



## **Periodic Review**

North Marina West End  
Farrington Place & Ballard Street  
Everett, WA 98201

Facility Site ID#: 3306834  
Cleanup Site ID#: 934

Prepared by:  
Headquarters Cleanup Section  
Toxics Cleanup Program

January 2021

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

Cleanup activities at this Site were completed under Consent Decree 11-2-10367-4, dated December 9, 2011. The cleanup actions resulted in concentrations of vinyl chloride, arsenic, and copper in groundwater and fluoranthene in sediments 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 under the following conditions:

1. Whenever the department conducts a cleanup action
2. Whenever the department approves a cleanup action under an order, agreed order or consent decree
3. Or, as resources permit, whenever 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) Where the cleanup level is based on a practical quantitation limit; or
  - (c) 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 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.
- (f) The availability of improved analytical techniques to evaluate compliance with cleanup levels.

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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

### 2.1 Site History

The following site history discussion is from Ecology's Cleanup Action Plan (CAP) dated August 16, 2011. The North Marina Area has been used for a variety of commercial, industrial, and marine-related activities since the late 1800s. From about 1890 until about 1950, timber-product operations dominated waterfront industrial activities. Over that period, the shoreline of Port Gardner Bay was near the current location of West Marine View Drive, with shingle and lumber mills either along the shoreline or located on wharfs to the west of the shoreline. The North Marina Area was filled to its current configuration between about 1947 and 1955, using dredge fill from the Snohomish River to create the Site uplands from the tidelands to the west of the original shoreline. After the additional uplands were created, businesses transitioned from primarily the wood products industry to a broader range of industries and commercial enterprises, with a large percentage of marine services operations. Although turnover in businesses has occurred over the intervening years, the area is still dominated by businesses with a marine services orientation.

Leaseholds at the site included the following:

- American Boiler Works, Plant II
- American Construction Company
- American Tugboat Company/Manson Osberg Construction
- Co-op Boatyard
- Everett Engineering
- Mill Town Sailing
- Port of Everett Marine View Reception/Conference Center
- Port of Everett Overflow Parking
- Puget Sound Truck Lines (PSTL)
- United States (U.S.) Coast Guard Station
- Jordan Park

The Port initiated redevelopment of the North Marina Area in 2000, including entry into a development agreement with a private developer, Maritime Trust (doing business as Everett Maritime LLC). Extensive building demolition was conducted at the Site in preparation for the planned redevelopment, resulting in the removal of all Site buildings except for those buildings shown on Figure 12 of the CAP (Appendix 6.2). However, the development agreement was terminated due to nonperformance on the part of Everett Maritime LLC, which reportedly went bankrupt in 2010 as a result of a downturn in the real estate market. The Site area is in the process of being developed as a mixed residential and commercial development.

Land uses subsequent to the 2011 CAP were assessed through review of GoogleEarth™ aerial photographs between 2011 and 2019 and during the site visit on September 18, 2020. In general, land uses subsequent to the CAP appear to have been relatively consistent with the 2011 land

uses. The majority of the site has been vacant. Maritime storage areas were added in the southwest portion of the northeast area of the site in 2011 and between August 2016 and May 2017. A large structure (Weyerhaeuser historical building) was placed in Boxcar Park (in the northeast portion of the northwest area of the Site) in July 2016. Another large structure was removed from the east central portion of the northwest area between March and June 2016. A grassy area in the southeast portion of the northwest area became a parking area starting in about 2015. Two tents (picnic structures) were added to Boxcar Park (in the southwest corner of the northwest area) between August 2016 and May 2017. Of these land uses, the maritime storage area present the greatest concern with respect to potential storage of hazardous chemicals. This area was examined during the site visit on September 18, 2020.

## **2.2 Site Investigations**

The following discussion is from Ecology's CAP dated August 16, 2011. A number of environmental investigations were conducted at the Site, including the RI/FS and several earlier investigations conducted while the Site was under the VCP. The investigations conducted prior to the RI started with a Phase I ESA conducted in 2001 (Landau Associates 2001) and several subsequent investigations including a Phase II ESA conducted in late 2003 and early 2004 (Landau Associates 2004) and a data gaps investigation conducted in late 2004 and early 2005 (Landau Associates 2005). The RI field activities were conducted in 2009 and 2010 (Landau Associates 2011).

Subsequent to the 2011 CAP, Groundwater monitoring was conducted for four quarters in 2012, and for two rounds (April and September) in 2019. The 2012 monitoring was conducted as a requirement of the CAP. Based on the results of the 2012 monitoring event, Ecology required additional monitoring within a letter dated December 16, 2013. This additional monitoring was to be conducted as part of a five year periodic review, and was conducted in 2019. The 2019 monitoring was limited to arsenic in groundwater, since this was the sole constituent that exceeded cleanup levels during the 2012 quarterly monitoring events.

## **2.3 Cleanup Levels and Points of Compliance**

The following cleanup levels and points of compliance discussion is from Ecology's CAP dated August 16, 2011. This section discusses Site cleanup standards for chemical constituents that were detected in affected Site media at concentrations above screening levels developed for the RI/FS. The affected media included groundwater and sediment. As discussed previously in Section 2.4.2.1 of the CAP, soil was not considered a media of concern for the Site and was not addressed within the CAP. Cleanup standards consist of: 1) cleanup levels defined by regulatory criteria that are adequately protective of human health and the environment, and 2) the point of compliance at which the cleanup levels must be met.

Cleanup levels from the 2011 CAP are as follows:

**Table 1 – Cleanup Levels from the CAP**

Constituent of Concern	Groundwater Cleanup Level (µg/L)	Sediment Cleanup Level (mg/kg-OC)
Vinyl chloride	2.4 <sup>1</sup>	NA
Arsenic	5.0 <sup>2</sup>	NA
Copper	3.1 <sup>3</sup>	NA
Fluoranthene	NA	160

1 – Surface water, human health, consumption of organisms, CWA Section 304.

2 – Method A cleanup level for groundwater, unrestricted

3 – Surface water, aquatic life, marine/chronic, 173-201 WAC & CWA Section 304.

NA = Not Applicable; analyte is not a constituent of concern for that medium (groundwater or sediment).

### 2.3.1 Groundwater

Cleanup levels for groundwater developed under MTCA represent the concentration of COCs that are protective of human health and the environment for identified potential exposure pathways, based on the highest beneficial use (HBU) and the reasonable maximum exposure (RME) for each affected media. The process for developing cleanup levels consists of identifying the HBU and RME for affected media, determining those that represent the greatest risk to human health or the environment, and determining the cleanup levels for the COC in affected media.

The HBU for groundwater is considered discharge to surface water (Port Gardner and the 12th Street Yacht Basin). Based on a groundwater HBU of discharge to surface water, the RME for groundwater is the more conservative of: 1) uptake by aquatic organisms based on aquatic water quality criteria, and 2) ingestion of affected aquatic organisms by humans. As a result, federal (National Toxics Rule [40 CFR 131.36] and National Recommended Water Quality Criteria [EPA 2006]) and state (MTCA Method B formula values and Chapter 173-201A) surface water criteria based on human consumption of fish and federal (National Recommended Water Quality Criteria [EPA 2006]) and state (MTCA Method B formula values and Chapter 173-201A) surface water quality criteria protective of aquatic life were evaluated as potential cleanup levels for groundwater. The most stringent of the applicable criteria, adjusted to the practical quantitation limit (PQL) or background concentrations, if appropriate, was identified as the Site groundwater cleanup value, shown in Table 1.

At least one sample exceeded the groundwater cleanup levels for arsenic, copper, vinyl chloride, and lube oil. The lube oil exceedance occurred during the initial RI groundwater monitoring event just following the interim action. Lube oil was not detected for three consecutive monitoring events following the initial event; therefore, lube oil was not carried forward as a COC for Site groundwater. The remaining constituents that exceeded the groundwater cleanup levels were carried forward as COCs for Site groundwater, as summarized in Table 1.

Under MTCA, the point of compliance is the point or location on the Site where the cleanup levels must be attained. The point of compliance for groundwater is typically throughout the Site when groundwater is considered a potential source of potable drinking water. If groundwater discharge to surface water represents the HBU, MTCA provides for a conditional point of compliance at the point of discharge of groundwater to the surface water receiving body. As a result, the point of entry of groundwater to Port Gardner and the 12th Marina has been designated the conditional point of compliance for Site groundwater.

### **2.3.2 Sediment**

Sediment cleanup standards were developed according to Sediment Management Standards (SMS) requirements. The sediment quality standard (SQS) and cleanup screening level (CSL) values have been developed for a suite of analytes that includes metals, polycyclic aromatic hydrocarbons (PAHs) and other SVOCs, PCBs, and ionizable organic compounds. The SQS are the most stringent SMS numeric criteria and represent the goal for sediment cleanups. Only fluoranthene has been detected in sediment above the SQS; therefore, only fluoranthene was carried forward as a COC for Site sediment. The sediment cleanup level for fluoranthene was provided in Table 1.

The point of compliance for sediment has been designated the upper 10 centimeters (cm), which is considered the predominantly biologically active zone. The area of fluoranthene-impacted sediment is shown on Figure 12 of the CAP (Appendix 6.2).

## **2.4 Remedial Actions**

### **2.4.1 Interim Action**

An interim action was conducted at the Site between June 2006 and March 2008 to address contaminated soil and groundwater at 50 interim action areas identified based on previous Site characterization activities. Pre-interim action soil and groundwater sampling locations with interim action cleanup level exceedances are shown on Figures 9 and 10, respectively. The interim action included excavation and offsite disposal of arsenic, copper, cPAH, lead, mercury, 1-methylnaphthalene and/or petroleum hydrocarbon-impacted soil; in-situ soil agitation; free product and contaminated water recovery; and the collection and analysis of compliance monitoring samples to verify that interim action cleanup levels were achieved. Interim action areas are shown on Figure 11 of the CAP (Appendix 6.4).

A total of 43,600 tons (about 27,000 yd<sup>3</sup>) of contaminated soil was removed from the Site during the interim action. A summary of the interim actions implemented within each area was provided in Table 1 of the CAP. A more detailed description of the interim actions was provided in the West End Site Interim Action Report (Landau Associates 2008).

## 2.4.2 Corrective Action Plan

The CAP selected long-term compliance monitoring and an Environmental Covenant as the remedy to address residual soil and sediment contamination at the site. The CAP required long-term compliance monitoring to consist of monitoring groundwater quality from eight existing monitoring wells along the shoreline and monitoring sediment at one location in the southeast corner of the Site, as shown on Figure 12 of the CAP (Appendix 6.2). Groundwater quality would be monitored quarterly for 1 year to demonstrate compliance with cleanup standards. Sediment quality would be monitored at a single location in the vicinity of RI monitoring station RI-SED-18 in the summer of 2012 (3 years following the collection of sample RI-SED-18) and no additional sediment monitoring would be conducted if compliance with the fluoranthene sediment quality standard (SQS) was achieved. Based on the anticipated schedule for the fourth quarter of groundwater monitoring, the sediment monitoring event would be conducted concurrent with the fourth quarter groundwater monitoring event. The following table from the CAP identifies the analytical parameters that were to be monitored at each compliance monitoring location:

**Table 2 – Compliance Monitoring Locations and Analytes from the CAP**

Location	Analytes
MW-1	Copper, Arsenic
MW-3	Arsenic, Copper
MW-4	Arsenic
MW-5	Arsenic
MW-11	Arsenic, Vinyl chloride
MW-11A	Arsenic, Vinyl chloride
MW-12	Arsenic
MW-13	Arsenic
RI-SED-18	Fluoranthene

## 2.4.3 Post-CAP Compliance Monitoring

Four quarterly groundwater monitoring events took place in 2012 as required by the CAP. With the exception of arsenic in groundwater, all contaminants were below site cleanup levels. In addition, sediment was sampled at location RI-SED-18 in 2012, and the concentrations of fluoranthene were below cleanup levels.

The 2012 monitoring was conducted as a requirement of the CAP. Based on the results of the 2012 monitoring event, Ecology required additional monitoring within a letter dated December 16, 2013. This additional monitoring was to be conducted as part of a five year periodic review, and was conducted in 2019. Four monitoring wells (MW-4, MW-11, MWE-11A, and MW-13) were sampled in April and September, 2019. The results from the 2019 sampling events are summarized in Table 3:

**Table 3 – 2019 Compliance Monitoring Groundwater Sampling Results**

Monitoring Well	Date Sampled	Dissolved Arsenic Concentrations (µg/L)	Arsenic Reduction Factor (RF)	Arsenic Concentration (RF Applied) (µg/L)
MW-4	4/23/19	<b>84</b>	13.2	<b>6.4</b>
	9/26/19	<b>120</b>	30.0	4.0
MW-11	4/25/19	<b>32</b>	13.2	2.4
	9/26/19	<b>40</b>	30.0	1.3
MW-11A	4/25/19	<b>8.8</b>	3.6	2.4
	9/26/19	<b>7.3</b>	5.5	1.3
MW-13	4/23/19	4.3	13.2	0.3
	9/26/19	<b>9.9</b>	30.0	0.33

**Bold** results greater than the cleanup level of 5 µg/L.

The Arsenic RF is the [MW-11 concentration/MW-1A concentration] for MW-11A, and [MW-11 concentration/MW-1A concentration]<sup>2</sup> for MW-4, MW-11, and MW-13.

The arsenic reduction factors applied for the conditional points of compliance in Table 3 are estimated concentrations at the groundwater /surface water interface, applying methodologies presented in the fourth quarter 2012 monitoring report (Landau 2013).

Of the four monitoring wells sampled in 2019, and after applying the reduction factor, only MW-4 had an exceedance of the arsenic cleanup level of 5 µg/L during the April 2019 sampling round.

## 2.5 Environmental Covenant

A Covenant was recorded for the Site in 2012 that imposed the following limitations:

### Section 1

1. No groundwater may be taken for potable use from the Property from the areas of the Property shown on Attachment A to this Covenant.
2. Groundwater extracted from the areas of the Property shown on Attachment A for construction dewatering or other nonpotable purposes shall be managed, treated, and discharged in conformance with an Ecology-approved groundwater management plan.
3. Intrusive activities in the areas of the Property shown on Attachment A to this Covenant that involve worker contact with contaminated groundwater will be conducted by

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individuals that have the appropriate training and certifications for working on hazardous waste sites and in conformance with a Site-specific health and safety plan.

## **Section 2**

Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

## **Section 3**

Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

## **Section 4**

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 Remedial Action.

## **Section 5**

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

## **Section 6**

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

## **Section 7**

The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

## **Section 8**

The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this 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 opportunity for comment, concurs.

The Covenant is available as Appendix 6.5.

## **3.0 PERIODIC REVIEW**

### **3.1 Effectiveness of completed cleanup actions**

The Covenant for the Site was recorded and is in place. This Covenant prohibits activities that will result in exposure to contaminated groundwater at the site, including installation of water supply wells, and prohibits any use of the property that is inconsistent with the Covenant. The Covenant serves to ensure the long term integrity of the remedy.

Based upon the Site visit conducted on September 18, 2020, the institutional controls for groundwater at the Site continue to prevent exposure to contaminated groundwater by ingestion and direct contact.

The Site is still a mix of vacant and maritime-related land uses. A photo log is available as Appendix 6.6.

Groundwater with arsenic concentrations higher than MTCA cleanup levels are still present at the Site. However, the remedy prevents human exposure to this contamination by ingestion and direct contact with groundwater. The Covenant for the property will ensure that the contamination remaining is contained and controlled.

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

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

### **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 (2013 ed.). WAC 173-340-702(12) (c) [2013 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.”*

Of the site constituents of concern from the CAP, only vinyl chloride has shown a change in recent cleanup levels, as shown in Table 3.

**Table 3 – Comparison of 2011 CAP and Current Cleanup Levels for Vinyl Chloride**

2011 CAP versus Current CULs	Most Restrictive CUL (µg/L)	Source
2011 CAP	2.4	CWA Section 304 Consumption of Organisms
Current CLARC	0.18	Human Health, Marine Water, CFR 131.45

CLARC = Cleanup Levels and Risk Calculation, Excel Table

CFR = Code of Federal Regulations

CUL = Cleanup Level

CWA = Clean Water Act

This change of most restrictive cleanup level for vinyl chloride does not affect the selected remedy at the Site, because all groundwater sampling results at the conditional point of compliance were less than 0.18 ug/L during the 2012 quarterly monitoring rounds.

Arsenic has Method B cleanup levels that are more restrictive than the Method A value of 5 µg/L; however, these more restrictive values are lower than Ecology's state-wide background concentration for arsenic in groundwater of 7 µg/L. Therefore, no change to the CAP cleanup level of 5 µg/L for arsenic is considered warranted.

### **3.4 Current and projected Site use**

The Site is currently a mix of vacant and maritime land uses. There have been no changes in current Site or resource uses. There is potential for a change in future land use, with a planned mixed commercial/residential development. The Covenant is anticipated to still be sufficiently protective under such a land use change.

### **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 selected Site cleanup levels. The presence of improved analytical techniques would not affect decisions or recommendations made for the Site.

## 4.0 CONCLUSIONS

Since arsenic in groundwater is still in place above its cleanup level at the Site, Ecology, the Port, and ACC must satisfy the requirements of the Consent Decree's Periodic Review section. That section of the Consent Decree states:

*As remedial action, including groundwater monitoring, continues at the Site, the Parties agree to review the progress of remedial action at the Site, and to review the data accumulated as a result of monitoring the Site as often as is necessary and appropriate under the circumstances. At least every five (5) years after the initiation of cleanup action at the Site the Parties shall meet to discuss the status of the Site and the need, if any, for further remedial action at the Site. Ecology reserves the right to require further remedial action at the Site under appropriate circumstances. This provision shall remain in effect for the duration of this Decree.*

Continued monitoring for arsenic in monitoring well MW-4 is needed until it can be demonstrated that arsenic concentrations in groundwater have reduced to below cleanup levels at the conditional points of compliance. The following conclusions from Ecology's 2013 letter still stand:

Although the arsenic cleanup level in groundwater was not met at the point of compliance at all wells as required by the CAP, no active remedial actions are required based on the following considerations:

- Over 43 thousand tons of contaminated soil was removed from the Site. Arsenic in soil was cleaned up to the unrestricted cleanup level of 20 milligrams per kilogram (mg/kg).
- Dissolved arsenic was below laboratory reporting limits in surface water measured directly adjacent to the RI-MW-11 area.
- Sediment samples collected as part of the remedial investigation (RI) showed that arsenic concentrations were significantly below Ecology's Sediment Management Standard cleanup levels.

Overall findings from this periodic review are as follows:

- The cleanup actions completed at the Site appear to be protective of human health and the environment.
- Groundwater cleanup levels have not been met for the Site; however, no additional active remedial actions are required, as discussed above.
- Institutional controls in the form of a covenant are in place at the Site and will be effective in protecting public health and the environment from exposure to hazardous substances and protecting the integrity of the cleanup action.

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. It is the property owner's responsibility to 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.

As discussed above, sampling of monitoring well MW-4 for arsenic will be needed during the next periodic review (in 2025). Sampling in April and September of 2024, consistent with the 2019 monitoring events, is suggested. If arsenic concentrations are still above cleanup levels during the next periodic review, then, as stated in the Consent Decree, Ecology reserves the right to require further remedial action at the Site under appropriate circumstances.

## 5.0 REFERENCES

Port of Everett. *Environmental Covenant*. April 12, 2012.

Ecology. *Site Visit*. September 18, 2020.

Ecology. *Cleanup Action Plan, North Marina West End Site, Everett, Washington*. Washington State Department of Ecology, Toxics Cleanup Program, Olympia, Washington. August 16, 2011.

Ecology. Letter to Port of Everett, re North Marina West Ends Site - Completion of Cleanup Action Tasks; Consent Decree, Snohomish County Superior Court No. 11-2-10367-4, August 16, 2013.

Frazer, D. 2019. “*Re: Port of Everett North Marina West End-Final 5-Year Review GMP*.” From Dylan Frazer, Landau Associates, Inc., to Andrew Kallus, Washington State Department of Ecology. April 12, 2019.

LAI. *Final RI/FS Work Plan*, West End Site, Everett, Washington. Landau Associates, Inc. March 20, 2009.

LAI. *Technical Memorandum: RI/FS Work Plan West End Site Addendum No. 1, Groundwater Quality Monitoring at Conditional Point of Compliance, Port of Everett, Washington*. Landau Associates, Inc. March 8, 2010.

LAI. *Report, 4Q12 Compliance Monitoring, North Marina West End Site, Everett, Washington*. Landau Associates, Inc. December 6, 2013.

LAI. *Technical Memorandum: 5-Year Review Groundwater Monitoring Plan, North Marina West End Site, Everett, Washington*. Landau Associates, Inc. February 12, 2019.

LAI. *Technical Memorandum: 5-Year Review Groundwater Monitoring Report, North Marina West End Site, Everett, Washington*. Landau Associates, Inc. July 30, 2020.

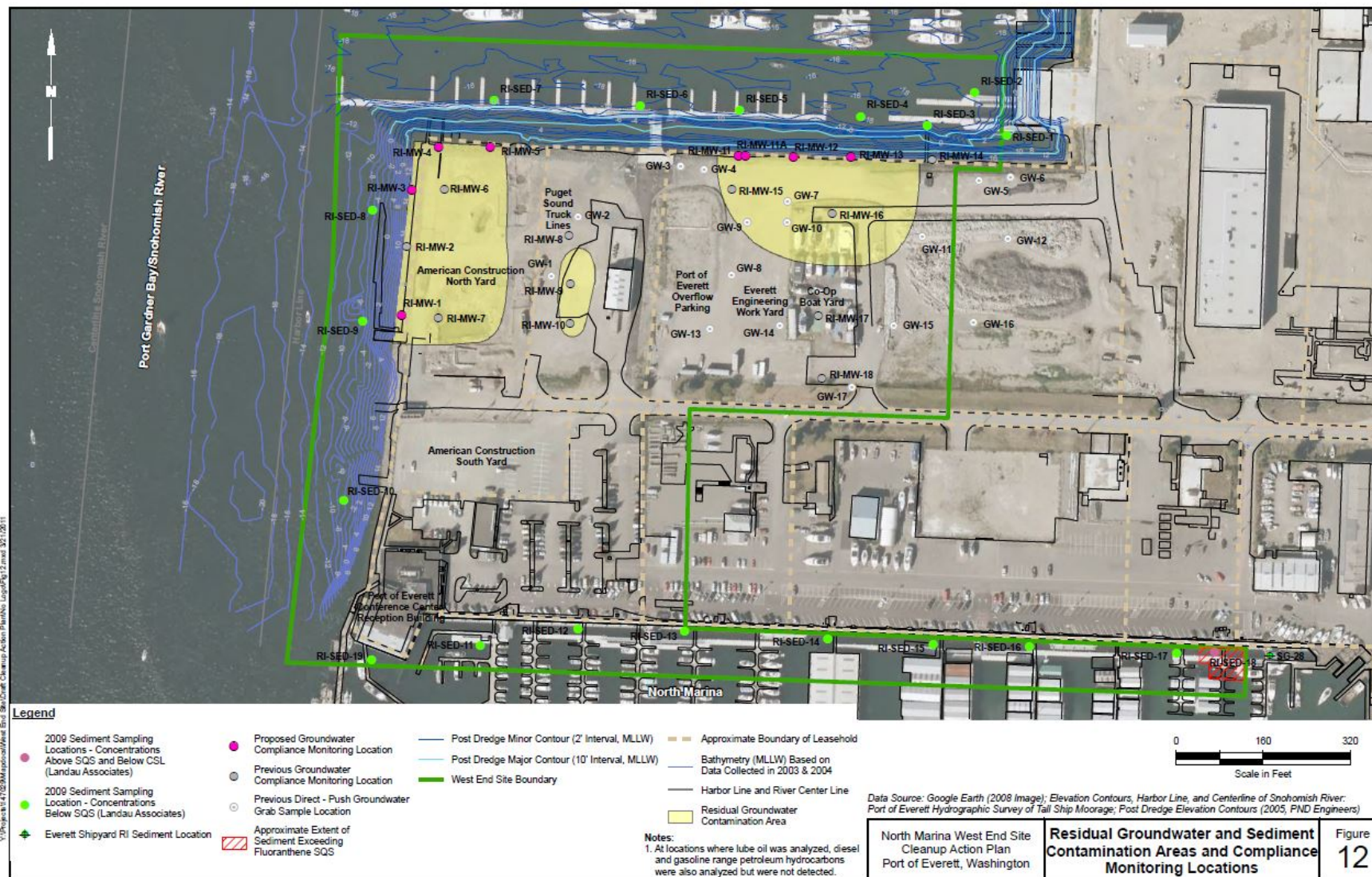
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## **6.0 APPENDICES**

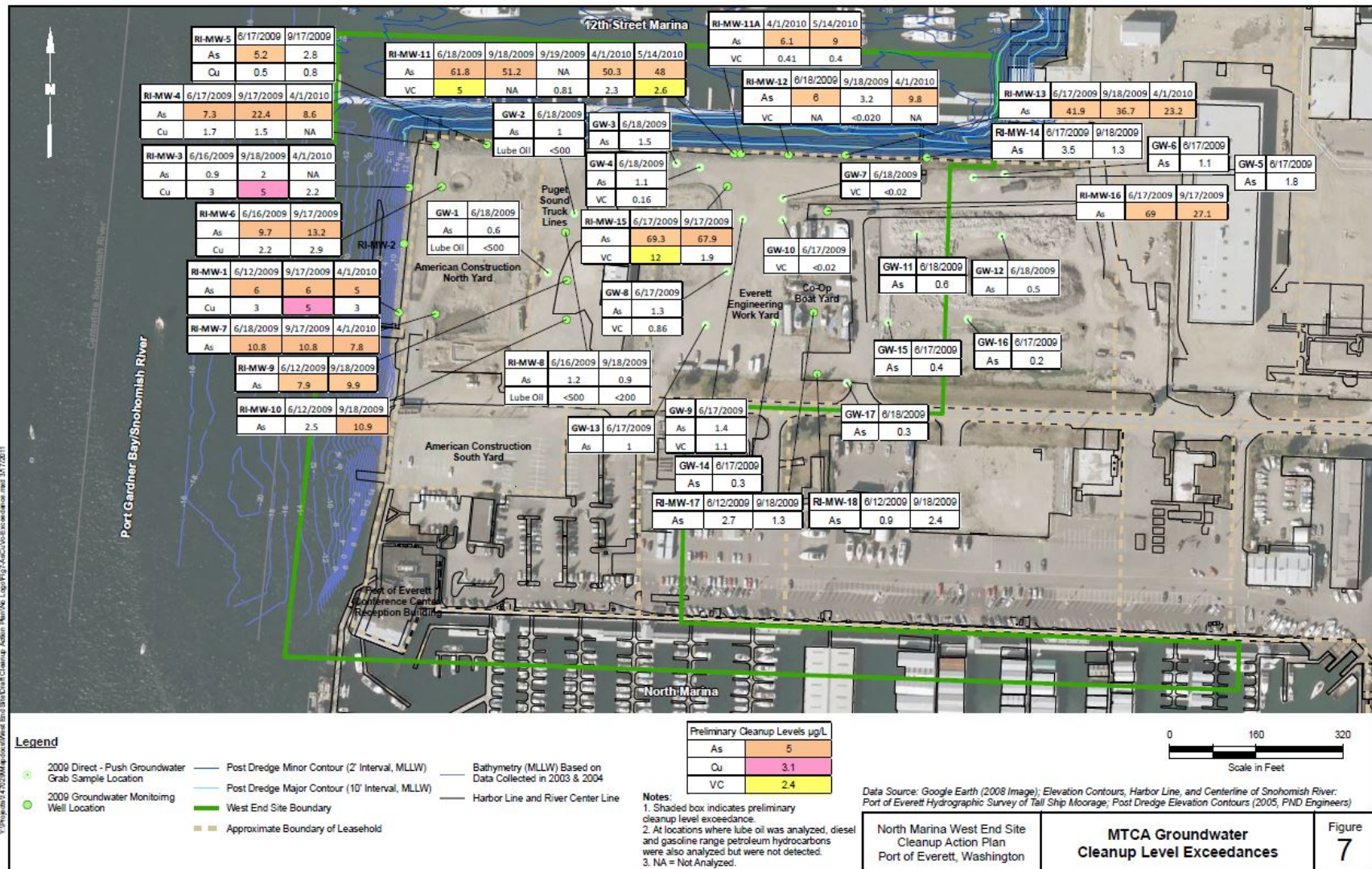
## 6.1 Vicinity Map



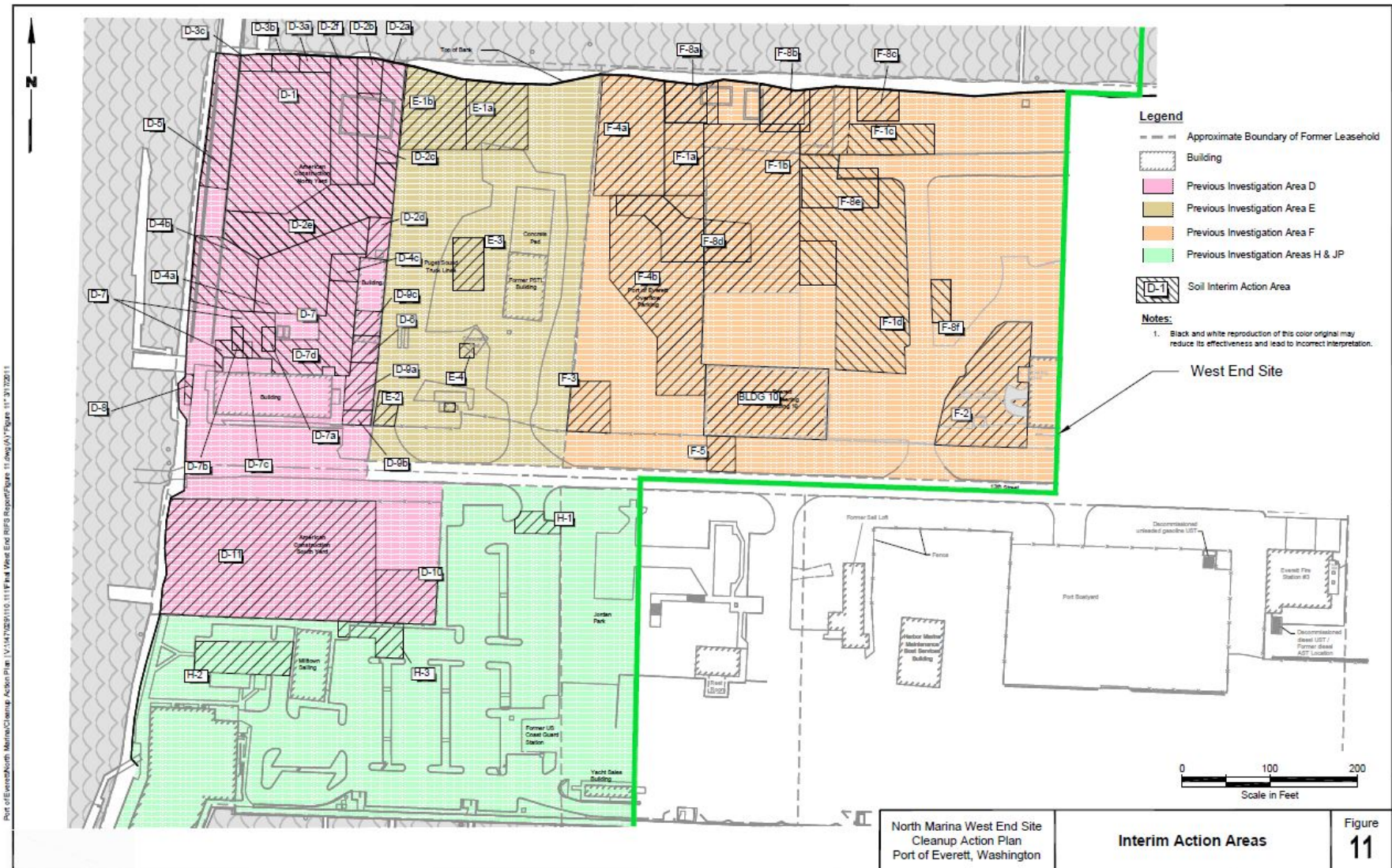
## 6.2 Site Plan



## 6.3 Concentration Map



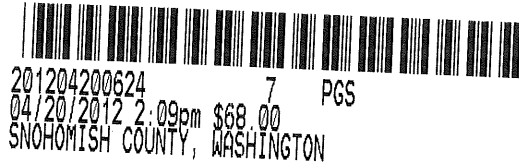
## 6.4 Interim Actions Map



## **6.5 Environmental Covenant**

RETURN NAME & ADDRESS

Andy Kallus  
Dept. of Ecology  
P.O. Box 47706  
Olympia, WA 98504-7706



Please print neatly or type information  
Document Title(s)

Environmental Covenant

Reference Number(s) of related documents:

N/A

Additional Reference #'s on page     

Grantor(s) (Last, First, and Middle Initial)

Everett, Port of

Additional Grantors on page     

Grantee(s) (Last, First, and Middle Initial)

Washington, State of Ecology, Department of

Additional Grantees on page     

Legal Description (abbreviated form: i.e. lot, block, plat or section, township, range,  
quarter/quarter)

SW 1/4 & NW 1/4 of Section 18, Township 29N,  
Range 5E

Complete legal on page     

Assessor's Property Tax Parcel/Account Number

29051800209002 29051800208800  
29051800209000 29051800208700  
29051800208900

Additional parcel #'s on page     

The Auditor/Recorder will rely on the information provided on this form. The  
responsibility for the accuracy of the indexing information is that of the document  
preparer.

\*I am requesting an emergency nonstandard recording for an additional fee as provided in  
RCW 36.18.010. I understand that the recording processing requirements may cover up or  
otherwise obscure some part of the text of the original document.

Phil Kallus  
Signature of Requesting Party

After Recording Return to:  
Andy Kallus  
Department of Ecology  
P.O. Box 47706  
Olympia, Washington 98504-7706

### **Environmental Covenant**

**Grantor:** Port of Everett  
**Grantee:** State of Washington, Department of Ecology  
**Legal:** See Attachment A  
**Tax Parcel Nos.:** See Attachment A  
**Cross Reference:** NA

Grantor, Port of Everett (Port), hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant ( hereafter "Covenant" ) made this 12<sup>th</sup> day of April, 2012 in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the Port, its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the following documents:

*Cleanup Action Plan, North Marina West End Site, Everett, WA*, dated June 16, 2011, (Exhibit B to the Consent Decree entered in the *State of Washington Department of Ecology v.*

*Port of Everett*, Snohomish County Superior Court No. 11-2-10367-4). These documents are on file at Ecology's Olympia Washington Office.

This Covenant is required because a conditional point of compliance has been established for groundwater.

The undersigned, the Port, is the fee owner of real property (hereafter "Property") in the County of Snohomish, State of Washington, that is subject to this Covenant. The Property is legally described in Attachment A of this covenant and made a part hereof by reference.

The Port of Everett 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.

1. No groundwater may be taken for potable use from the Property from the areas of the Property shown on Attachment A to this Covenant.

2. Groundwater extracted from the areas of the Property shown on Attachment A for construction dewatering or other nonpotable purposes shall be managed, treated, and discharged in conformance with an Ecology-approved groundwater management plan.

3. Intrusive activities in the areas of the Property shown on Attachment A to this Covenant that involve worker contact with contaminated groundwater will be conducted by individuals that have the appropriate training and certifications for working on hazardous waste sites and in conformance with a Site-specific health and safety plan.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. 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 Remedial Action.


Section 5. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.


Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this 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 opportunity for comment, concurs.

THE PORT OF EVERETT

  
\_\_\_\_\_  
LESLIE E. REARDANZ III  
Chief Administrative Officer  
Port of Everett  
(425) 259-3164

Dated: 4/12/12

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

  
\_\_\_\_\_  
TIM L. NORD  
Section Manager  
Land and Aquatic Lands Cleanup Section

Dated: 2/29/12

STATE OF WASHINGTON  
COUNTY OF THURSTON

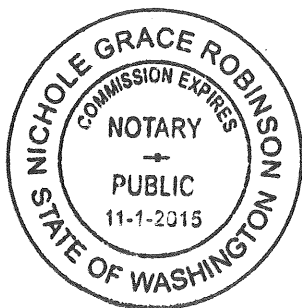
On this 29 day of February, 2012, I certify that Tim L. Nord personally appeared before me, acknowledged that he in the individual described herein and who executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.



Valerie L. Pearson  
Notary Public in and for the State of  
Washington, residing at  
6048 Merlot Lane SE, Lacey, WA  
My appointment  
expires 03-28-2012

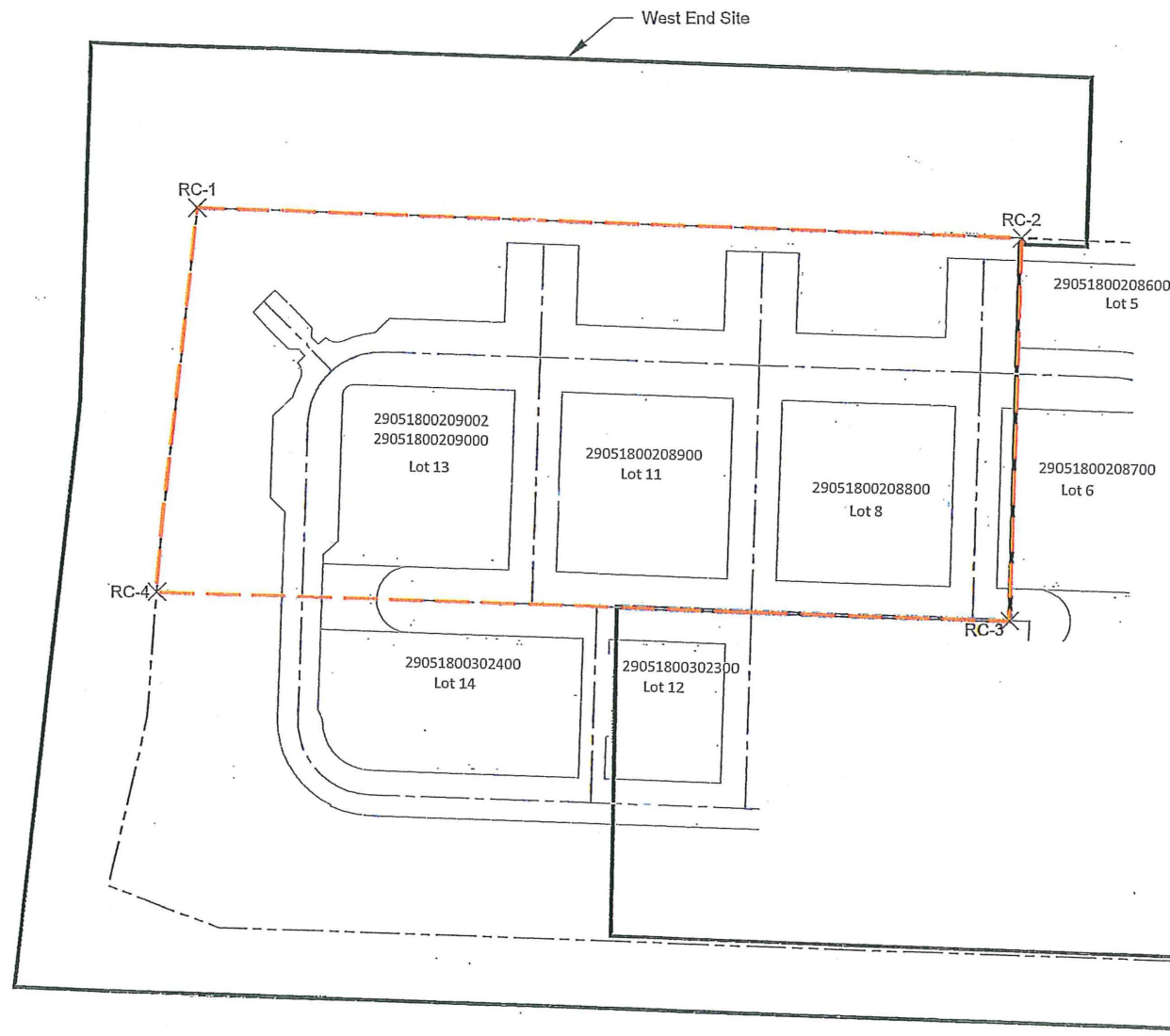
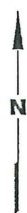
STATE OF WASHINGTON  
COUNTY OF SNOHOMISH

On this 12<sup>th</sup> day of April, 2012, I certify that Leslie E. Reardanz III personally appeared before me, acknowledged that he is the Chief Administrative Officer for the Port of Everett and that he executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of the Port of Everett, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument for said corporation.



Nichole Grace Robinson  
~~Nich~~  
Notary Public in and for the State of  
Washington, residing at Everett, WA  
My appointment expires 11/1/2015.

**ATTACHMENT A**  
**LEGAL DESCRIPTION**



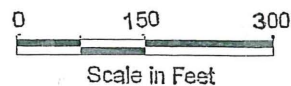
**Legend**

- RC-1 X Reference Point Designation
- — — — — Area Affected by Restrictive Covenant
- — — — — West End Site
- — — — — Property Line
- 29051800208700 Parcel Number

Reference Point Designation	Reference Point Northings	Reference Point Eastings
RC-1	368,449.70	1,300,209.57
RC-2	368,412.91	1,301,212.11
RC-3	367,948.00	1,301,195.04
RC-4	367,984.10	1,300,159.22

**Notes:**

1. Northings and Eastings are in US State Plane 1983, Washington North 4601, NAD 83 (CONUS)
2. Black and white reproduction of this color original may reduce its effectiveness and lead to incorrect interpretation.
3. Legal Description: SW ¼ and NW ¼ of Section 18, Township 29 North, Range 5 East



Base Map Source: Binding Site Plan, Division 2  
of Port of Everett North Marina, Rejd Middleton July 12, 2007

**Attachment A**  
**Restrictive Covenant Area**

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## 6.6 Photo Log



Photo 1: Northern Border looking West (northwest area)



Photo 2: Northern Border looking East



Photo 3: Central Marina Restoration (south of maritime storage area)



Photo 4: Southern Esplanade looking West (southern border of Site)



Photo 5: Esplanade and Bulkhead looking West (Southern border)



Photo 6: Southeastern Corner Esplanade looking West



Photo 7: Looking West at Weyerhaeuser Building, see soil stain



Photo 8: Weyerhaeuser Building & Temporary Restroom looking North



Photo 9: Boxcar Park looking North (northwest corner)



Photo 10: Vacant Lot looking South at Existing Buildings (central west area)



Photo 11: Covered Picnic Structures looking West (central west of Site)



Photo 12: Existing Parking Lot looking Southeast (central area of Site)



Photo 13: Everett Yacht Club Building (Existing) looking West (south eastern border of Site)



Photo 14: Maritime Storage North West Corner looking Southwest (central area)



Photo 15: Maritime Storage Area looking South (Central area)



Photo 16: Fisherman's Gear Area looking Northeast (north central area of Site)



Photo 17: Travel-lift route looking Northeast (north central area of Site)