



SECOND PERIODIC REVIEW REPORT FINAL

**WASSER WINTERS
Facility Site ID#: 1218
Cleanup Site ID#: 3404**

**1602 Marine Drive
Tacoma, Washington 98421**

**Southwest Regional Office
TOXICS CLEANUP PROGRAM**

September 2019

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1.0 INTRODUCTION

This document is a review by the Washington State Department of Ecology (Ecology) of post-cleanup site conditions and monitoring data to ensure that human health and the environment are being protected at the Wasser Winters site (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA) Regulations, Chapter 173-340 Washington Administrative Code (WAC). The first periodic review was conducted in April 2014. This periodic review evaluates the period from May 2014 through April 2019.

Cleanup activities at this Site were completed under a Consent Decree (CD), 93-2-08684-4 filed in Pierce County Superior Court on August 27, 1993 for implementing the selected remedial alternative as a part of the Upland source control. The cleanup actions resulted in concentrations of metals in soil and groundwater exceeding MTCA Method A cleanup levels remaining at the Site. The MTCA Method A industrial cleanup levels for soil are established under WAC 173-340-745(2). The groundwater cleanup levels are established under Environmental Protection Agency (US EPA) Chronic Marine Water Quality Criteria (WAC 173-201A). WAC 173-340-420 (2) requires that Ecology conduct a periodic review of a site every five years under the following conditions:

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

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

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

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

2.0 SUMMARY OF SITE CONDITIONS

2.1 Site History

The Wasser Winters Site is located at 1602 Marine Drive in Tacoma, Washington. A Site Vicinity Map and Site Plan are available as Appendix 6.1 and Appendix 6.2, respectively. The Port of Tacoma (Port) owns approximately 13.54 acres, approximately 11.4 acres of which is “the Site.” The Site is located along the Hylebos Waterway and is located in the Commencement Bay Nearshore/Tideflats (CBN/T) Superfund site. In 1982, the CBN/T was added to the National Priorities List (NPL) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. The CBN/T site includes the head of Hylebos Waterway and upland sites believed to contribute contamination to the waterway. The United States Environmental Protection Agency (EPA) is responsible for the cleanup of waterway sediment, while Ecology is responsible for the cleanup of the upland acres that are sources of contamination to the waterway.

Wasser & Winters Company leased the property for log storage and sorting from June 1972, through November 1984. During yard operations, logs were trucked into the sort yard, weighed, and unloaded into scaling bays. The natural soils and dredged fill material at the Site are fine-grained silt and sand, which are unstable under heavy loads, particularly during wet weather. Therefore, operation of the Site as a log sort yard required the use of ballast material to support the heavy machinery and log inventory on the Site. In addition to other rock and gravel material, the ASARCO slag was placed on the Site as ballast in 1970s and early 1980s.

During normal log sort yard operations, wood waste (primarily bark) is produced by loading, unloading, and movement of logs within the yard. This wood waste accumulates on top of natural soil, dredged fill material, and ballast. As a result of heavy vehicular traffic, wood wastes at the Site were mixed with surficial soils and slag ballast. Metals in the slag were believed to leach due to the acidic conditions caused by biological decomposition of the wood waste. This ability to leach was increased by pulverizing slag by heavy vehicular traffic, which caused slag particles to have more surface area with greater availability to leach metals. The log sorting operations were ended in late 1984. Currently the northeastern portion (North Area, 5.1-acres) of the Site is occupied by Calbag Metals Company, a scrap metal recycling facility and the southwestern portion (South Area, 3.7-acres) of the Site is unoccupied.

2.2 Site Investigations

Between November 1983 and June 1984, Ecology conducted a surface water investigation at the Site. The study revealed elevated levels of several metals in surface water runoff from the Site, which discharged to the Hylebos Waterway. Metals included arsenic, copper, lead, and zinc, which were found at concentrations as high as 21,600 micrograms per liter (µg/L,) 10,160 µg/L, 5,900 µg/L and 11,930 µg/L respectively.

In March 1987, Ecology issued a Consent Order under Chapter 90.48 RCW to the Port to perform a preliminary Site Characterization and Focused Feasibility Study to further investigate

occurrences and potential control of metals in Site storm water runoff. The Port's contractor reported that surface water runoff contained elevated levels of arsenic, copper, lead, and zinc.

On October 7, 1991, Ecology issued an Agreed Order, DE 91-S248 under Chapter 70.105D RCW to conduct a Remedial Investigation/Feasibility Study (RI/FS). The RI revealed surface soil samples taken from 39 locations across the Site contained concentrations of arsenic, copper, lead, and zinc up to 3,250 milligrams per kilogram (mg/Kg), 3,270 mg/Kg, 1,870 mg/Kg and 3,340 mg/Kg, respectively. At the time of this investigation, the MTCA Method A industrial cleanup standards for arsenic and lead were 200 mg/Kg and 1,000 mg/Kg, respectively. Sampling of 30 soil borings indicated that samples taken from 2 to 4 feet below ground surface (bgs) generally contained 1 to 3 orders of magnitude lower metals concentrations than the corresponding ground surface soil samples; in no case did any of the samples deeper than 2.5 feet exceed 20 mg/Kg arsenic, the MTCA Method A residential cleanup level. Based on the RI/FS, it was estimated approximately 18,500 cubic yards of mixed soil, bark, wood waste, and slag containing above the MTCA Method A industrial cleanup standard (200 mg/Kg) is present at the Site. Soil sampling locations and arsenic concentration contour map in surface soils are available as Appendix 6.3 and Appendix 6.4, respectively.

Three rounds of groundwater sampling were conducted during the RI from 11 monitoring wells. Metal concentrations in groundwater were generally low and did not indicate groundwater to be a significant pathway for contaminant migration.

Monitoring of surface water runoff conducted during the RI in 1992 indicated concentrations of arsenic, copper, lead, and zinc up to 340 µg/L, 282 µg/L, 52 µg/L and 695 µg/L respectively, were detected in storm water leaving the Site.

As previously mentioned, the Site is located within the boundaries of the CBN/T Superfund site, and has been identified as a source of contamination to the Head of Hylebos Problem Area. The Port negotiated a federal CD for the CBN/T Superfund site. The CD was also signed by the State of Washington in its capacity as a natural resource trustee. The CD settled the Natural Resource Damage (NRD) liability for all land owned, operated, or managed by the Port, including the Wasser Winters Site. The NRD settlement required the Port to place institutional controls upon the Wasser Winters Site.

In addition to the contamination described above, petroleum hydrocarbons were identified in a limited area of the Site's southern portion. This contamination was addressed under a separate independent cleanup action.

A Cleanup Action Plan (CAP) was completed in June 1993 and was included in the CD. The CAP included the installation of a storm water collection system, monitoring of surface water and groundwater, construction of a low-permeability asphalt cap and filing a Restrictive Covenant (RC) limiting the use of most of the Site for industrial use purposes.

2.3 Remedial Activities

Remedial activities were conducted at the Site from July through October 1993. A total of six Remedial Alternatives were evaluated in the Feasibility Study. The selected remedial action included the installation of an asphalt cap over the upland portions of the Site and long term groundwater monitoring. As required by the City of Tacoma's Critical Area Ordinance, a 100-foot wide stream buffer was left between the asphalt cap Hylebos Creek. This buffer was constructed to provide wildlife habitat. Contaminated soil and organic material removed from the stream buffer area were placed in the central portion of the Site to be capped. Confirmation samples were collected from excavated areas to ensure achievement of Site cleanup levels. Confirmation soil samples were analyzed for total arsenic and lead.

At the conclusion of soil removal activities, up to 5 feet of soil had been excavated from portions of the stream buffer area, and 66 surface samples were collected to confirm the remaining soil met the cleanup levels. As a component of capping activities, ecology blocks (large concrete blocks) were placed around the perimeter of the cap, forming a berm.

2.4 Cleanup Levels

Cleanup levels for the Site were established in the Final Cleanup Action Plan, which was submitted to Ecology in June 1993. These cleanup levels (CULs) are available in the table below:

Table 2: Site Cleanup Levels

Contaminant	Groundwater	Soil
	(µg/l)	(mg/Kg)
Arsenic	36	200
Copper	2.9 (10 ¹)	N/A
Lead	8.5 (10 ¹)	1000
Zinc	86	N/A

1: Practical Quantitation Limit (PQL).

Cleanup standards were developed for this Site based on Chapter 173-340 WAC. The use of Method A industrial soil cleanup standards per WAC 173-340-745 was justified for the following reasons: the Site cleanup may be defined as a routine cleanup per WAC 173-340-130; the Site is located in a heavy industrial area adjacent to other industrial properties; the Site is zoned for industrial use; and, deed restrictions will limit the use of the Site to industrial activities in the future. Since the groundwater is not a current and potential source of drinking water, groundwater cleanup levels were established based on EPA Water Quality Marine Chronic Criteria.

2.5 Groundwater Monitoring

As required by the Final CAP, the groundwater monitoring was being conducted at the Site from February 1994 on an 18-month frequency. However, the Port of Tacoma (Port) is conducting groundwater monitoring and cap maintenance as required by an Agreed Order or a Consent Decree with similar contaminants at five sites. To standardize the groundwater monitoring frequency and cap inspection amongst all these sites, the Department of Ecology (Ecology) and the Port of Tacoma entered into a Memorandum of Understanding (MOU) on September 1, 2011. Per the MOU, the Port is required to conduct both groundwater monitoring and cap inspection on a 30-months frequency at this Site. A copy of the MOU is included as Appendix 6.8.

The copper, lead and zinc concentrations were either below their cleanup levels (2.9 µg/L, 8.5 µg/L and 86 µg/L, respectively) or below the laboratory detection limits throughout the monitoring period except during January 2000 and 2007 there were slight exceedances. Since copper, lead and zinc concentrations were either below cleanup levels and/or below the laboratory detection limits for most of the rounds, the Port requested Ecology to drop these metals from the monitoring program. In June 2011, Ecology approved the Port's request to discontinue the monitoring for these metals. Currently only dissolved arsenic is being monitored as a part of the groundwater monitoring.

Since the last periodic review (May 2014), as per MOU two rounds (August 2014, and February 2017) of groundwater monitoring were conducted at the Site. However, February 2018 sampling was conducted as per Ecology's request and the Port elected to conduct the second interim event in February 2019. Though the results of arsenic concentrations in monitoring well GMW-3 exceeded its Site cleanup level of 36 µg/L from August 2014 to February 2019, during this period the arsenic concentrations have decreased significantly from 925 µg/L to 266 µg/L. The groundwater monitoring will continue on 30-month frequency at the Site. Detailed groundwater monitoring results are available as Appendix 6.5.

Based on a meeting with Ecology on April 3, 2019 regarding the number of monitoring wells, the Port of Tacoma has agreed to install three new monitoring wells replacing the former wells, CMW-1, CMW-2, and CMW-4. In addition, a non-disruptive mini-piezometer push point sampler (aka Henry sampler) will be installed between the existing well CMW-3 and Hylebos Creek within the Mowitch restoration site for collecting groundwater samples for arsenic monitoring (installation of a conventional monitoring well with a large equipment is impractical because of the steep slope and sensitivity of Mowitch restoration stream buffer area). Locations of existing and proposed monitoring wells and the Mowitch restoration area is available as Appendix 6.6.

2.6 Cap Inspection

Cap inspections were conducted in accordance with the requirements of the Consent Decree (No. 93-2-08684-4) issued to the Port of Tacoma (Port) by Ecology in 1993. However, the cap inspection frequency was updated in an MOU between Ecology and the Port issued on September 12, 2011. As per the MOU, the cap is being inspected on a 30-month frequency at the

Site. Since the last periodic review in May 2014, two rounds of cap inspections (December 2014 and April 2017) have been conducted at the Site. In Spring of 2016, the tenant vacated the southern 3.4 acres of the Site and the Port contracted an engineering consultant to survey the asphalt cap. The survey found cracks, gouges, alligating, etc. that needed repair. In October 2017, the Port repaired the entire 3.4 acres by grinding down the top 3/4-inch of asphalt, installing a geotextile fabric, and placing a 2-inch asphalt lift. A figure showing the cap repaired area is available as Appendix 6.7.

2.7 Restrictive Covenant

Following the remediation, a Restrictive Covenant (RC) was recorded for the Site on June 27, 1994. The RC imposes the following limitations:

Section 1: The Site may be used only for Industrial uses as defined in and allowed under the City of Tacoma's zoning Regulations codified in the Tacoma City in accordance with the RC.

Section 2: Any activity on the Site that may interfere with or reduce the effectiveness of the Cleanup Action or operation, maintenance, or monitoring, or other activity required by the Order (or any Ecology-approved modification or amendment to the Order) is prohibited.

Section 3: The Port or future owner shall maintain the cap and stormwater collection system in accordance with the Cleanup Action Plan and Ecology-approved Remedial Design Documents.

Section 4: The owner of the Site must give written notice to Ecology, or successor agency, of the owner's intent to convey any interest in the Site. No conveyance of title, easement, lease or other interest in the Site shall be consummated by the owner without adequate and complete provision for the continued operation, maintenance and monitoring of the Cleanup Action.

Section 5: The owner must notify and obtain approval from Ecology, or from a successor agency, prior to any use of the Site that may be inconsistent with the terms of the RC.

Section 6: The owner shall allow authorized representatives of Ecology, or successor agency, the right to enter the Site at reasonable times for the purpose of evaluating compliance with the CAP and the Order, to take samples, to inspect Cleanup Actions conducted at the Site, and to inspect records that are related to the Cleanup Action

Section 7: The owner of the Site and owner's assigns and successors in interest reserve the right under WAC 173-340-730 and WAC 173-340-440 to record as instrument which provides that this RC shall no longer limit the use of the Site or be of any further force or effect. However, such an instrument may be recorded only with the consent of Ecology or a successor agency may consent to the recording of such an instrument only after public notice and comment.

The RC is available as Appendix 6.9.

3.0 PERIODIC REVIEW

3.1 Effectiveness of completed cleanup actions

Based upon the site visit conducted on April 3, 2019, the asphalt cover at the Site is intact and in excellent condition where repairs were made in 2017. The overall integrity of the cap seems to be in satisfactory condition. The Site is currently used as a metals recycling facility by the Calbag Metals Company. The excavation of contaminated soils from the stream buffer and capping of this material with an asphalt cap at the Site continues to eliminate direct exposure pathways (ingestion, contact) of human and wildlife exposure to contaminated soils/sediments. The asphalt cap and storm water collection system continues to be inspected and maintained. A Photo Log is available as Appendix 6.10.

The results of groundwater monitoring indicates that cleanup levels for dissolved copper, lead, and zinc has been achieved; of the Site-related contaminants of concern, only arsenic has been present at concentrations above the cleanup level. Overall, the remedial action has been successful at meeting the marine chronic ambient water quality criteria in groundwater for protection of the adjacent Hylebos Waterway. The Port estimated that the cleanup efforts at the Site had reduced the overall metals loading to the Hylebos Waterway from groundwater and surface water migration by over 99.9 percent when compared to pre-cleanup loading estimates.

The RC for the Site was recorded and is in place. This RC prohibits activities that will result in the release of contaminants contained as part of the cleanup without Ecology's approval, and prohibits any use of the property that is inconsistent with the Covenant.

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

Cleanup levels at the site were based on regulatory standards rather than calculated risk for chemicals and/or media. These standards continue to be protective of site-specific conditions.

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

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

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

The current MTCA Method A Industrial soil cleanup standard for arsenic has been reduced from 200 mg/Kg to 20 mg/Kg since the final CD was issued. Because contaminated soils at the Site have been capped, the modification to the MTCA cleanup standard does not represent an

increase in risk to human health or the environment. Several of the state marine chronic surface water quality criteria have also changed since the CD was issued. Values for lead and zinc have been reduced to 8.1 µg/L and 86 µg/L, respectively. Overall, the changes to the original standards have not resulted in the need for additional remedial actions at the Site.

3.4 Current and projected site use

The Site is currently used for industrial purposes. The Property is leased to Calbag Metals Company, a metals recycling facility, under two separate lease agreements. The first is for the northern 5.4 acres of land, the lease term started in 1996 and has a 50-year term (with a 30-year option). The second is for the southern 3.3 acres, the lease began in 2018 and has a 5-year term (with four possible 5 year options). The Calbag Metals Company is projected to continue to use the property for metals recycling. Future uses will remain industrial.

3.5 Availability and practicability of higher preference technologies

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

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

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

4.0 CONCLUSIONS

- The cleanup actions completed at the Site appear to be protective of human health and the environment.
- Metals concentrations in excavated sediments/soils cleanup levels have not been met at the Site; however, under WAC 173-340-740(6)(f), the cleanup action is determined to comply with cleanup standards since the long-term integrity of the containment system is ensured, and the requirements for containment technologies have been met.
- The RC for the property is in place and will be effective in protecting public health and the environment from exposure to hazardous substances and protecting the integrity of the cleanup action.
- Sufficient compliance groundwater monitoring has been conducted to demonstrate that, with the exception of arsenic, the remedy had effectively contained metals contamination in soils.
- Continued cap inspection and groundwater monitoring every 30-months and maintenance are required. Cap maintenance appears to be adequate at this time.

Based on this periodic review, Ecology has determined that the requirements of the RC are being met and no additional remedial actions are required at this time. The cap is currently in satisfactory condition, and the conditions set forth in the RC are being followed. It is the property owner's responsibility to continue to inspect the site to ensure that the integrity of the cap is maintained and to continue groundwater monitoring.

4.1 Next Review

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

5.0 REFERENCES

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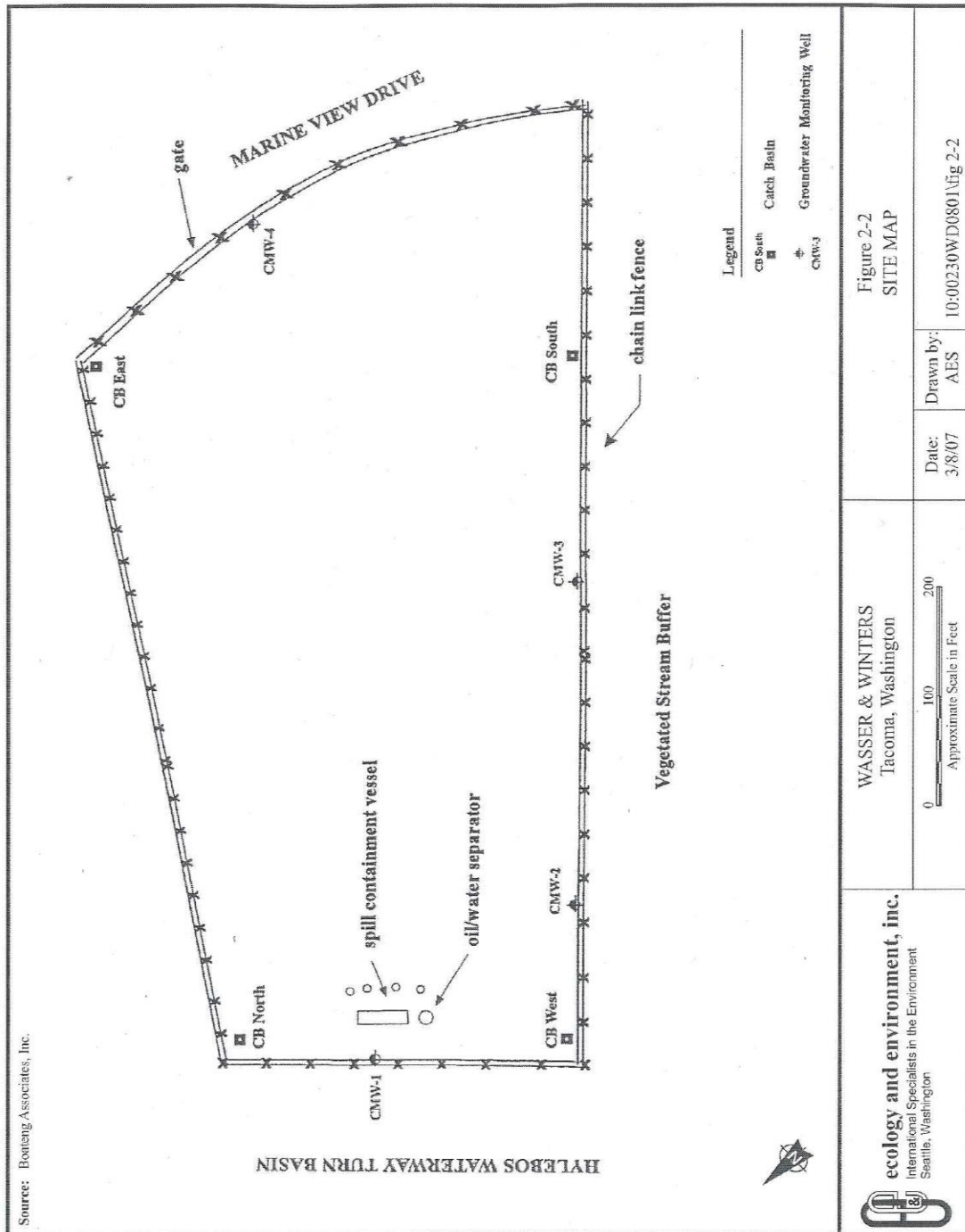
HartCrower. August 22, 2014. Cap Inspection Report, Former Wasser & Winters Log Sort Yard, Port of Tacoma, Tacoma, Washington.

Windward Environmental, LLC. April 14, 2017. Environmental Cap Inspection Report, Former Wasser & Winters Log Sort Yard.

Department of Ecology. April 3, 2010. Site Visit.

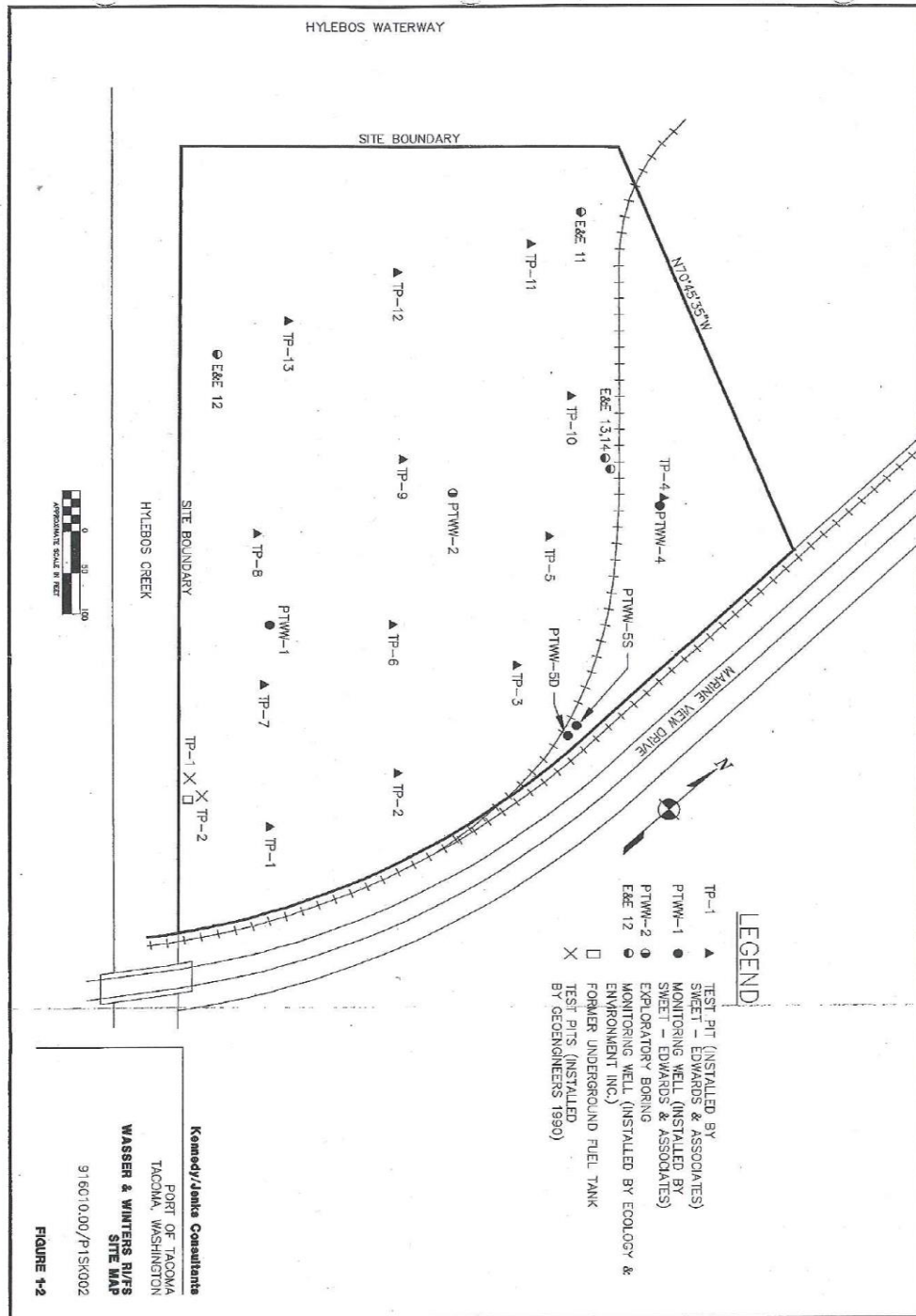
6.0 APPENDICES

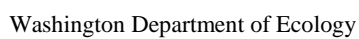
6.2 Site Plan

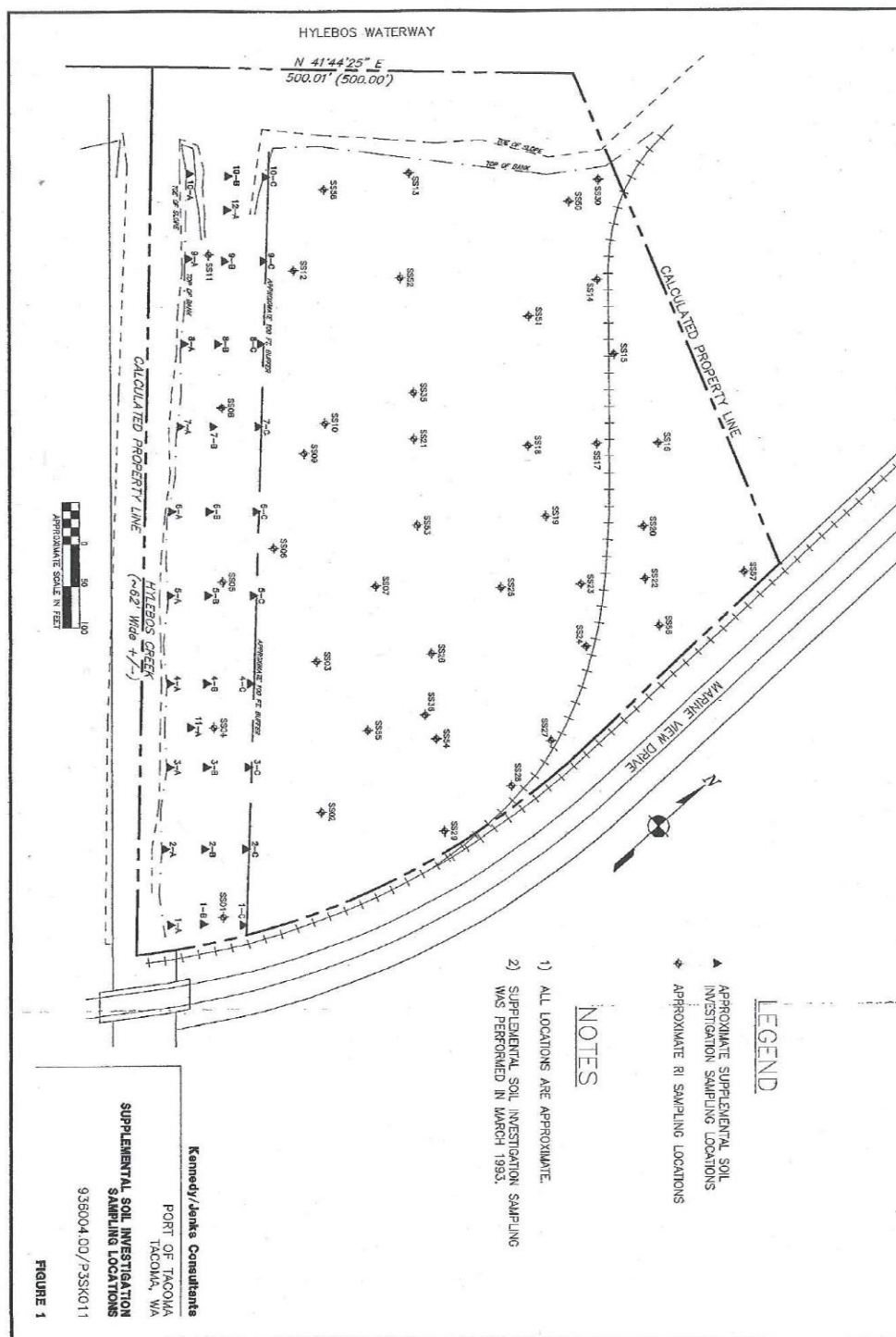


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6.3 Soil Sampling Locations







6.4 Arsenic Concentration Contour Map, Surface Soil Sample Results

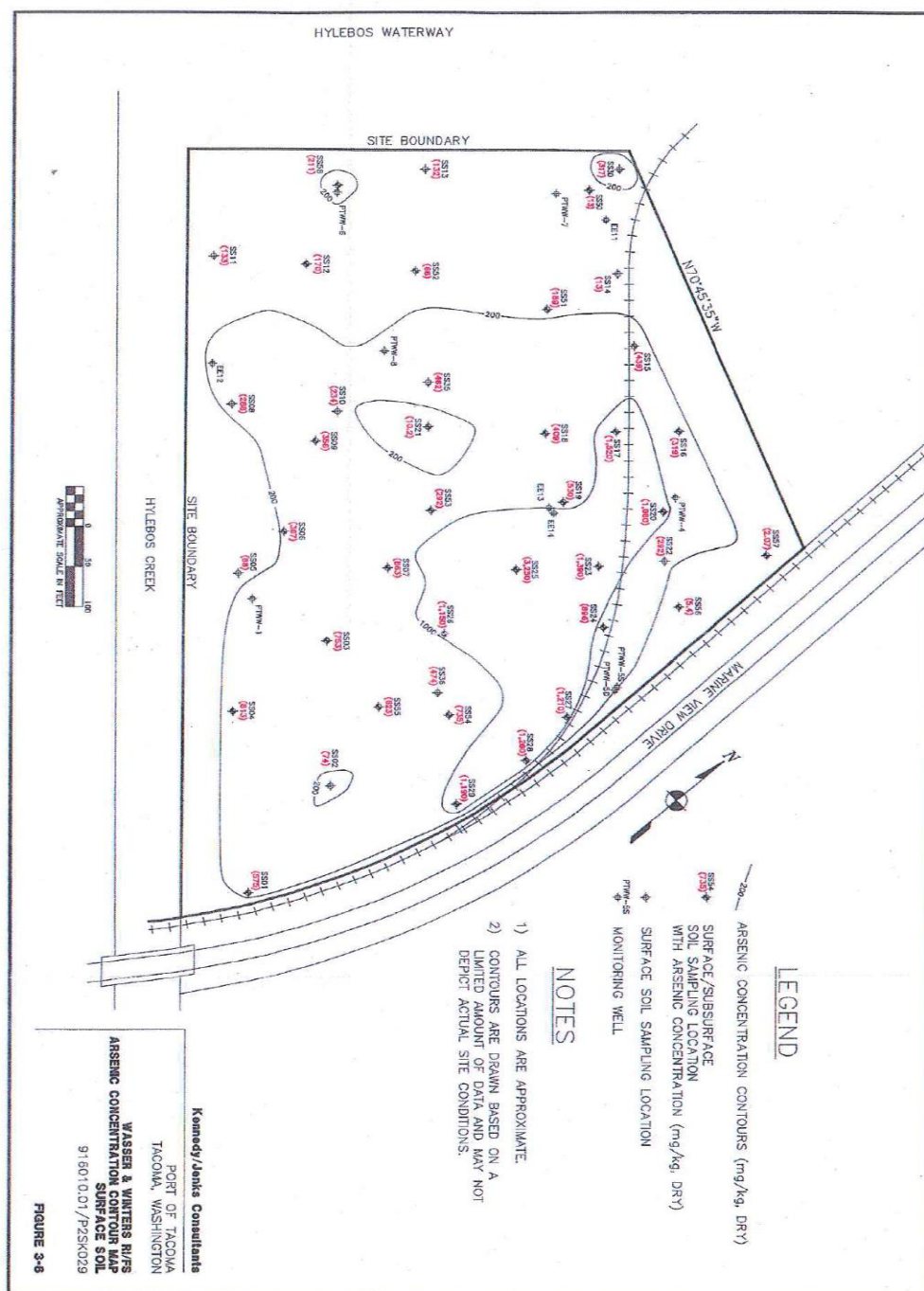


Figure 1
Compliance Groundwater Quality Monitoring Locations
Former Wesser and Winters Log Sort Yard
Port of Tacoma

Table 1: Analytical Results

		Concentration (µg/L)				
Well ID	Date	Dissolved Arsenic	Dissolved Copper	Dissolved Iron	Dissolved Lead	Dissolved Zinc
Cleanup Criteria Levels		36	2.9		8.5	86
GMW-3	2/7/1994	49	2 U	--	1 U	8
GMW-3	5/17/1994	72	2 U	--	1	7
GMW-3	8/17/1994	95	2 U	--	1 U	5
GMW-3	11/11/1994	82	2 U	--	2	8
GMW-3	5/17/1995	74	2 U	--	1 U	7
GMW-3	9/29/1995	100	2 U	--	1 U	5
GMW-3	3/9/1996	82	2 U	--	1 U	4 U
GMW-3	10/8/1996	83	2 U	--	1 U	4 U
GMW-3	8/14/1997	144	2 U	--	1 U	5
GMW-3	12/30/1997	123	2 U	--	1 U	139
GMW-3	6/11/1998	89	2 U	--	1 U	4 U
GMW-3	12/22/1998	190	2 U	--	1 U	2 U
GMW-3	1/28/2000	7.2	1 U	--	0.5 U	99
GMW-3	7/16/2002	117	1.02	--	0.5 U	3.32
GMW-3 (Duplicate)	7/16/2002	111	0.979	--	0.5 U	4.67
GMW-3	2/23/2004	77.2	1.07	--	0.2 U	3.98
GMW-3 (Duplicate)	2/23/2004	77.5	1.06	--	0.675	4.79
GMW-3	7/26/2005	13.1	2.63	--	2.5 U	5 U
GMW-3 (Duplicate)	7/26/2005	12.9	2.5 U	--	2.0 U	5 U
GMW-3	1/30/2007	60	4.6	--	2.0 U	34
GMW-3	2/26/2008	12	1.2J	--	2.0 U	47
GMW-3 (Duplicate)	2/26/2008	11	0.8J	--	2.0 U	35
GMW-3	7/23/2009	41.3	1.5	--	2.0 U	2.7
GMW-3 (Duplicate)	7/23/2009	41.7	1.4	--	0.2 U	1.4
GMW-3	2/17/2012	2750	--	--	--	--
GMW-3 (Duplicate)	2/17/2012	3100	--	--	--	--
GMW-3	5/25/2012	471	--	--	--	--
GMW-3 (Duplicate)	5/25/2012	455	--	--	--	--
GMW-3	8/22/2014	346	--	--	--	--
GMW-3 (Duplicate)	8/22/2014	353	--	--	--	--
GMW-3	2/13/2017	925	--	15700	--	--
GMW-3 (Duplicate)	2/13/2017	899	--	15000	--	--
GMW-3	2/19/2018	168				
GMW-3 (Duplicate)	2/19/2018	201				

Notes:

Lead, zinc and copper analyses were discontinued in 2011 with Ecology approval dated June 28, 2011 (Ecology 2011a). Groundwater samples were analyzed for dissolved metals by EPA Method 200.8.

a) Groundwater cleanup levels established from EPA chronic marine criteria (WAC 173-201A)

b) Results from the February 2012 sampling event are considered invalid due to improper sampling procedures, resulting in higher than normal turbidity

Bold = Detected result

-- = Not analyzed

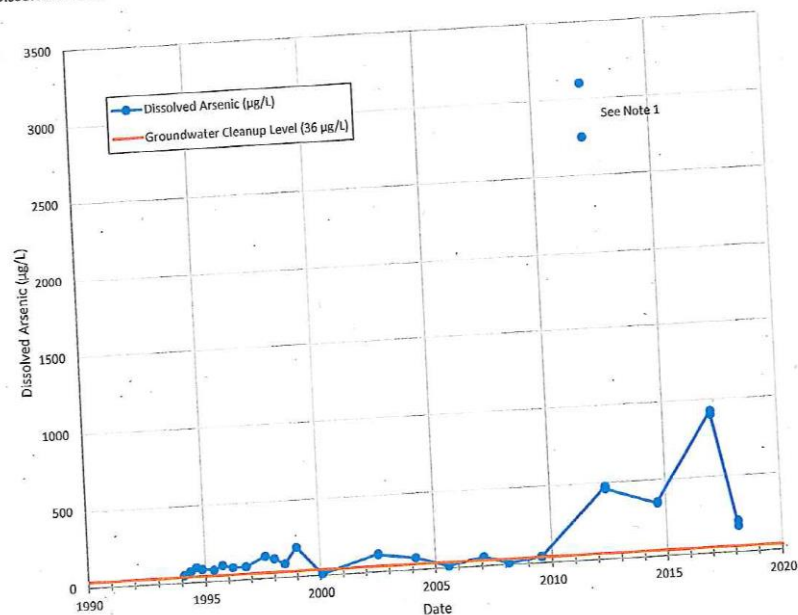
µg/L = micrograms per liter

J = Laboratory analytical result was detected above the method detection limit but below the quantitation limit

U = Compound analyzed, but not detected above detection limit

Former Wasser Winters Log Sort Yard
Port of Tacoma

Figure 2: Dissolved Arsenic Concentration Trends



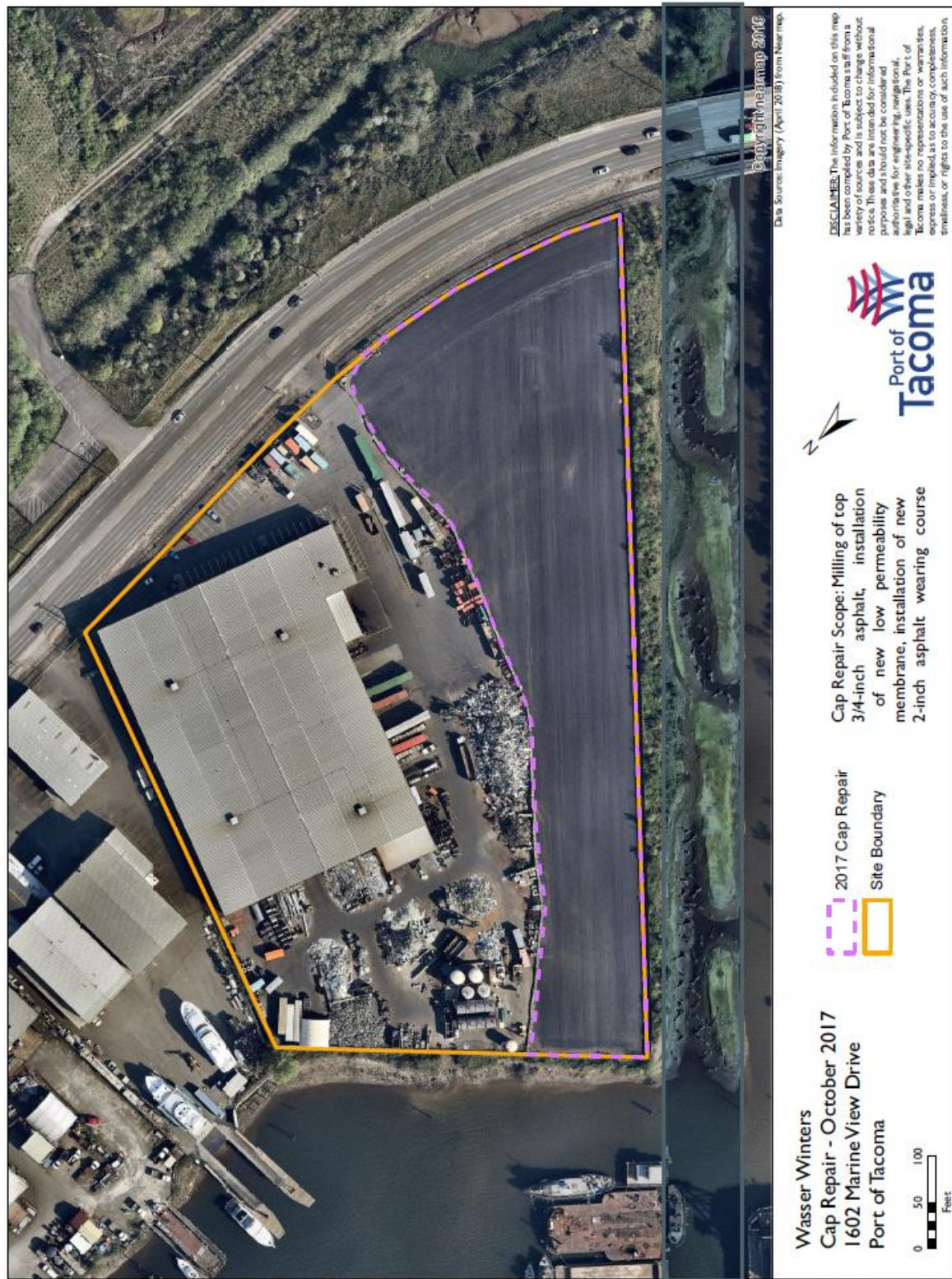
Note: As described in Hart Crowser (2014) the groundwater samples collected in February 2012 had higher than typical sample turbidity due to use of inappropriate sampling procedures. Results were considered invalid at the time. Samples were recollected in May 2012.

Former Wasser & Winters Log Sort Yard
Port of Tacoma

6.6 Existing and Proposed Monitoring Wells and Mowitch NRDA Site Locations



6.7 Cap Repaired Area



6.8 Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

Former Log Yard Groundwater Monitoring and Cap Inspection

This Memorandum of Understanding (MOU) is entered into this 18 day of September 2011 between the Washington State Department of Ecology ("Ecology") and the Port of Tacoma ("Port") (collectively the "Parties") to memorialize the Parties' agreement to modify the requirements for future groundwater monitoring and cap inspection frequencies for five Port sites, as set forth below.

These sites affected by this agreement are Cascade Timber No. 3, Murray Pacific No. 2, Wasser Winters, Portac, and Louisiana-Pacific (aka Pony Lumber) ("Monitored Sites").

Each Monitored Site was cleaned up under an administrative agreement between Ecology and the Port, either as an original party or successor interest, as follows: Cascade Timber No. 3, Murray Pacific No. 2, and Wasser Winters were cleaned up under Consent Decrees, Louisiana-Pacific under an Enforcement Order, and Portac under a pre-Model Toxics Control Act (MTCA) Order On Consent (cumulatively referred to as: "Ecology Orders"). Portac, Inc. was also a respondent to the Portac Order on Consent along with the Port.

Each Monitored Site addressed similar contaminants of concern (COCs), which included arsenic, copper, lead, and zinc. However, each Ecology Order had site-specific requirements with respect to cleanup levels, and cap and groundwater monitoring frequencies.

In Spring 2010, the Port initiated a request to Ecology to standardize the monitoring requirements for the Monitored Sites in an effort to align the timing of the periodic monitoring/inspections at the sites so that the Port may better align a contractor to do the work all at once, as required.

In August 2010, to supplement the information already provided to Ecology, the Port provided Ecology with a tour of the Monitored Sites. As part of the tour, Ecology inspected the type and condition of the caps; the current site uses, specifically on the capped areas, and the locations and conditions of existing monitoring wells and stormwater basins.

Ecology has reviewed the information provided by the Port, as well as observations made during the site tour, and has chosen to provide a response in the form of this MOU.

This MOU was created for the Parties to understand and agree upon the requirements associated with Ecology's response, and to memorialize the decisions made with respect to each of the Port's requests.

In preparing this MOU, Ecology took into account, for each site, the type and condition of the cap and stormwater collection system, the adequacy of the groundwater monitoring system, and the recent groundwater compliance history.

Based on the above, Ecology and the Port agree as follows:

A. CAP MONITORING FREQUENCY

1. The Port may standardize the cap monitoring (inspection and reporting) frequency for the Monitored Sites to 30 months as requested. However, the following shall also occur:
 - During the site tours, Ecology noted that some of the stormwater basins were in better condition than others. Stormwater basins at each of the Monitored Sites should be inspected quarterly and cleaned out as needed, such that they are continuously operational.
 - Any unanticipated breaches of the cap for any of the Monitored Sites shall be reported to Ecology and repaired as soon as practicable. As per the respective Ecology Orders, the Port shall provide Ecology with a plan for each of the sites that summarizes intended action and reporting by the Port for unanticipated cap breaches.
 - Advance notice shall be provided and prior approval shall be obtained from Ecology for any planned cap breaches and repairs that are not otherwise permitted under the respective Ecology Order for each Monitored Site.
 - Minor cracking and normal wear and tear shall be repaired and reported as anticipated by and according to each Monitored Site's Ecology Order.
 - The appropriate Ecology Site Manager shall be informed, in writing, of any changes in site use on capped areas.
2. The next cap monitoring for the Monitored Sites based on this new 30-month frequency shall be February 2012, which corresponds to the next 30-month groundwater monitoring event for Wasser Winters described below. Unless changed by Ecology, all future cap monitoring for the Monitored Sites shall occur every 30 months beginning February 2012 to coincide with the groundwater monitoring that is intended to target alternating wet and dry seasons.

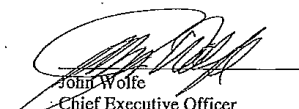
B. GROUNDWATER MONITORING FREQUENCY

1. The Port may standardize the groundwater monitoring frequency for each of the Monitored Sites as requested, which included the following:
 - Cascade Timber No. 3 – 18 months (formerly 12 months).
 - Murray Pacific No. 2 – 18 months (formerly 6 months).
 - Wasser Winters – No change (currently 30 months).
 - Portac – No change (currently discontinued).
 - Louisiana-Pacific – 30 months (formerly 24 months wet/dry).

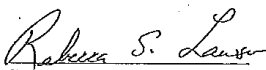
2. The next groundwater monitoring for the Monitored Sites shall be conducted in February 2012. Unless changed by Ecology, all future groundwater monitoring for the Monitored Sites shall occur according to the frequency identified above beginning February 2012.

C. EFFECT OF MODIFICATION

1. Except as modified herein, all provisions of the Original Ecology Orders for each Monitored Site as existing and as may have been amended, including addressing any potential data compliance issues, remain in full force and effect.
2. A copy of this MOU shall be filed with the Ecology Project Manager for each of the Monitored Sites.


John Wolfe
Chief Executive Officer
Port of Tacoma

9.1.11
Date


Rebecca S. Lawson, P.E., LHG
Section Manager, Toxics Cleanup Program
Southwest Regional Office
Washington State Department of Ecology

9/12/2011
Date

cc:
Jason Jordan -- Port of Tacoma
Mark Rettmann -- Port of Tacoma
William Evans -- Port of Tacoma
Leslee Connor -- Port of Tacoma
Scott Hooton -- Port of Tacoma
Dom Reale -- Ecology
Mary Coleman -- Ecology
Guy Barrett -- Ecology
James DeMay -- Ecology
Scott Rose -- Ecology
Rebecca Lawson -- Ecology

6.9 Environmental Covenant

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DECLARATION OF RESTRICTIVE COVENANT

The property that is the subject of this Restrictive Covenant is the subject of remedial action under Chapter 70.105D RCW, excepting that portion of the property addressed by proposed federal consent decree for the Commencement Bay Nearshore/Tideflats Superfund site; Sitcum Waterway Problem Area. Exhibit F. The work done to clean up the property (hereafter the "Cleanup Action") is described in Washington State Department of Ecology Consent Decree No. 93-2-086844, and in attachments to the Decree. This Restrictive Covenant is required by WAC 173-340-440 because the Cleanup Action at the Site will result in residual concentrations of arsenic and lead which exceed Ecology's Method A cleanup levels for Industrial soil established under WAC 173-340-745.

The Port of Tacoma is the fee owner of real property known as the Wasser-Winters log sort yard in the county of Pierce, state of Washington (legal description attached in Exhibit B), hereafter referred to as the "Site".

As a result of the Cleanup Action, the Site will include a woodwaste, soil, and slag mixture which will be covered with a cap system equipped with a surface water collection system. The Site will also include monitoring wells. The portion of the property remaining uncontained by the cap will meet Method A Industrial soil standards but may exceed Method A residential soil standards for arsenic and lead.

The Port of Tacoma makes the following declaration as to limitations, restrictions, and uses to which the Site 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 Site.

Section 1 The Site may be used only for Industrial uses as defined in and allowed under the City of Tacoma's Zoning Regulations codified in the Tacoma City Code as of the date of this Restrictive Covenant.

Section 2 Any activity on the Site that would interfere with or reduce the effectiveness of the Cleanup Action or any operation, maintenance, monitoring, or other activity required by the Order (or any Ecology-approved modification or amendment to the Order) is prohibited. Any activity on the Site that would result in the release of a hazardous substance that was contained as a part of the Cleanup Action is prohibited. It is understood that disturbance of the cap may be required in the future for installation of utilities or other activities associated with future industrial use of the site. The Port or future owner shall obtain approval from Ecology prior to initiating any disturbance of the cap stormwater drainage and/or monitoring system. Ecology shall not deny approval if the Port or future owner can show: (1) that no releases of hazardous materials will occur; (2) Integrity of the cap and stormwater drainage and monitoring systems will be restored to their original condition in a timely manner; and (3) that material will be handled and disposed of in accordance with State law.

Section 3 The Port or future owner shall maintain the cap and stormwater collection system in accordance with the Cleanup Action Plan and Ecology-approved Remedial Design Documents.

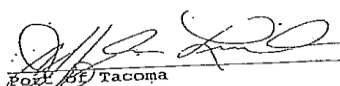
Section 4 The owner of the Site must give written notice to the Department of Ecology, or to a successor agency, of the owner's intent to convey any interest in the Site. No conveyance of title, easement, lease or other interest in the Site shall be consummated by the owner without adequate and complete provision for the continued operation, maintenance and monitoring of the Cleanup Action.

Section 5 The owner must notify and obtain approval from the Department of Ecology, or from a successor agency, prior to any use of the Site that may be inconsistent with the terms of this Restrictive Covenant.

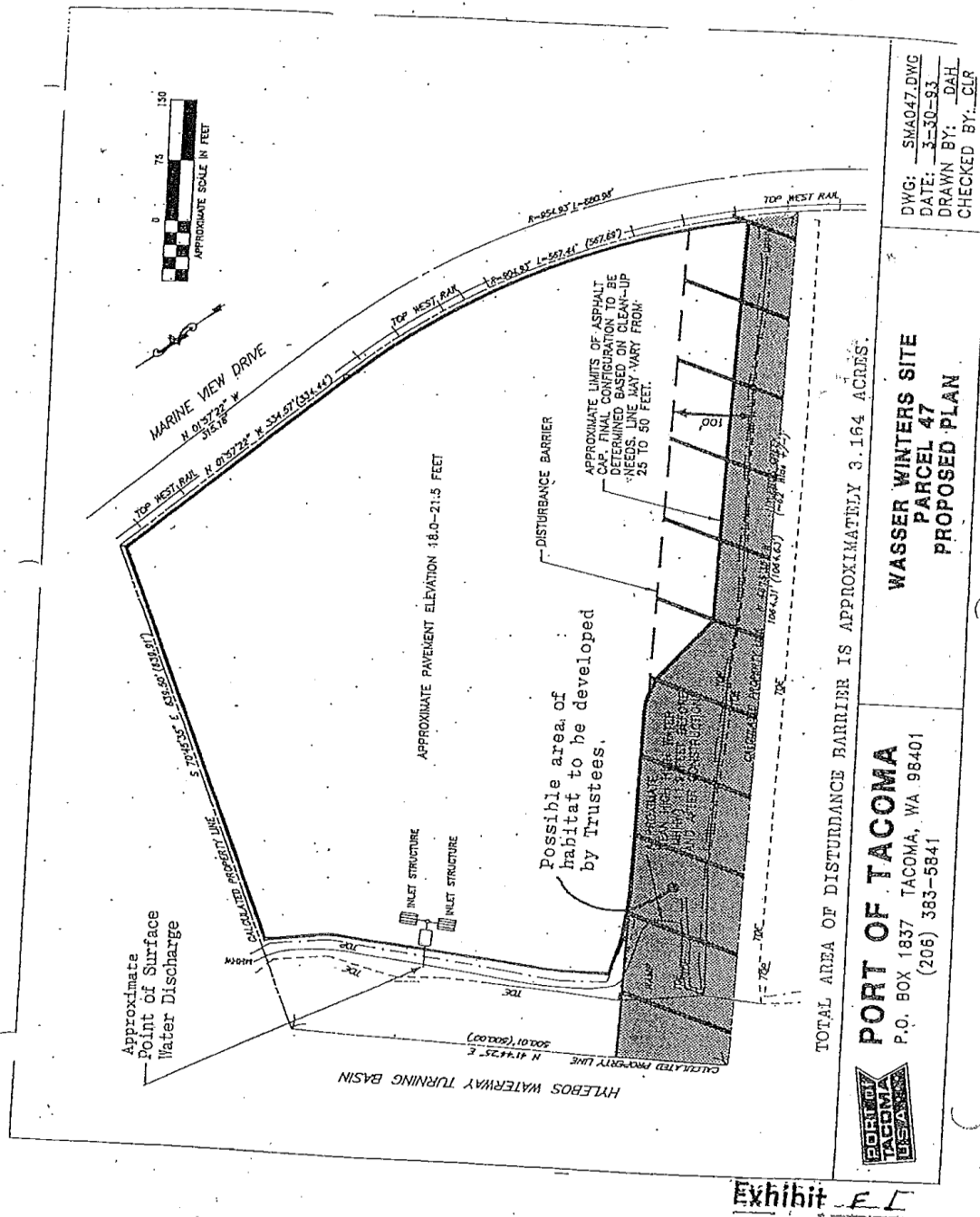
Section 6 The owner shall allow authorized representatives of the Department of Ecology, or of a successor agency, the right to enter the Site at reasonable times for the purpose of evaluating compliance with the Cleanup Action Plan and the Order, to take samples, to inspect Cleanup Actions conducted at the Site, and to inspect records that are related to the Cleanup Action.

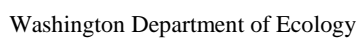
Section 7 The owner of the Site and owner's assigns and successors in interest reserve the right under WAC 173-340-730 and WAC 173-340-440 to record an instrument which provides that this Restrictive Covenant shall no longer limit the use of the Site or be of any further force or effect. However, such an instrument may be recorded only with the consent of the Department of Ecology or of a successor agency. The Department of Ecology or a successor agency may consent to the recording of such an instrument only after public notice and comment.

The Port of Tacoma agrees to file this Restrictive Covenant in the Site property deed with the Pierce County Auditor and provide the Department of Ecology with a filed copy.


Port of Tacoma Date 6/27/94

Microcopy and





6.10 Photo log



Photo 1: Calbag Metals Recycling Office Building and North Area Cap – From Southwest



Photo 2: Recycling Yard Operations in the South Area – From Southwest



Photo 3: Recycling Yard Operations in the South Area – From the West



Photo 4: Recycling Yard Operations in the South Area – Behind Calbag Building



Photo 5: North Area Asphalt Cap – From the West



Photo 6: North Area Asphalt Cap – From the Northwest



Photo 7: Groundwater Monitoring Well CMW-3 – From the East



Photo 8: Stormwater Catch Basin, CB #9 – From the East