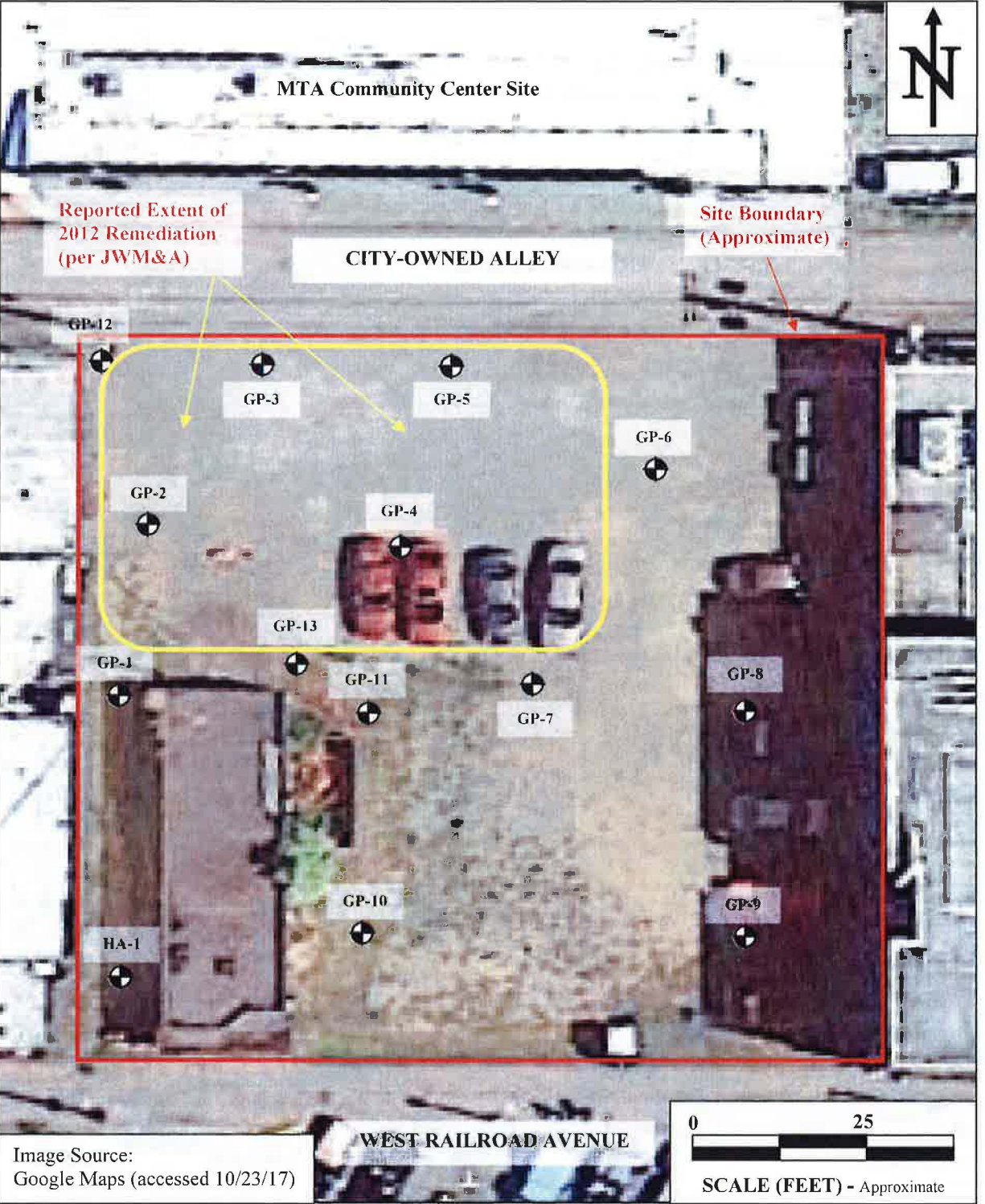
# Ecology Figure 1: Site Location with Parcels



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

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Materials Testing & Consulting, Inc. 2118 Black Lake Blvd SW Olympia, WA 98512	Site Plan with Test Locations 536 West Railroad Avenue Shelton, Washington	FIGURE 2a
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