



## **Periodic Review**

North Market Street  
North Market Street and Freya Street  
Spokane, Washington 99207

Facility Site ID#: 667  
Cleanup Site ID#: 1150

Prepared by:  
Eastern Regional Office  
Toxics Cleanup Program

September 2019

<b>1.0 INTRODUCTION.....</b>	<b>1</b>
<b>2.0 SUMMARY OF SITE CONDITIONS .....</b>	<b>3</b>
2.1 Site history .....	3
2.2 Site investigations .....	4
2.3 Cleanup levels and points of compliance .....	5
2.4 Remedial actions .....	6
2.4.1 Shallow Soil Excavation and Treatment .....	6
2.4.2 Air Sparging .....	6
2.4.3 Bioventing .....	7
2.5 Restrictive covenants .....	7
<b>3.0 PERIODIC REVIEW.....</b>	<b>9</b>
3.1 Operations and maintenance activities .....	9
3.2 Effectiveness of completed cleanup actions .....	10
3.3 New scientific information for individual hazardous substances or mixtures present at the Site .....	11
3.4 New applicable state and federal laws for hazardous substances present at the Site .....	11
3.5 Current and projected Site use .....	11
3.6 Availability and practicability of higher preference technologies .....	11
3.7 Availability of improved analytical techniques to evaluate compliance with cleanup levels .....	12
<b>4.0 CONCLUSIONS.....</b>	<b>13</b>
4.1 Next Review .....	13

## Figures

Figure 1 - Vicinity Map

Figure 2 - Site Map

Figure 3 - Estimated Extent of Smear Zone

Figure 4 - Air Sparge System

Figure 5 - Bioventing System

## Appendices

Appendix A - Monitoring Well Contaminant Graphs

Appendix B - Restrictive Covenants



## 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 assure human health and the environment are being protected at the North Market Street Site (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA) regulations, Chapter 173-340 Washington Administrative Code (WAC).

The potentially liable persons (PLPs), Tosco Refining Company (Tosco) and Phillips Petroleum Company (Phillips), conducted the cleanup action at the Site. The PLPs implemented the Cleanup Action Plan (CAP) with Consent Decree 00207012-2 dated December 12, 2000. Phillips and Tosco merged during the completion of the cleanup action and retained the Phillips Petroleum name. In 2002, Phillips and Conoco Inc. merged to form the ConocoPhillips Company. On May 1, 2012, Phillips 66 split from ConocoPhillips and Phillips 66 retained the North Market Street Site project.

The cleanup actions resulted in concentrations of petroleum hydrocarbons, benzene, toluene, ethylbenzene, and xylene (BTEX); polycyclic aromatic hydrocarbons (PAHs); arsenic, and manganese remaining at the Site that exceed MTCA cleanup levels. The MTCA cleanup levels for soil are established under WAC 173-340-740. The MTCA cleanup levels for groundwater are established under WAC 173-340-720. WAC 173-340-420(2) requires Ecology to conduct a periodic review of a Site every five years when one of conditions 1-3 **and** condition 4 are met:

1. The department conducts a cleanup action
2. The department approves a cleanup action under an order, agreed order or consent decree
3. As resources permit, when the department issues a no further action opinion
4. **And** one of the following conditions exists at the site:
  - (a) Institutional controls or financial assurance are required as part of the cleanup;
  - (b) The cleanup level is based on a practical quantitation limit; or
  - (c) 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 Ecology shall consider include [WAC 173-340-420(4)]:

- (a) The effectiveness of ongoing or completed cleanup actions, including the effectiveness of engineered controls and institutional controls in limiting exposure to hazardous substances remaining at the Site.

- (b) New scientific information for individual hazardous substances of 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; and.
- (f) The availability of improved analytical techniques to evaluate compliance with cleanup levels.

Ecology 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**

The Site is located in portions of Sections 15, 16, 21, 22, 27, and 28 Township 26 North, Range 46 East Willamette Meridian, about one mile north of the City of Spokane (Figure 1). The Spokane Valley-Rathdrum Prairie Aquifer (SVRP) lies under the Site; the aquifer was designated as a “Sole Source Aquifer” in 1978 and provides drinking water for approximately 500,000 people.

The Site is defined as the area of soil contamination, and the groundwater contaminant plume. This definition includes the fuel terminal currently operated by the Holly Energy Partners, LP (Facility) and the groundwater plume where contaminants greater than background concentrations have been detected. Petroleum hydrocarbons, BTEX, PAHs, arsenic, and manganese are indicator hazardous substances for the Site.

### **2.1 Site history**

Several of the properties which comprise the Site were developed as industrial or commercial facilities that were involved in or related to the refinement, recycling, and sale of petroleum products. In the late 1930s several of the properties were developed as part of an oil refinery complex. Waste management practices common during that era resulted in releases of liquid refinery-related petroleum wastes into the environment. Refinery operations were discontinued in 1953. The facility continued operations as a petroleum tank farm after refinery decommissioning.

As early as 1978 local land owners and businesses located north of the present day Holly Energy Partners fuel terminal reported the presence of petroleum-laden soils on lands immediately north of the decommissioned oil refinery complex (Figure 2). In 1984 state officials confirmed the presence of petroleum contamination in groundwater from samples collected at three private water supply wells in the area. Use of those wells was discontinued and Ecology began supplying bottled water to users at that time.

In 1986 and early 1987, groundwater and soil contamination was confirmed during site assessment activities performed by Golder Associates. This assessment included installing six groundwater monitoring wells, as well as excavating 63 test pits and drilling eleven soil borings.

In 1990 the US Environmental Protection Agency (EPA) listed the Site on the federal Superfund National Priorities List (NPL) of hazardous waste sites requiring cleanup. After the Site was listed, EPA and Ecology agreed to have Ecology direct investigation and cleanup of the Site under the authority of MTCA (Chapter 70.105D RCW). In 1991, the North Spokane Irrigation District No. 8 completed a 16-inch water line loop as far north as Magnesium Road to provide a potable water supply to users previously requiring alternate supplies.

## 2.2 Site investigations

The Phase I remedial investigation (RI) was completed in 1993. During the Phase I RI several borings and test pits were completed in order to characterize soil conditions and the extent of contamination. Ten groundwater monitoring wells were installed, which provided an assessment of soil and groundwater conditions. Results from the Phase I RI indicated that petroleum hydrocarbon contamination was present in the Spokane Aquifer beneath the Site at concentrations greater than the MTCA Method A cleanup level of 1 part per million (ppm). In addition, BTEX, arsenic, and manganese were present at concentrations greater than their cleanup levels. Soil contamination in the surface and near-surface was delineated and characterized at the Site, and included petroleum hydrocarbons, BTEX, PAHs, and metals.

A Phase II RI was developed to further characterize and define the soil and groundwater contamination. The Phase II RI was conducted in 1995 and was comprised of installation and sampling of nine additional monitoring wells and two borings to bedrock, installation and sampling of thirteen vapor probes, excavation and soil sampling of 89 test pits, and treatability testing of select soil samples.

Phase II RI results showed the presence of petroleum hydrocarbon, PAH, BTEX, and metal contamination in Site near-surface soil (less than 15 feet below ground surface [bgs]), in deep soil to depths of 60 feet, and in soil at the water table (smear zone) about 150 to 170 feet bgs. The estimated extent of the smear zone is shown in Figure 3. Petroleum hydrocarbons and BTEX were also documented in soil vapor at depths of 50 feet bgs, 100 feet bgs, and deeper.

The Phase I and II work is documented in a report titled Final-Draft Phase II Remedial Investigation Report – North Market Street Site, Spokane, Washington. June 1996. The Phase II RI Report presents a summation of previous investigations conducted at the site along with the findings of the Phase II RI program.

Following completion of the Phase II RI report, additional RI work was conducted at the Site. The work was focused on defining the areal extent of the groundwater plume. The work began in July 1996 and consisted of installing five monitoring wells and collecting two quarterly rounds of groundwater and soil vapor samples for analysis. Petroleum and BTEX contamination in groundwater was detected within the SVRP Aquifer extending for about one mile to the north-northwest of the fuel terminal. The groundwater flow direction beneath the site is north-northwest. Quarterly groundwater and vapor monitoring began again in May 1998 and has continued to present.

In July 1998, at Ecology's request, four soil borings were drilled to the smear zone and soil samples were collected for treatability testing. The sample testing indicated that microbes capable of biodegrading the petroleum hydrocarbon and BTEX contamination were present in Site soils and a large reduction in contaminant mass was achievable.

This work was completed to support the feasibility study (FS) and Cleanup Action Plan (CAP), which were finalized in June 1998 and November 1999, respectively.

The CAP was designed to provide source control measures by treating shallow, deep, and vadose zone soil, as well as groundwater. The cleanup action for the shallow soil was excavation and thermal treatment of the excavated soil. The treated soil was returned to the excavation and compacted to 90 percent of its maximum dry density. Bioventing was selected to address soil contamination beyond the excavation depth limit of 20 feet bgs by enhancing biodegradation in the subsurface. Treatability testing results identified the presence of petroleum degrading bacteria and indicated that a large reduction in contaminant mass was probable with the addition of oxygen into the subsurface. A line of air sparging wells coupled with natural attenuation was chosen as the cleanup action for the groundwater plume. The air sparging line is located about 1,400 feet downgradient of the fuel terminal in an area where the groundwater plume contracts to about 300 feet laterally. Monitored natural attenuation was selected for the remedy downgradient of the sparge system.

## 2.3 Cleanup levels and points of compliance

The soil and groundwater cleanup levels set in the CAP were calculated to provide a total Site risk less than  $1 \times 10^{-5}$  and a hazard index equal to or less than one for each toxic endpoint. The soil cleanup levels for TPH were set using the interim TPH Policy (Ecology Publication No. ECY97-600, January 1997).

Table 2-1

Contaminant	Cleanup Level	Cleanup Level Source
<b>Soil Cleanup Levels</b>		
<b>TPH (fuel terminal property)</b>	6,000 mg/kg	Method C
<b>TPH (property outside fuel terminal)</b>	3,000 mg/kg	Method C
<b>Benzene</b>	0.5 mg/kg	Method A
<b>Ethylbenzene</b>	20 mg/kg	Method A
<b>Toluene</b>	40 mg/kg	Method A
<b>Total xylenes</b>	20 mg/kg	Method A
<b>Total cPAHs</b>	1 mg/kg	Method A
<b>Groundwater Cleanup Levels</b>		
<b>TPH</b>	1,000 ug/L	Method A
<b>Benzene</b>	5 ug/L	Method B carcinogen
<b>Ethylbenzene</b>	30 ug/L	Method A
<b>Toluene</b>	40 ug/L	Method A
<b>Total xylenes</b>	20 ug/L	Method A



---

Contaminant	Cleanup Level	Cleanup Level Source
Arsenic	5 ug/L	Method A
Manganese	50 ug/L	MCL

The soil point of compliance is established in the soils throughout the site.

The groundwater point of compliance is established from the uppermost level of saturated zone extending vertically to the lowest depth which could be potentially affected by the Site, over the entire site area. Ground water cleanup levels shall be met in all groundwater from the point of compliance to the outer boundary of the contaminant plume.

## 2.4 Remedial actions

The shallow soil excavation and treatment, air sparging, and bioventing were conducted in general accordance with the Cleanup Action Plan, Washington State regulations, and MTCA (WAC 173-340).

### 2.4.1 Shallow Soil Excavation and Treatment

Dust Coatings Inc. was the selected contractor and began mobilizing equipment on-site by July 12, 2001. A medium temperature thermal desorption unit (TDU) was utilized to treat the contaminated soil. The TDU was operated between 950 to 1050 degrees Fahrenheit with a throughput of 25 to 40 tons per hour. The TDU was comprised of a two-stage counter flow direct-fired rotary desorber that used a thermal oxidizer to treat the resulting vapor stream. The thermal oxidizer was operated between 1100 and 1200 degrees Fahrenheit and provided 99.9 percent destruction efficiencies.

Remedial construction activities were monitored and inspected by Dalton, Olmsted, & Fuglevand Consultants. A fifty-foot grid was established over the excavation area and confirmation soil samples were collected from the excavation sidewalls and bottom on that grid. Contamination was left in place on the northern portion of the fuel terminal near the Chevron Pipeline due to setback requirements for pipeline safety.

Confirmation samples were also collected from the treated soil at a rate of one sample per 1,000 treated tons. The shallow soil remediation was completed in February 2002. A total of 81,910 tons of soil were treated and returned to the excavation. Representatives from Phillips, Dust Coatings Inc., Dalton, Olmsted, & Fuglevand Consultants, and Ecology completed a final inspection of the shallow soil excavation area in March 2002.

### 2.4.2 Air Sparging

Air sparging wells were drilled to depths of about 170 feet bgs in September 2001. A total of ten sparge wells were completed perpendicular to the groundwater flow direction (Figure 4). The wells were placed in two rows with approximately sixty feet between each well laterally. An alternating well placement was utilized in order to minimize

stagnation zones between sparge points. The wells were constructed with five feet of two-inch diameter stainless steel well screen with a slot opening of 0.020 inches. The screen is flush-threaded with two-inch diameter polyvinyl chloride (PVC) casing to ground surface.

The sparge wells are connected from the wellhead to the twenty horsepower, three-phase motor with one-inch schedule 80 PVC piping. The piping is routed through ball valves and flow meters, which allow for balancing the sparge system by providing similar flow volumes to each well. A 3/8-inch polyethylene tubing line is connected from each well head to a pressure gauge that provides the direct pressure reading of the well. The system typically operates at a volume of 11-12 standard cubic feet per minute (scfm) with a pressure of about 5.5 to 7 pounds per square inch (psi) for each well.

Four groundwater monitoring wells were installed in conjunction with the sparge system. One well was installed upgradient and the other three downgradient of the sparge system. In addition, two existing monitoring wells, one upgradient and one downgradient, are used to monitor sparge system performance. The sparge wells began operating in August 2002.

### **2.4.3 Bioventing**

The bioventing wells were installed in December 2002. The wells are located in Areas 1 and 2, which is within fuel terminal property near the storage tanks (Figure 5). The 13 wells were installed to depths ranging from 110 to 150 feet bgs. The bioventing wells are screened with 50 feet of 0.010-inch, 4 slots per inch PVC well screen. The screens are designed to mechanically limit flow so an even pressure distribution is realized along the screen length. A 120 feet radius of influence was assumed for design purposes and confirmed with pilot testing. The bioventing wells were installed on a 200-foot grid spacing.

Two-inch PVC pipe connects each bioventing wellhead to the system. In order to meet facility fire safety standards, piping that is exposed at the surface is constructed of galvanized pipe. The system is comprised of a Rotron regenerative blower capable of producing 130 scfm with 30 inches of water column pressure or 1.08 psi. Pressure and flow volumes for each well are controlled individually with valves. The bioventing system is operated with a differential pressure gradient. This allows for the wells on the outside perimeter to be operated at a higher pressure, which provides a flow gradient toward the soil vapor plume center and limits fugitive migration of vapors. At the time of construction five vapor monitoring points were installed and added to the existing vapor monitoring points that are used to monitor the bioventing system performance.

## **2.5 Restrictive covenants**

MTCA requires that if contamination greater than cleanup levels remains on a site, a restrictive covenant must be recorded with the deed. The following restrictive covenants

were placed on the fuel terminal properties and landowners' properties located over the groundwater plume.

**Table 2-2**

<b>Restrictive Covenant Number</b>	<b>Property Type/Description</b>	<b>Parcel Number(s)</b>
<b>4845741</b>	Fuel terminal property	36223.9028 36223.9030 36223.9031 36223.9130
<b>4845742</b>	Fuel terminal property	36223.9080
<b>4845743</b>	Tracts "A" and "B" of Short Plat 87-520, owned by Schmidt Revocable Trust	36223.9142 36223.9143
<b>4816546</b>	Owned by Dale and Evelyn Draper	36223.9017

The covenants include the following restrictions: no withdrawal of water, maintenance of fences and locked gates, and no actions that may facilitate a release or create an exposure pathway. Institutional controls were placed on the Site by February 2003.

The covenants are enclosed in Appendix B.

### **3.0 PERIODIC REVIEW**

The purpose of periodic reviews is to ensure that human health and the environment remain protected when hazardous substances remain on site as part of the remedial action. This is the third periodic review for the North Market Street Site. Previous periodic reviews were performed in 2008 and 2013.

#### **3.1 Operations and maintenance activities**

Operations and maintenance (O&M) activities continued at the Site through the second quarter 2019 sampling event. Phillips 66 contracted with Tetra Tech to conduct O&M at the Site until August 2017, at which time GHD took over the O&M work.

Tetra Tech and GHD performed routine O&M activities at the site during each quarterly sampling event, as well as intermittent as-needed work. The sparge system generally ran well during this period, but was down for 2.5 hours on May 24, 2017, to replace the blower.

The following O&M activities were performed during this period, in addition to the routine O&M:

- The air sparge system was shut down as part of a rebound study following data collection during the April 2014 monitoring event.
- Bioventing well BV-10 and vapor monitoring wells MN-V5 (50') and MN-V5 (95') were abandoned in preparation for construction of new ASTs at the facility on April 27, 2015.
- Air flow to the bioventing wells was re-balanced on July 25, 2017 to original specifications based on June 2017 air flow readings and blower operating parameters.
- Bioventing well conditions were assessed and supplied air was shut off to abandoned well BV-10 and damaged well BV-7 on September 14, 2017.
- Vapor monitoring well caps were replaced and sampling ports installed on September 16, 2017.
- Wells BV-2 and BV-3 were located and dug out on November 9, 2017, and it was determined that they were in good condition and were receiving air. BV-1 was not located and may be buried under a terminal tank.
- The air sparge shed was cleaned out, then locked and tagged out on November 10, 2017. Waste oil was also recycled.
- Maintenance and repairs were performed on the electrical components of the bioventing system from March 20 through March 23, 2018, which included replacing the backup battery, blower contactor, and associated wiring.

The bioventing system data logger experienced intermittent failure during 2018. During the failures telemetry data for system air flow and manifold pressure was not transmitted for a period. GHD believes the malfunction is caused by high temperatures in the

---

bioventing system shed, and has visually verified that the system is operating normally during periods of data logging failure.

### **3.2 Effectiveness of completed cleanup actions**

The Cleanup Action Plan has been implemented at the Site and the receptors and exposure pathways identified in the CAP have not changed. The completed remedy, which includes institutional controls, has eliminated exposure pathways and remains protective of human health and the environment. Post-closure monitoring began in August 2002 and will continue in accordance with the compliance monitoring plan.

The shallow soil excavation and thermal treatment removed the potential pathway for direct dermal contact and ingestion. In addition, the excavation and soil treatment removed a large contaminant mass that was a contaminant source for groundwater.

Groundwater contamination concentrations remain greater than Site cleanup levels in some facility wells and wells immediately downgradient of the facility. The groundwater plume has reduced in size since the cleanup actions were completed. The overall trends indicate a general decline in contamination and in plan view over 2,000 feet of aquifer has been restored. In part, natural attenuation has also contributed to the restoration.

The air sparging system is no longer operational. It was shut down as part of a rebound study following data collection during the April 2014 monitoring event. Petroleum hydrocarbon concentrations in wells downgradient of the sparge system have generally remained less than the CAP CULs since system shutdown, with the exception of samples from NM-22 in May and November 2014, September 2015, and September 2016, and NM-34 in December 2015.

Data from the bioventing system shows that contaminant concentrations have decreased and remain generally low. GHD submitted a request to turn the bioventing system off in the 2018 Annual Groundwater Monitoring and Operations and Maintenance Report, and Ecology approved that request in an email on May 24, 2019.

Institutional controls, including several restrictive covenants (see Table 2-2), were placed on the fuel terminal property and other properties overlying groundwater with contaminant concentrations greater than cleanup levels. The covenants prohibit activities that could result in the release of contaminants at the Site without Ecology's approval, and prohibit any use of the properties that is inconsistent with the covenant. These covenants serve to ensure the long-term integrity of the remedy, and they and the institutional controls will remain until Ecology determines they are no longer warranted.

---

### **3.3 New scientific information for individual hazardous substances or mixtures present at the Site**

There is no new scientific information for the contaminants related to the Site.

### **3.4 New applicable state and federal laws for hazardous substances present at the Site**

The cleanup at the Site was governed by 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 Site soil cleanup levels were developed using Ecology’s total petroleum hydrocarbons (TPH) Interim TPH Policy (1/97). The interim policy is no longer in use since the 2001 MTCA amendment. However, the shallow contaminated soil was excavated to or below the 15- foot point of compliance and treated to concentrations well below current MTCA standards.

Groundwater Method A cleanup levels changed with the 2001 MTCA amendment. This affected the cleanup levels for toluene, ethylbenzene, and xylene. In addition, the cleanup level for manganese has changed since the MTCA amendment. The cleanup levels for these constituents have increased; therefore, the cleanup action will continue to remain protective of human health and the environment.

### **3.5 Current and projected Site use**

The site is comprised of an operating fuel distribution facility and other commercial and light industrial land uses in keeping with Spokane County zoning. There have been no changes in current or projected future Site or resource uses.

### **3.6 Availability and practicability of higher preference technologies**

The cleanup action provided source control by removal and treatment of the contaminated shallow soil. Deeper soil contamination was addressed with a bioventing system designed to enhance biodegradation. Contaminated groundwater was treated with an air sparging system. The thermal treatment of shallow soil and the operation of the bioventing and air sparging systems are protective of human health and the environment. Higher preference cleanup technologies do not exist for the Site because source removal has been completed and practical treatment systems provided high preference cleanup technologies.

### **3.7 Availability of improved analytical techniques to evaluate compliance with cleanup levels**

Analytical techniques have improved for TPH and associated BTEX compounds. Because cleanup levels were not set at the practical quantification limit (PQL), changes in analytical techniques do 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. The shallow soil excavation and treatment eliminated the direct contact pathway for contaminated soil and removed a large groundwater contaminant source. The bioventing system has enhanced soil contaminant biodegradation and soil vapor concentrations have declined across the Site during the period of bioventing system operation. The air sparging system reduced groundwater contamination downgradient of the system to concentrations generally less than cleanup levels, and was shut down as part of a rebound study in April 2014.

While source removal and treatment system operations have generally decreased groundwater contamination across the Site, concentrations remain greater than cleanup levels in a few wells. Since groundwater cleanup levels have not been met at the point of compliance, the institutional controls will remain in effect. The restrictive covenants placed on the Site were recorded in December 2002 and February 2003. The covenants will continue to be effective in protecting human health and the environment and assuring the integrity of the cleanup action.

The current groundwater compliance monitoring schedule is to sample site wells NM-4, 11, 22, 31, 32, 33, 34 on a quarterly schedule, and wells NM-3, 13, 18, and 24 on a semi-annual schedule. Quarterly monitoring will be required for two quarters (3<sup>rd</sup> and 4<sup>th</sup> quarter 2019) after bioventing system shutdown to assess potential rebound effects. After 4<sup>th</sup> quarter 2019 the sampling frequency may be reviewed for possible adjustment, based on groundwater and soil vapor analytical results. In addition, as discussed with GHD on May 17, 2019, TPH and total arsenic and manganese analyses need to be added to the groundwater analytical suite going forward so Site conditions can be compared to Site cleanup levels.

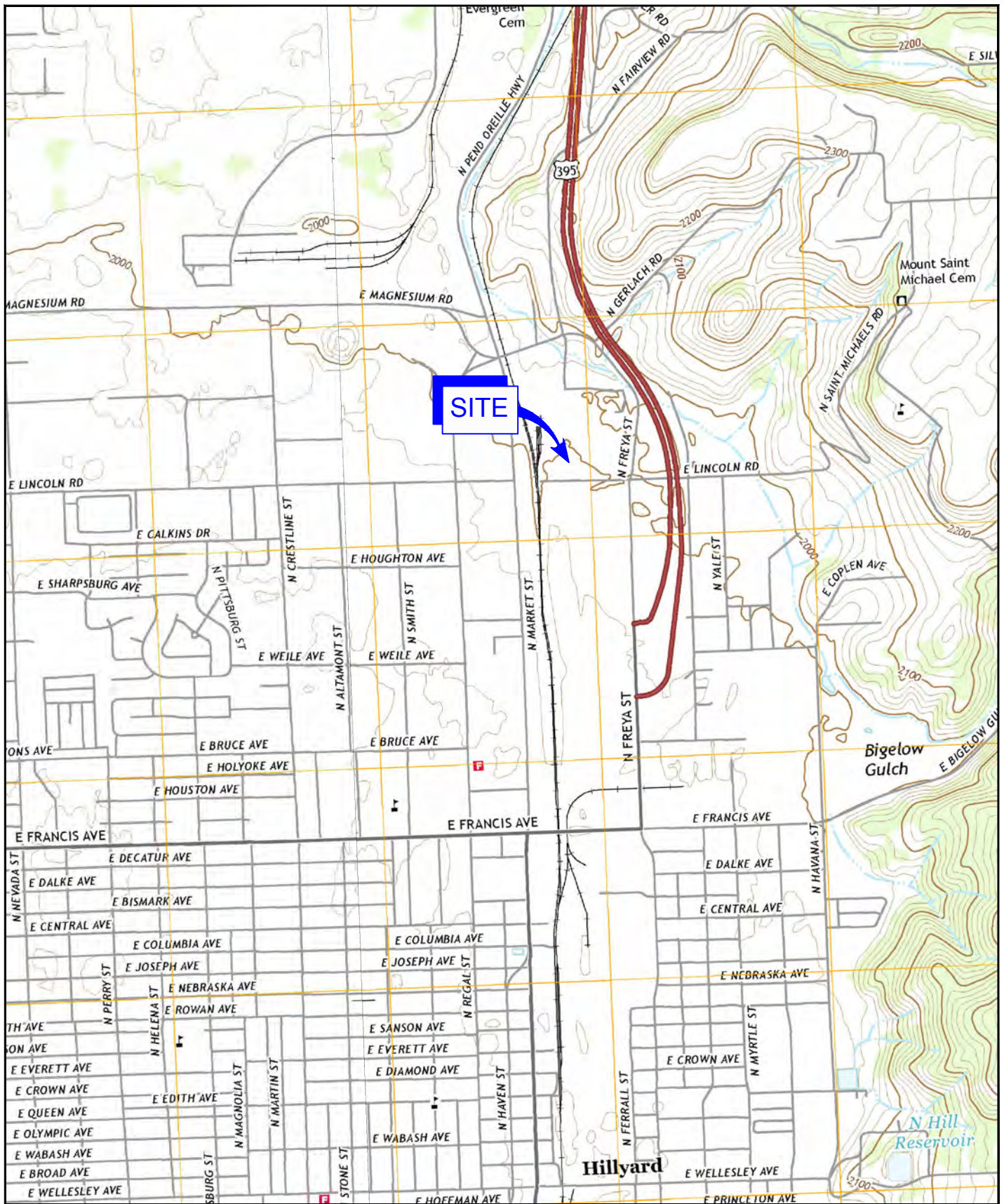
Based on this periodic review, Ecology has determined that the requirements of the Covenant are being followed. No additional cleanup actions are required by the property owner at this time. Phillips 66 will continue to be responsible for maintenance of the treatment systems on the Site, and will continue to inspect the Site to assure that the integrity of the remedy is maintained.

### **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.



# FIGURES



Source: USGS QUADRANGLE MAPS: SPOKANE NE, WA. (2017). & SPOKANE NW, WA. (2017).

0 1000 2000ft

Coordinate System:  
WASHINGTON NORTH  
STATE PLANE NAD83 FEET



PHILLIPS 66  
NORTH MARKET STREET SITE  
SPOKANE, WASHINGTON

SITE LOCATION MAP

11145846-3MN00

May 15, 2018

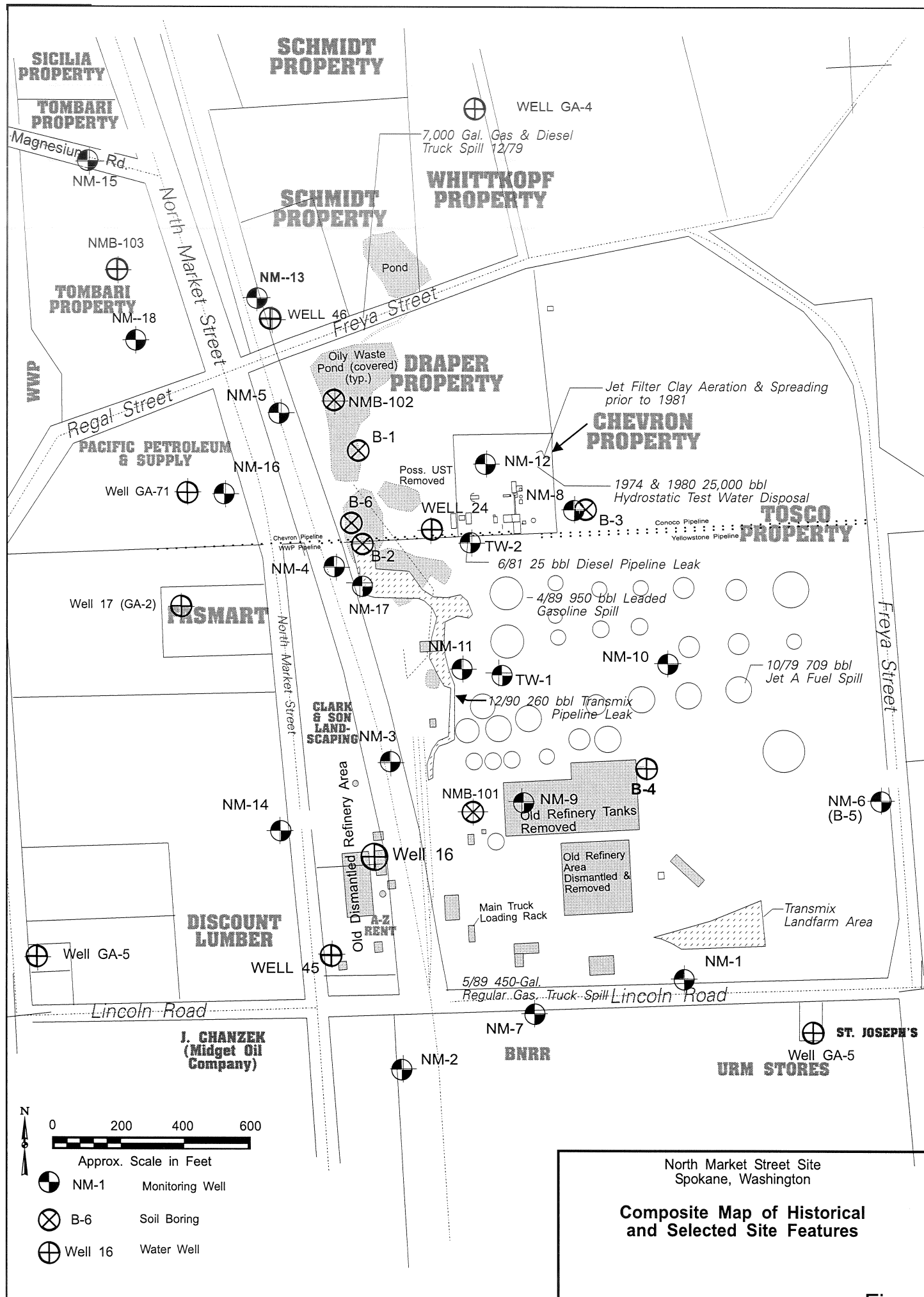


Figure 2

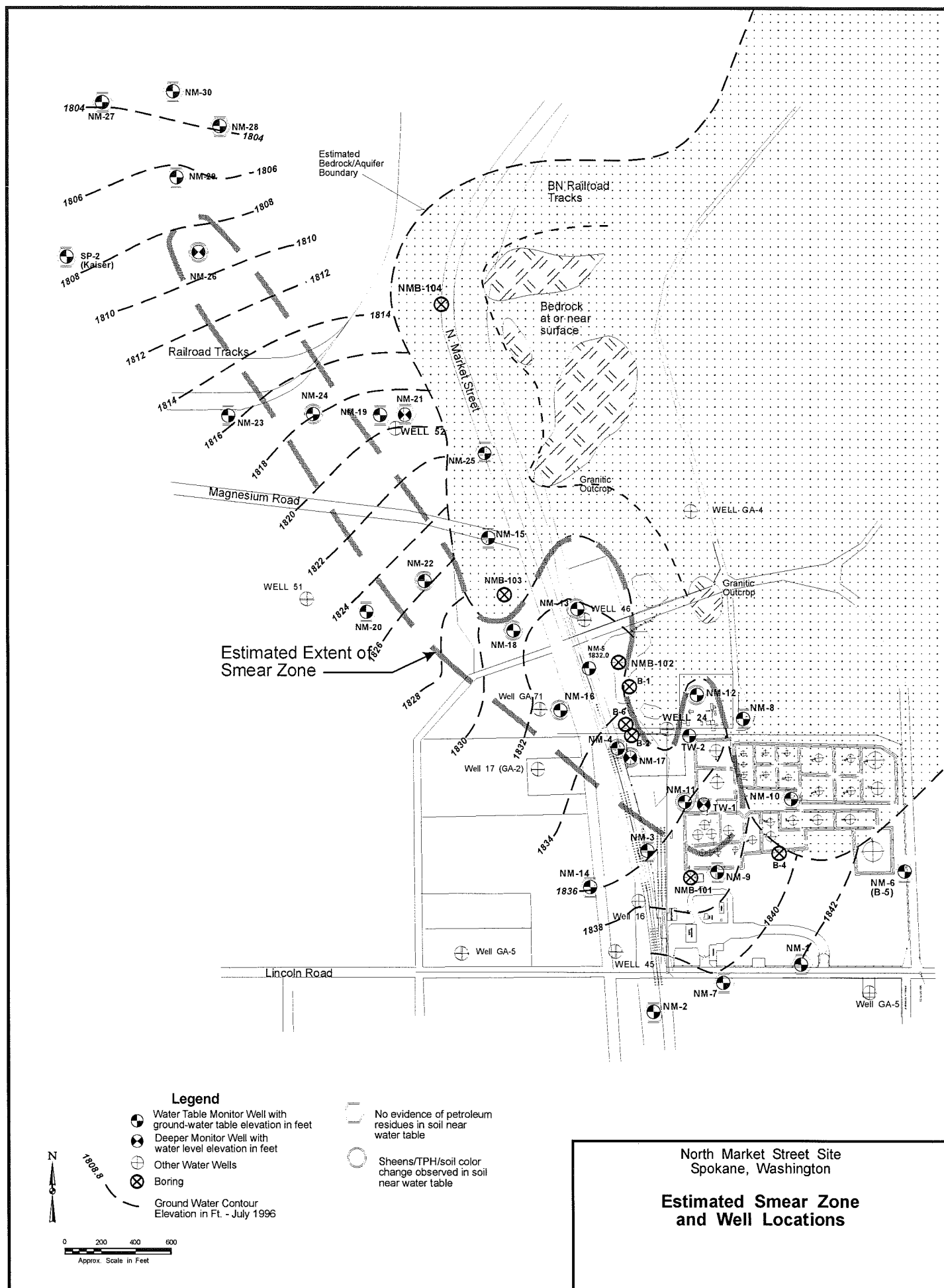


Figure 3



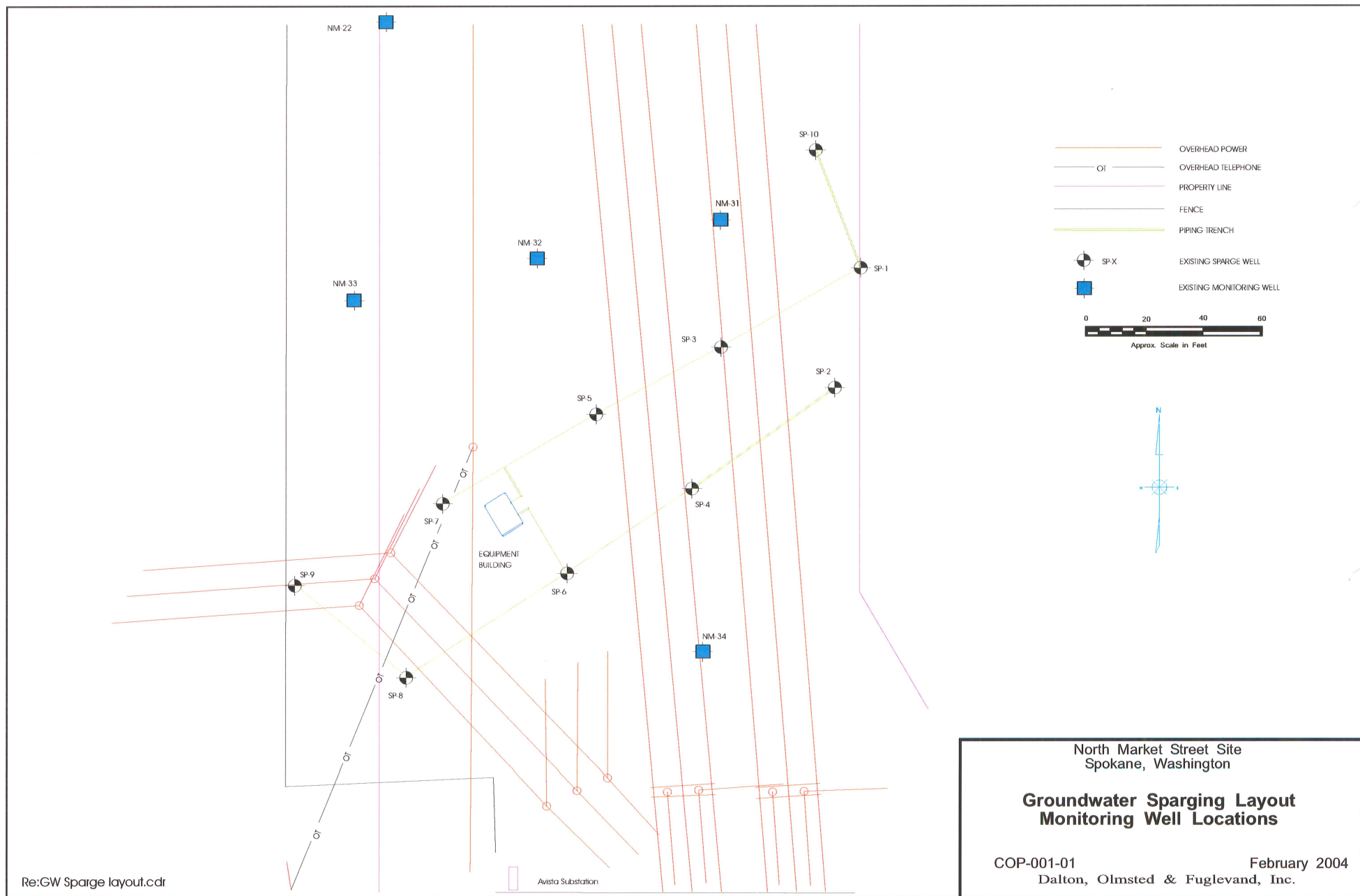
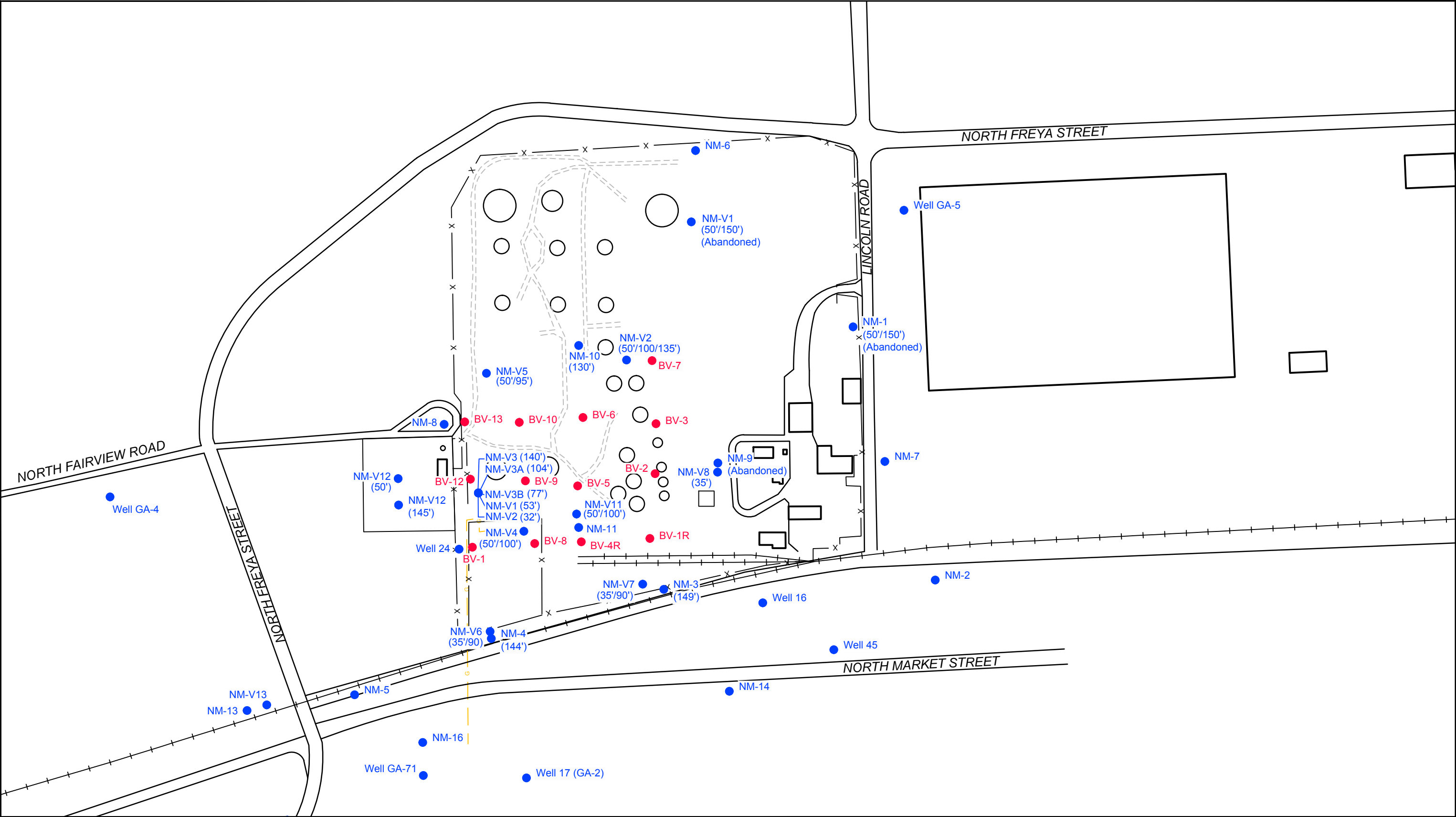


Figure 4



Source: Tetra Tech 4 Quarter 2016 GWM and Remediation System O&M-FIGURE 3 dated 10/21/08.

0150300ft

NM-30

BV-3

VAPOR MONITORING WELL LOCATION

BIOVENTING WELL LOCATION

x

g

+

FENCE LINE

GAS LINE

RAILROAD TRACKS

(50')

---

□

○

WELL DEPTH

DIRT PATH

BUILDING

TANK

BIOVENTING SYSTEM  
NORTH MARKET STREET SITE  
SPOKANE, WASHINGTON

BIOVENTING SYSTEM

11145846-MN00

Jan 24, 2018

CAD File: I:\Sonoma.Public\CAD\drawings\11140000s\11145846-REPORTS\11145846-MN00(003)GN\11145846-MN00(003)GN-SO001.DWG

Figure 5

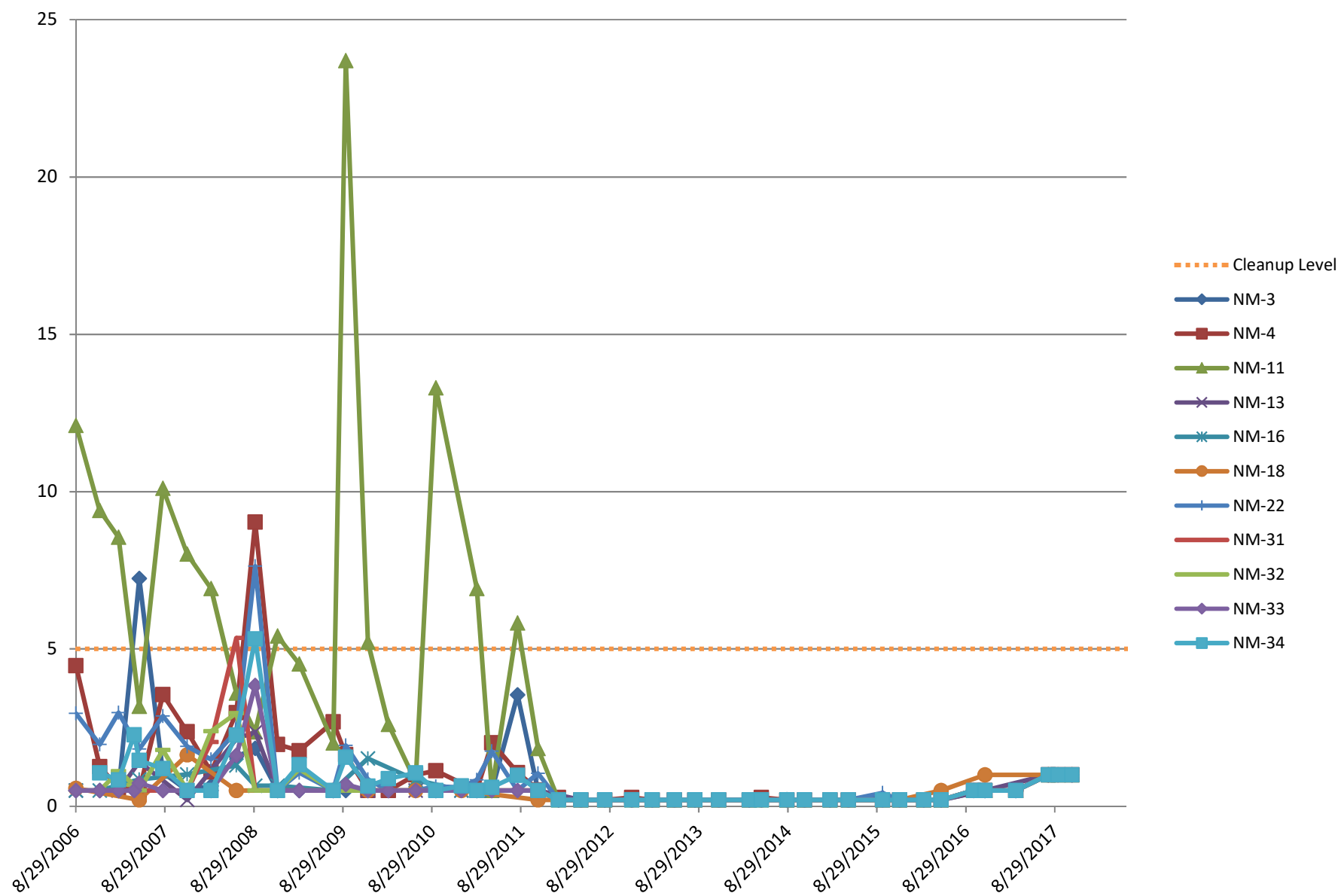
# APPENDICES

# Appendix A

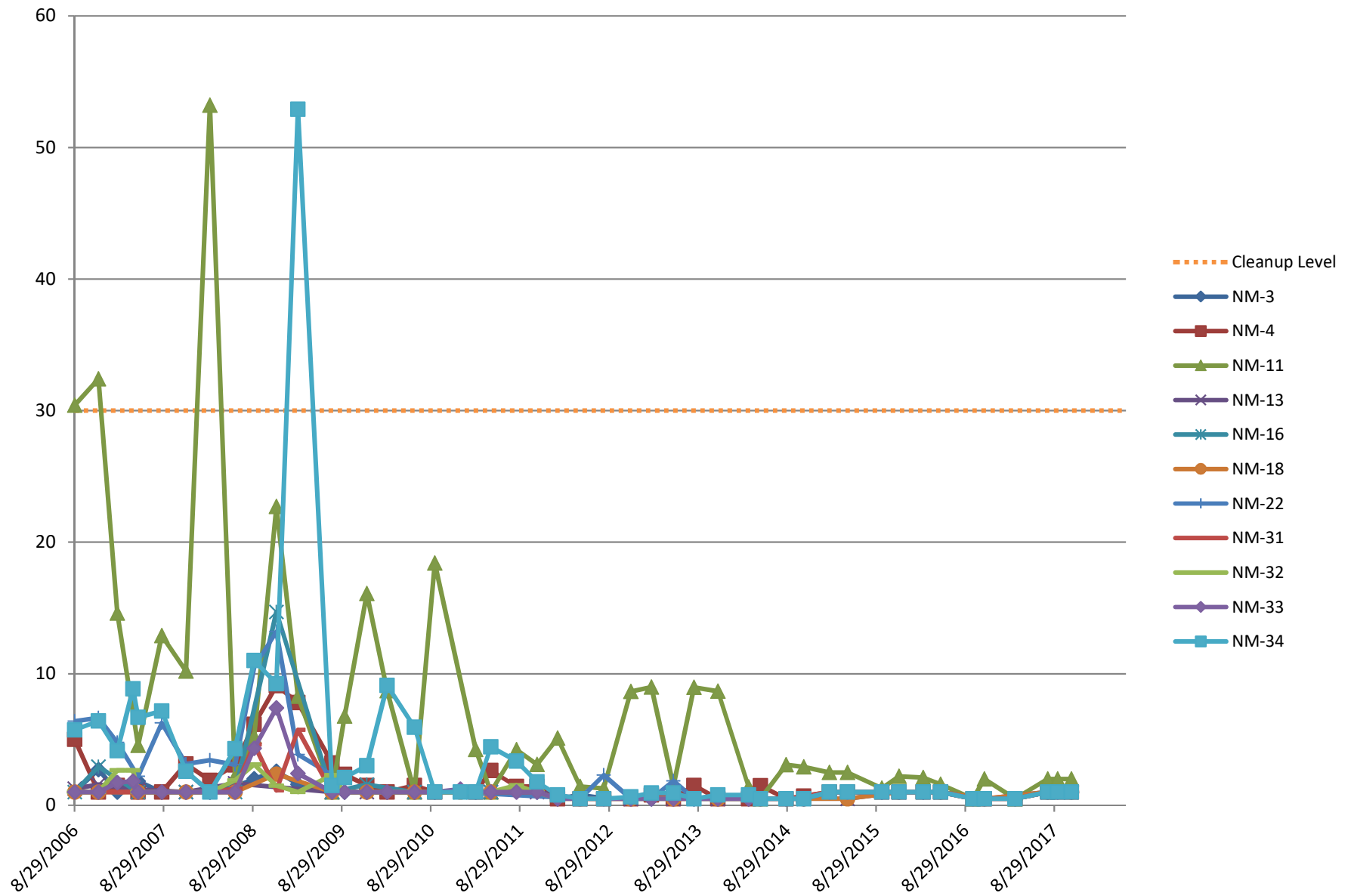
## Monitoring Well Contaminant Graphs



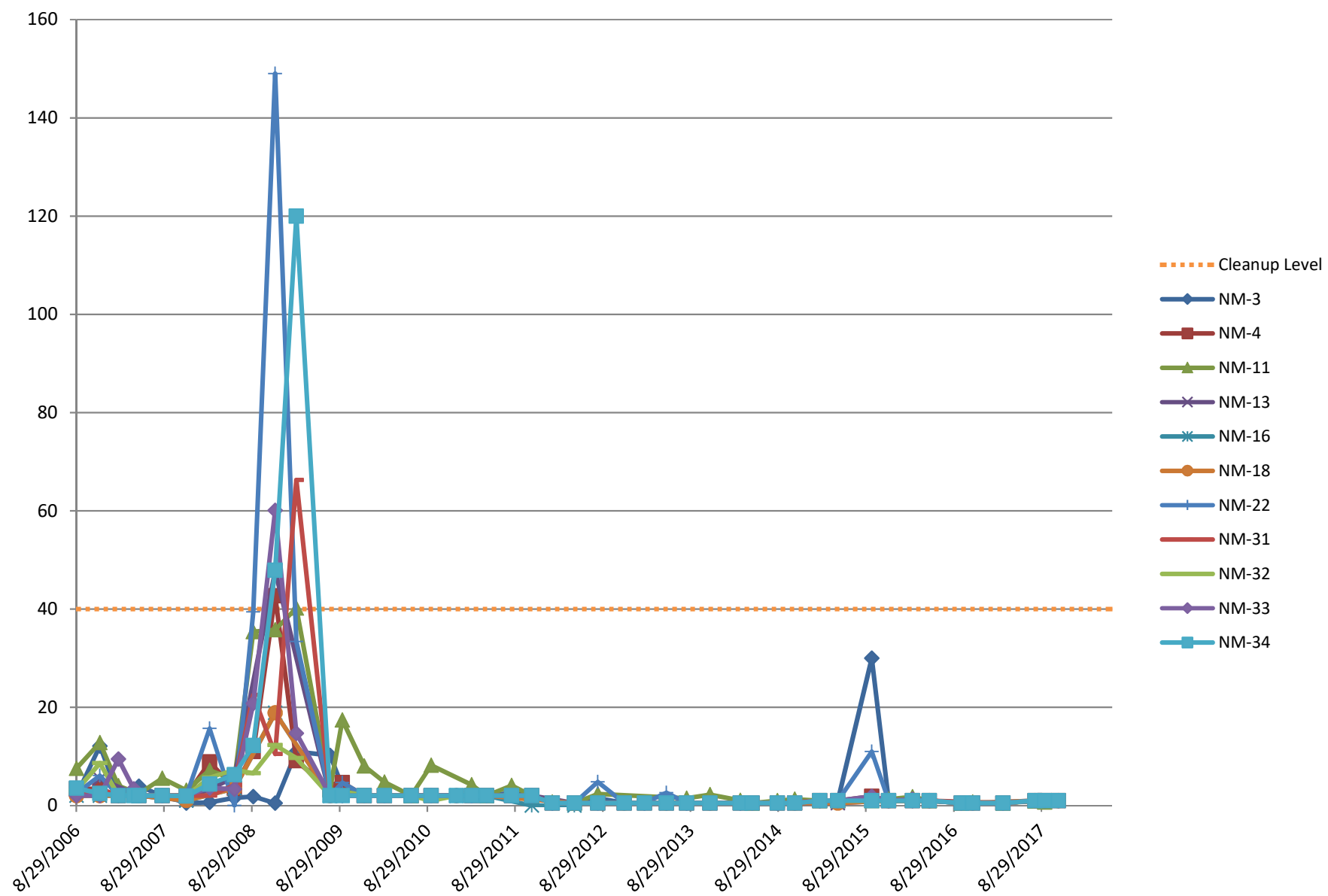
**North Market Street**  
**Benzene Concentrations (ug/L)**



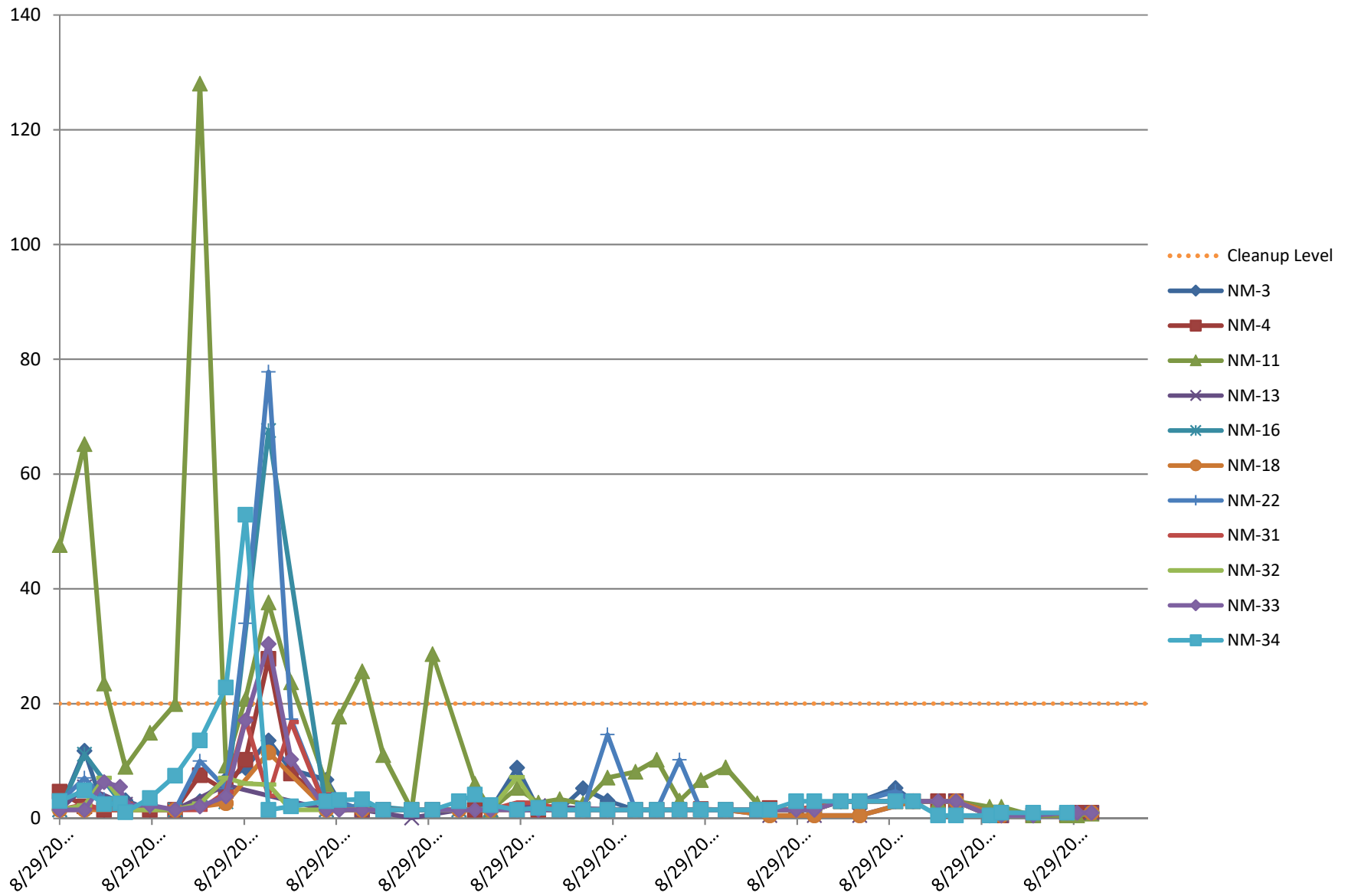
### North Market Street Ethylbenzene Concentrations (ug/L)



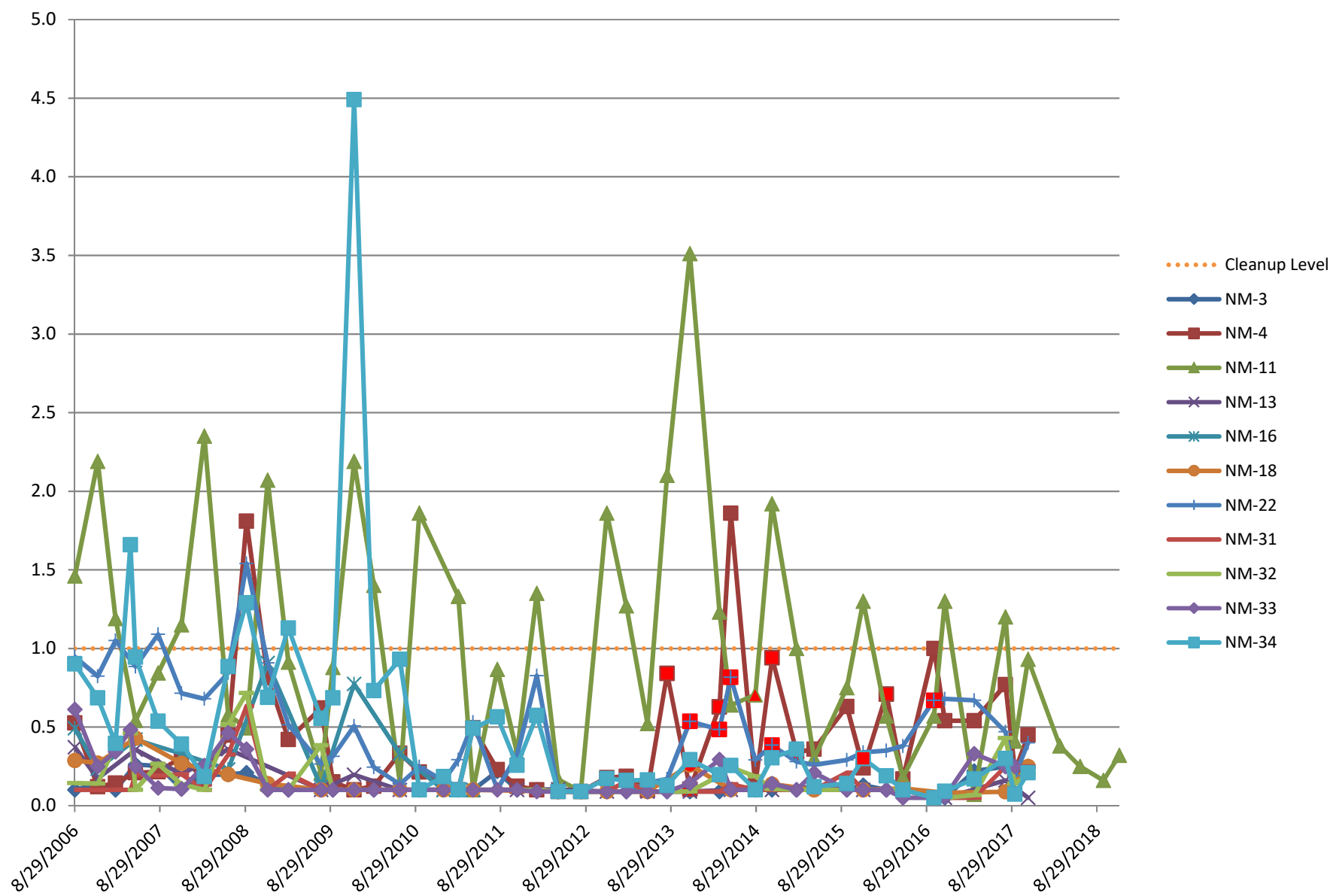
**North Market Street**  
**Toluene Concentrations (ug/L)**



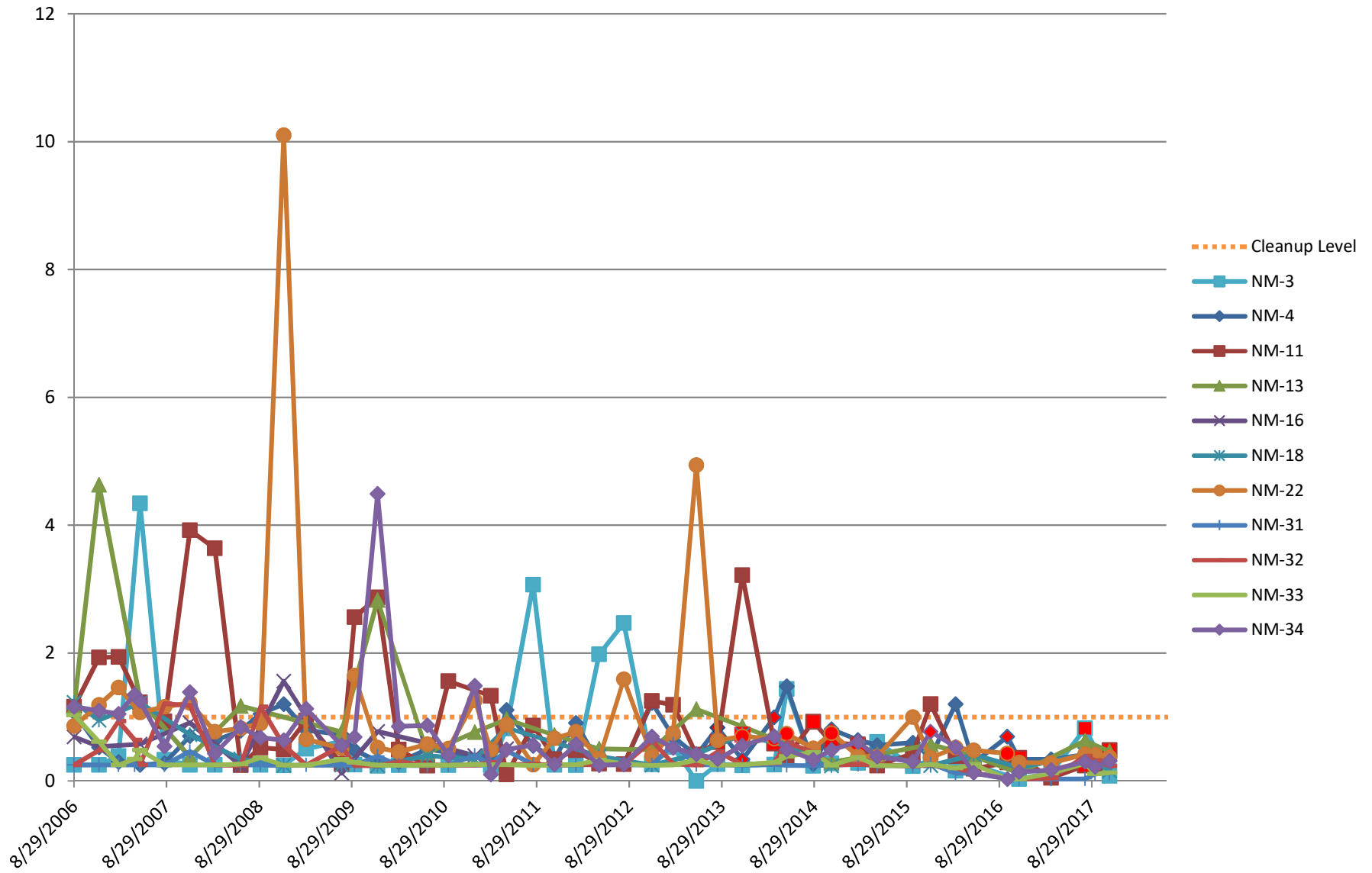
**North Market Street**  
**Xylene Concentrations (ug/L)**



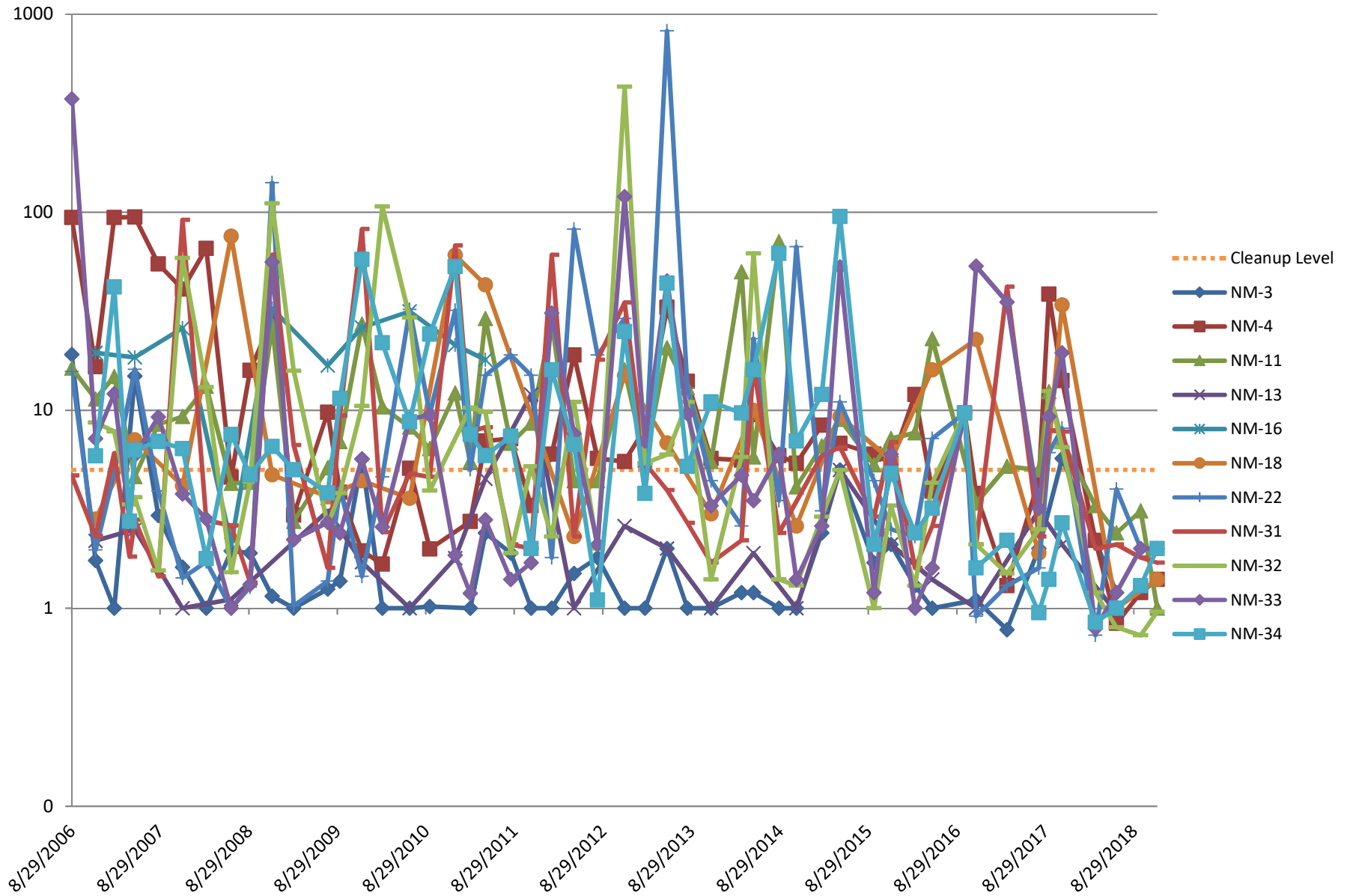
## North Market Street Gasoline Concentrations (ug/L)



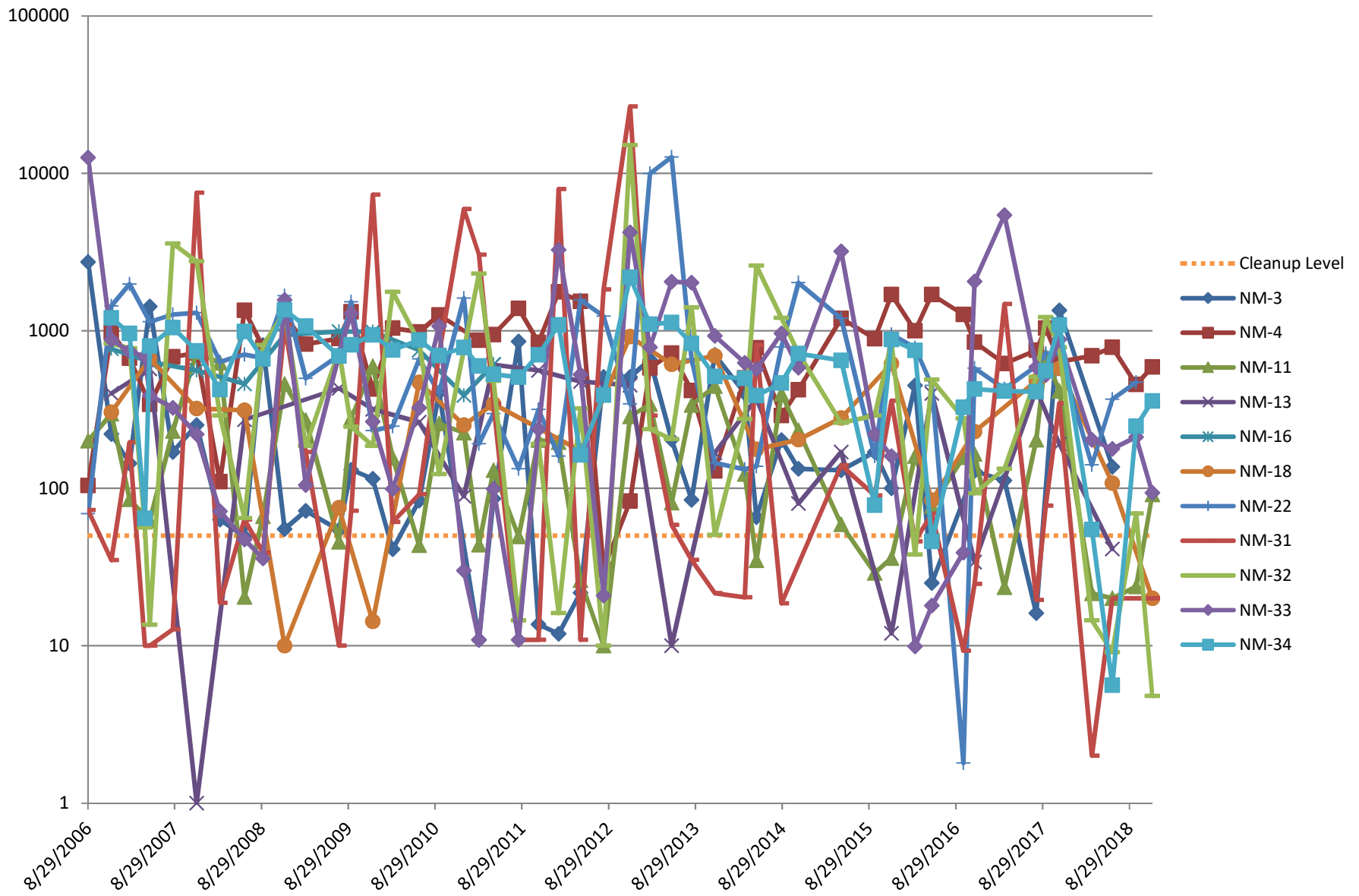
# North Market Street Diesel Concentrations (mg/L)



# North Market Street Arsenic Concentrations (ug/L)



# North Market Street Manganese Concentrations (ug/L)





# Appendix B

## Restrictive Covenants

COPY  
ORIGINAL FILED OR RECORDED

FEB 12 2003

COUNTY AUDITOR  
SPOKANE COUNTY WA

4845741

## WHEN RECORDED RETURN TO:

Jerry K Boyd  
Paine, Hamblen, Coffin, Brooke & Miller, LLP  
1200 Washington Trust Financial Center  
717 West Sprague Avenue  
Spokane, WA 99201-3505

**RESTRICTIVE COVENANT  
NORTH MARKET STREET SITE****GRANTOR:**

ConocoPhillips, Inc., a Delaware Corporation

**ABBREVIATED  
DESCRIPTION:**

Portion of the South Half of the Southwest Quarter of Section 22, Twp,  
26N, R43 EWM in Spokane County, Washington as more fully described  
in attached Exhibit A. (Parcel Nos. 36223.9028, 36223.9030,  
36223.9031, 36223.9130)

Pursuant to the Model Toxics Control Act, Chapter 70.105D RCW, a remedial action was conducted at the property that is the subject of this Restrictive Covenant. The work that will be done to remediate the property and conduct long-term operation and maintenance (hereafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington Department of Ecology v. Tosco Refining Corporation, et al., Spokane County Superior Court No. 00-2-07012-2 and in attachments to the Consent Decree and in documents referenced in the Consent Decree.

The Cleanup Action conducted at the property is described in the following documents:

North Market Street Site - Cleanup Action Plan, Washington State Department of Ecology, Eastern Regional Office, September 1999,

Ecology and Environment, Inc., 1998, Technical Assistance Team Site Assessment, Final Report for: Tosco Corporation Spokane Terminal, Spokane, Washington.

RESTRICTIVE COVENANT  
NORTH MARKET STREET SITE - 1

Golder Associates, 1985, Phase I Remedial Investigation of the North Market Street Site, Volumes I, II, and III.

1988, Data Compilation Report for the North Market Street Site Phases I, II, and III Remedial Investigations.

U.S. Environmental Protection Agency, 1990, Aerial Photographic Analysis of Tosco, Incorporated, Spokane, Washington, Prepared by: Environmental Systems Laboratory, TS-PIC-90752.

Washington State Department of Ecology, 1990, October 1990 ground water sample results data report.

1990, Environmental Report Tracking System, Spill Report - Tosco Refining Company, E. 3225 Lincoln Road, Spokane, Washington.

These documents are on file at Ecology's Eastern Regional Office.

This Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by ConocoPhillips Company, a Delaware Corporation, (hereafter the "Defendants"), their successors and assigns, and the Washington State Department of Ecology (hereafter "Ecology"), its successors and assigns.

This Restrictive Covenant is required by Ecology under WAC 173-340-440 because the Cleanup Action resulted in hazardous substances remaining on the Site, and because groundwater concentrations of hazardous substances exceed statutory cleanup levels established under WAC 173-340-720.

The undersigned, ConocoPhillips Company, is the fee owner of real property in the County of Spokane, State of Washington, more fully described in Exhibit A attached hereto and by this reference made a part thereof as though set out in full (hereafter referred to as "Property"). Said Property is subject to this Restrictive Covenant.

The undersigned, ConocoPhillips Company, makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

#### Section 1.

- a. Existing fencing shall not be removed and shall be maintained to prevent unauthorized access to the Property unless approved by Ecology.

- b. No groundwater may be taken for any use from the Property unless the groundwater removal is part of monitoring activities associated with an Ecology-approved compliance monitoring plan.
- c. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Site as part of the Cleanup Action, or that may create a new exposure pathway, is prohibited. Such activities are permissible only if: (1) they are part of routine maintenance system requirements performed in accordance with the North Market Street Site - Cleanup Action Plan; (2) they are allowed or required under the North Market Street Site - Cleanup Action Plan; (3) they are part of monitoring activities associated with an Ecology-approved compliance monitoring plan, (4) immediate actions are necessary in response to emergency situations; or (5) Ecology provides prior written approval for such activities.
- d. No new structures shall be constructed on areas of the Site where hazardous substances have come to be located without the written approval of Ecology and written approval by the local agency or agencies of jurisdiction.
- e. The Property shall be used only for industrial or commercial land uses, as described in WAC 173-340-740(1)(c), and defined in and allowed under the City of Spokane [or Spokane County] zoning regulations.

Section 2. Any activity on the Property that may interfere with the integrity of the Cleanup Action and continued protection of human health and the environment is prohibited without prior written approval from Ecology.

Section 3. The Owner of the Property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Cleanup Action on the Property.

Section 4. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions herein on the use of the Property.

Section 5. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve an inconsistent use only after an opportunity for public notice and comment is provided.

Section 6. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Cleanup Action; to take samples,

to inspect remedial actions conducted at the Property, and to inspect records that are related to the Cleanup. Action.

Section 7. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and comment, concurs.

CONOCOPHILLIPS COMPANY

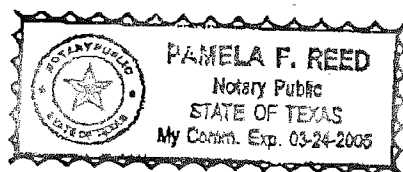
Corporate Seal

By: William A. Kitchen DV  
Its: Mgr. - Risk Mgt & Remediation

STATE OF TEXAS )  
County of HARRIS ) ss.

On this 11<sup>th</sup> day of February, 2003, before me personally appeared William A. Kitchen to me known to be the Mgr. - Risk Mgt & Remediation of the corporation that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Pamela F. Reed  
NOTARY PUBLIC, in and for the State of  
Texas, residing in Harris County  
Commission expires: 3/24/05

**EXHIBIT A**

That portion of the South Half of the Southwest Quarter of Section 22, Township 26 North, Range 43 East of the Willamette Meridian, Easterly of a line parallel to and 56 feet distant Northeasterly from the center line of the most Easterly main track of the Great Northern Railway Company, as the same existed on September 16, 1938, and Westerly of the West line of the Morgan Road Extension No. 1688;

EXCEPT the South 30 feet thereof for Lincoln Road;

AND EXCEPT the following described parcel;

COMMENCING at the Southeast corner of said Southwest Quarter;

Thence North 30 feet;

Thence West parallel to the South line of said Southwest Quarter, a distance of 50 feet to the True Point of Beginning of this exception;

Thence North parallel with the East line of said Southwest Quarter, a distance of 170 feet;

Thence Southwesterly to a point 30 feet North of and 100 feet West of the Southeast corner of said Southwest Quarter;

Thence East parallel with and 30 feet North of the South line of said Southwest Quarter, a distance of 50 feet to the True Point of Beginning;

Situate in the County of Spokane, State of Washington.

COPY  
ORIGINAL FILED OR RECORDED

FEB 12 2003

COUNTY AUDITOR  
SPOKANE COUNTY WA  
4845742

## WHEN RECORDED RETURN TO:

Jerry K Boyd  
Paine, Hamblen, Coffin, Brooke & Miller, LLP  
1200 Washington Trust Financial Center  
717 W. Sprague Ave  
Spokane, WA 99201-3505

RESTRICTIVE COVENANT  
NORTH MARKET STREET SITE

GRANTOR: ConocoPhillips, Inc., a Delaware Corporation

ABBREVIATED  
DESCRIPTION:

Portion of the North Half of the Southwest Quarter of Section 22, Twp,  
26N, R43 EWM in Spokane County, Washington as more fully described  
in attached Exhibit A. (Parcel No. 36223.9080)

Pursuant to the Model Toxics Control Act, Chapter 70.105D RCW, a remedial action was conducted at the property that is the subject of this Restrictive Covenant. The work that will be done to remediate the property and conduct long-term operation and maintenance (hereafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington Department of Ecology v. Tosco Refining Corporation, et al., Spokane County Superior Court No. 00-2-07012-2 and in attachments to the Consent Decree and in documents referenced in the Consent Decree.

The Cleanup Action conducted at the property is described in the following documents:

North Market Street Site - Cleanup Action Plan, Washington State Department of Ecology, Eastern Regional Office, September 1999.

Ecology and Environment, Inc., 1989, Technical Assistance Team Site Assessment, Final Report for: Tosco Corporation Spokane Terminal, Spokane, Washington.

Golder Associates, 1985, Phase I Remedial Investigation of the North Market Street Site, Volumes I, II, and III.

1988, Data Compilation Report for the North Market Street Site Phases I, II, and III Remedial Investigations.

U.S. Environmental Protection Agency, 1990, Aerial Photographic Analysis of Tosco, Incorporated, Spokane, Washington, Prepared by: Environmental Systems Laboratory, TS-PIC-90752.

Washington State Department of Ecology, 1990, October 1990 ground water sample results data report.

1990, Environmental Report Tracking System, Spill Report - Tosco Refining Company, E. 3225 Lincoln Road, Spokane, Washington.

These documents are on file at Ecology's Eastern Regional Office.

This Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by ConocoPhillips Company, a Delaware Corporation, (hereafter the "Defendants"), their successors and assigns, and the Washington State Department of Ecology (hereafter "Ecology"), its successors and assigns.

This Restrictive Covenant is required by Ecology under WAC 173-340-440 because the Cleanup Action resulted in hazardous substances remaining on the Site, and because groundwater concentrations of hazardous substances exceed statutory cleanup levels established under WAC 173-340-720.

The undersigned, ConocoPhillips Company, is the fee owner of real property in the County of Spokane, State of Washington, more fully described in Exhibit A attached hereto and by this reference made a part thereof as though set out in full (hereafter referred to as "Property"). Said Property is subject to this Restrictive Covenant.

The undersigned, ConocoPhillips Company, makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").



Section 1.

- a. No groundwater may be taken for any use from the Property unless the groundwater removal is part of monitoring activities associated with an Ecology-approved compliance monitoring plan.
- b. The Property shall be used only for industrial or commercial land uses, as described in WAC 173-340-740(l)(c), and defined in and allowed under the City of Spokane [or Spokane County] zoning regulations.

Section 2. Any activity on the Property that may interfere with the integrity of the Cleanup Action and continued protection of human health and the environment is prohibited without prior written approval from Ecology.

Section 3. The Owner of the Property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Cleanup Action on the Property.

Section 4. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions herein on the use of the Property.

Section 5. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve an inconsistent use only after an opportunity for public notice and comment is provided.

Section 6. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Cleanup Action; to take samples, to inspect remedial actions conducted at the Property, and to inspect records that are related to the Cleanup Action.

Section 7. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and comment, concurs.

CONOCOPHILLIPS COMPANY

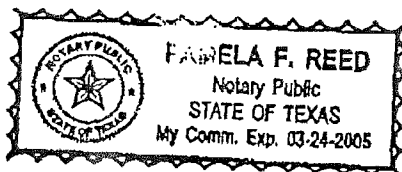
Corporate Seal

By: William A. Kitchen <sup>OV</sup>  
Its: Mgr - Risk Mgt & Remediation

STATE OF TEXAS )  
County of HARRIS ) ss.

On this 11<sup>th</sup> day of February, 2003, before me personally appeared William A. Kitchen to me known to be the Mgr - Risk Mgt & Remediation of the corporation that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Pamela F. Reed  
NOTARY PUBLIC, in and for the State of  
Texas, residing in Harris County  
Commission expires: 3/24/05.

**EXHIBIT A**

That portion of the South 30 feet of the Northwest Quarter of the Southwest Quarter of Section 22, Township 26 North, Range 43 East of the Willamette Meridian, lying Easterly of a line parallel to and 56 feet distant Northeasterly from the center line of the most Easterly main track of the Great Northern Railway Company, as the same existed on September 16, 1938;

AND that portion of the Northeast Quarter of the Southwest Quarter of said Section 22, lying South and West of Morgan Road Extension No. 1688, South of Webster Road, sometimes referred to as Gerlach Road, and South of Fairview Road;

EXCEPT the following described tract;

COMMENCING at the Southwest corner of the Northeast Quarter of the Southwest Quarter of said Section 22;

Thence North along the West line of said subdivision, a distance of 30 feet to the True Point of Beginning of this exception;

Thence East parallel to the South line of said Northeast Quarter of the Southwest Quarter to a point which is 1275 feet West of and perpendicular to the East line of said Southwest Quarter;

Thence North perpendicular to the South line of said Northeast Quarter of the Southwest Quarter, a distance of 300 feet;

Thence East parallel to the South line of said Northeast Quarter of the Southwest Quarter, a distance of 300 feet;

Thence North  $02^{\circ}46'$  West, a distance of 469 feet, more or less, to a point on the South line of Fairview Road, as the same existed on September 16, 1938;

Thence Southwesterly along said South line to an intersection with the West line of said Northeast Quarter of the Southwest Quarter;

Thence South along said West line to the Point of Beginning;

AND EXCEPT the following described tract;

COMMENCING at a point 30 feet North and 975 feet West, as measure along the South line of said Northeast Quarter of the Southwest Quarter, of the Southeast corner of said Northeast Quarter of the Southwest Quarter;

Thence West along a line parallel to and 30 feet North of the South line of said Northeast Quarter of the Southwest Quarter, a distance of 300 feet;

Thence at right angles North a distance of 300 feet;

Thence at right angles East, a distance of 300 feet;

Thence at right angles South, a distance of 300 feet to the Point of Beginning;

Situate in the County of Spokane, State of Washington.

COPY  
ORIGINAL FILED OR RECORDED

FEB 12 2003

COUNTY AUDITOR  
SPOKANE COUNTY WA

4845743

*FILED FOR RECORD AT REQUEST OF:*

Jerry K. Boyd  
Paine, Hamblen, Coffin, Brooke & Miller LLP  
1200 Washington Trust Financial Center  
717 West Sprague Avenue  
Spokane, WA 99201-3505

**COVER SHEET - INDEXING FORM**

**LAW OFFICES OF  
PAINE, HAMBLEN, COFFIN, BROOKE & MILLER LLP**

<b>Document Title:</b>	<b>Settlement Agreement</b>
<b>Owner:</b>	<b>Earl H. Schmidt and Joyce M. Schmidt, Trustees Schmidt Living Trust</b>
<b>Grantee:</b>	<b>ConocoPhillips Company</b>
<b>Abbreviated Legal Description:</b>	<b>Tracts "A" and "B" of SP87-520, being a portion of SW¼NW¼ 22-26-43</b>
<b>Additional Legal On:</b>	<b>Exhibit "B"</b>
<b>Assessor's Parcel Numbers:</b>	<b>36223.9143 and 36223.9142</b>

Sent By: PAINE HAMBLIN 14;

509 838 0007;

Feb-12-03 2:43PM;

Page 18/26

**EXHIBIT A**

**RESTRICTIVE COVENANT**

**Settlement Agreement**

**By and Between**

**ConocoPhillips, Schmidt Living Trust and Mr. & Mrs. Earl Schmidt**

## RESTRICTIVE COVENANT

For

8520 N. Freya Avenue; Spokane, Washington

[Parcel: 22-26-43 TR "B" of SP87-520 Being A PTN of SW 1/4 of NW 1/4]

[Parcel: 22-26-43 TR "A" of SP87-520 Being A PTN of SW 1/4 of NW 1/4]

Pursuant to the Model Toxics Control Act, Chapter 70.1 05D RCW, a remedial action was conducted at or in the vicinity of the property that is the subject of this Restrictive Covenant. The work that will be done to remediate the property and conduct long-term operation and maintenance (hereafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington Department of Ecology v. Phillips Petroleum Company & Tosco Refining Corporation, Spokane County Superior Court and in attachments to the Consent Decree and in documents referenced in the Consent Decree.

The Cleanup Action is described in the following documents:

North Market Street Site - Cleanup Action Plan, Washington State Department of Ecology, Eastern Regional Office, September 1999.

Ecology and Environment, Inc., 1989, Technical Assistance Team Site Assessment, Final Report for: Tosco Corporation Spokane Terminal, Spokane, Washington.

Golder Associates, 1985, Phase I Remedial Investigation of the North Market Street Site. Volumes I, II, and III.

1988, Data Compilation Report for the North Market Street Site Phases I, II, and

### III Remedial Investigations.

U. S. Environmental Protection Agency, 1990, Aerial Photographic Analysis of Tosco, Incorporated, Spokane, Washington, Prepared by: Environmental Systems Laboratory, TS-PIC-90752.

Washington State Department of Ecology, 1990, October 1990 ground water sample results data report.

1990, Environmental Report Tracking System, Spill Report - Tosco Refining Company, E. 3225 Lincoln Road, Spokane, Washington.

These documents are on file at Ecology's Eastern Regional Office.

This Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Phillips Petroleum Company & Tosco Refining Corporation, (hereafter the "Defendants"), their successors and assigns, and the Washington State Department of Ecology (hereafter "Ecology"), its successors and assigns. See Ecology letter dated December 18, 2002 from Mr. William J. Fees to Mr. Earl H. Schmidt. Said letter is attached hereto as Attachment A and is hereby incorporated herein by reference.

This Restrictive Covenant is required by Ecology under WAC 173-340-440 because the Cleanup Action resulted in hazardous substances remaining on the Site, and because groundwater concentrations of hazardous substances exceed statutory cleanup levels established under WAC 173-340-720.

The undersigned, Earl H. Schmidt and Joyce M. Schmidt are the sole trustees of the Schmidt Living Trust, a revocable trust dated December 8, 1998 (the "Trust"); said Trust is the fee owner of real property (hereafter "the Property") in the County of Spokane, State of Washington, which is subject to this Restrictive Covenant. The property is legally described in Attachment B of this Restrictive Covenant and is hereby incorporated by reference.

The undersigned, Earl H. Schmidt and Joyce M. Schmidt on behalf of themselves and the Trust, make the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. No groundwater wells may be drilled nor groundwater extracted for any use, except Ecology-approved compliance groundwater monitoring pursuant to the Cleanup Action within the Property, without prior written notice to and written approval from Ecology.

Section 2. Any activity on the Property that may interfere with the integrity of the Cleanup Action and continued protection of human health and the environment is prohibited without prior written approval from Ecology.

Section 3. The Owner of the Property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Cleanup Action on the Property.

Section 4. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions herein on the use of the Property.

Section 5. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve an inconsistent use only after an opportunity for public notice and comment is provided.

Section 6. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Cleanup Action; to take samples, to inspect remedial actions conducted at the Property, and to inspect records that are related to the Cleanup Action.

Section 7. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and comment, concurs.

[SIGNATURE PAGE FOLLOWS]



**SCHMIDT LIVING TRUST, a revocable trust dated December 8, 1998**

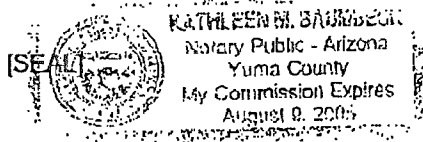
Earl H. Schmidt  
Earl H. Schmidt, as Trustee and Individually  
H

Joyce M. Schmidt  
Joyce M. Schmidt, as Trustee and Individually

THE STATE OF Arizona §  
§  
COUNTY OF Yuma §

BEFORE ME, the undersigned authority, on this day personally appeared Earl H. Schmidt and Joyce M. Schmidt, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they had executed the same in the capacity and for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16<sup>th</sup> day of Jan, 2003.



Kathleen M. Baumbeck  
Notary Public in and for the STATE OF Arizona  
My Commission Expires: Aug 9, 2005

Sent By: PAINE HAMBLIN 14;

509 838 0007;

Feb-12-03 2:44PM;

Page 23/26

**EXHIBIT A**

**WASHINGTON DEPARTMENT OF ECOLOGY LETTER, DECEMBER 18, 2002**



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

4601 N. Monroe Street - Spokane, Washington 99205-1295 - (509) 456-2926

RECEIVED

DEC 23 2002

PCO HAS-PRM

December 18, 2002

Mr. Earl H. Schmidt  
2323 E. Illinois Ave.  
Spokane, WA 99207

Dear Mr. Schmidt:

As you may know, the cleanup activities at the North Market Street Site are nearing completion. The Washington Department of Ecology (Ecology) has provided oversight for these cleanup activities. The remaining tasks to be completed for the Site include the bioventing system installation and deed recordation of restrictive covenants on affected properties. Since your property at 8520 N. Freya Ave. in Spokane, Washington overlies the North Market Street Site groundwater contaminant plume, a restrictive covenant that prohibits groundwater withdrawal from the property will be required.

As part of the remedial investigation of the North Market Street Site, a limited investigation of the property at 8520 N. Freya Ave. indicated the property's shallow soil did not appear to be affected by practices associated with the former refinery at the North Market Street Site. However, the property has been affected by the North Market Street groundwater contaminant plume. Under the Model Toxics Control Act (MTCA-Chapter 173-340 WAC), the plume clause (70.105D.040 (3)(a)(iii)) provides an affected landowner liability protection. In order for this provision to give liability protection, a restrictive covenant must be recorded. The deed recordation will provide the necessary notification regarding the groundwater contaminant plume. The restrictive covenant can be recorded at the Spokane County Assessors Office.

Ecology appreciates your cooperation on this project. If you have any questions or require additional information, please contact me at (509) 329-3589.

Sincerely,

*ng for William J. Fees*

William J. Fees, P.E.  
Environmental Engineer  
Toxics Cleanup Program

CC: Ms. Cindy Smith - Phillips

Sent By: PAINE HAMBLEN 14;

509 838 0007;

Feb-12-03 2:44PM;

Page 25/26

**EXHIBIT B**  
**LEGAL DESCRIPTION**

Sent By: PAINE HAMBLEN 14;

509 838 000/;

Feb-17-03 2:44PM;

Page 26/26

### Legal Description

Tracts "A" and "B" of Short Plat 87-520, being a portion of the Southwest Quarter of the Northwest Quarter of Section 22, Township 26 North, Range 43 East, W.M., in the County of Spokane, State of Washington.



**4816546**  
Page: 1 of 4  
12/16/2002 09:16A  
Spokane Co. WA

When recorded, return to:

**ConocoPhillips**

**PTRRC**

**4 B2 PB**

**Bartlesville, OK 74004**

## DECLARATION OF RESTRICTIVE COVENANTS

GRANTOR: DRAPER, Dale F. & DRAPER, Evelyn R.

GRANTEE: DRAPER, Dale F. & DRAPER, Evelyn R.

ABBREV LEGAL: Ptn N 1/2 of SW 1/4 22-26-43

TAX PARCEL NO.: 36223.9017



## Declaration of Restrictive Covenants

THIS DECLARATION is entered into this 11th day of May, 2001 by and between **Dale F. Draper** and **Evelyn R. Draper**, husband and wife, hereinafter referred to as "Declarant", whether one or more, having an address of 1010 West Banbury Dr., Spokane, WA 99217.

WHEREAS, Declarant is the owner of a 9.03 acre tract of land in the SW/4 Section 22, Township 26 North, Range 43 East, Spokane County, Washington, "premises", said premises being more fully described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, Declarant is the owner of a private water well drilled and currently being used within said premises; and

WHEREAS, Declarant desires to have the existing water well located within the premises plugged and abandoned and to establish restrictive covenants as herein provided, all of which shall run with the land, prohibiting the future drilling of private water well(s) within the premises.

NOW, THEREFORE, in consideration of the of the foregoing, Declarant, for themselves, their successors and assigns, does hereby declare that:

### RECITALS:

1. Upon establishment of water service being made within the premises by the North Spokane Irrigation District, the existing water well is to be plugged and abandoned in accordance with standards established by the WAC 173-160.
2. Upon plugging of the existing water well, no additional water well(s) of whatsoever kind shall be drilled within the premises. All future consumption of water shall be from public water service provided by the North Spokane Irrigation District or other public provided entities.

The terms of this declaration shall extend to and be binding upon the declarant hereto, their successors and assigns.

EXECUTED this 11th day of May, 2001.

SELLER:

Dale F. Draper  
Dale F. Draper

SELLER:

Evelyn R. Draper  
Evelyn R. Draper



4816546  
Page: 3 of 4  
12/16/2002 09:16A  
Spokane Co., WA

State of Washington )  
County of Spokane ) ss

On this the 16th day of May, 2001, personally appeared Dale F. Draper and Evelyn R. Draper, to me personally known, who, being duly sworn did acknowledge to me that they executed the foregoing instrument as their free and voluntary act and deed, for the uses, purposes and consideration therein set forth.

My Commission Expires:

7/27/04

Douglas J. Edwards  
Notary Public







4816546  
Page: 4 of 4  
12/16/2002 09:16A  
Spokane Co, WA

## Exhibit "A"

That portion of the North Half of the Southwest Quarter of Section 22, Township 26 North, Range 43 East, W.M., in Spokane County, Washington, more particularly described as follows:

Beginning at the southwest corner of that certain 2.07 acre tract of land conveyed by Petroleum Terminal Company to Salt Lake Pipe Line Company by Deed dated June 19, 1953, recorded in Volume 645 of Deeds, Page 457 in the office of the auditor of Spokane County, Washington, (said point of beginning being 30 feet northerly, measured at right angles, from a point in the southerly boundary line of the Northeast Quarter of the Southwest Quarter of said Section 22 distant thereon westerly 1275 feet from the southeast corner thereof);

Thence northerly 300 feet (perpendicular to the southerly boundary line of the Northeast Quarter of the Southwest Quarter of said Section 22) along the westerly line of said 2.07-acre tract to the northwest corner thereof;

Thence easterly at right angles 300 feet along the northerly line of said 2.07-acre tract to the northeast corner thereof;

Thence North 2° 45' West approximately 469 feet to a point in the southerly line of Fairview Road as the same existed on September 16, 1938;

Thence westerly along the southerly line of Fairview Road as the same existed on September 16, 1938, approximately 803.9 feet to its point of intersection with the easterly right-of-way line of the Great Northern Railway Company as the same existed on September 16, 1938;

Thence Southeasterly along said easterly right-of-way line of the Great Northern Railway Company as the same existed on September 16, 1938 (which said right-of-way line is parallel to and 56 feet distant northeasterly from the center line of the most easterly main tract of the railway of the Great Northern Railway Company as the same existed on September 16, 1938), approximately 551.5 feet to a point in said right-of-way line 30 feet northerly, measured at right angles, from the southerly line of the Northwest Quarter of the Southwest Quarter of said Section 22;

Thence easterly parallel with and 30 feet northerly from the southerly line of the North Half of the Southwest Quarter of said Section 22, approximately 360.6 feet to the point of beginning.