

ATTACHMENT A:

LEASE AGREEMENT

ADDENDUM 1 TO LEASE AGREEMENT

This Addendum 1 to Lease Agreement (this “Addendum”) is incorporated and made a part of that certain Lease Agreement by and between KING COUNTY, a political subdivision of the State of Washington (“King County”) and THE CENTER FOR WOODEN BOATS, a Washington nonprofit corporation (“Lessee”) and with an Effective Date of December 5, 2021, (the “Lease”) for all purposes under the Lease. This Addendum amends and modifies Lease by replacing the Exhibit list in Section 10 of the Lease as follows:

Exhibit A	Illustration of Premises
Exhibit B	Calculation of Rent Credit & Lessee Improvements
Exhibit C-1	Illustration of Fence-line dividing Premises and Excluded Area
Exhibit D	Consent Decree

Exhibit C and Exhibit B to the Lease are removed and replaced by Exhibit B to this Addendum, which is hereby incorporated into the Lease. All references to Exhibit B set forth in the body of the Lease shall hereafter refer to Exhibit B to this Addendum. All references to Exhibit C set forth in the body of the Lease shall hereafter refer to Exhibit B to this Addendum. All other Lease terms remain in effect.


Any undefined terms set forth in this Addendum shall have the meanings given to them in the Lease.

[signature page(s) follow]

IN WITNESS WHEREOF, King County and Lessee have set their hands on the dates specified below.

LESSEE:

Center for Wooden Boats, a Washington
Not-for-profit Corporation

By:  _____

Josh Anderson
Title: Executive Director

Date: 7/22/21

LESSOR:

King County, a Political Subdivision of the
State of Washington

By: _____

Anthony Wright, Director
Facilities Management Division

Date: _____

LESSEE:

Center for Wooden Boats, a Washington
Not-for-profit Corporation

By: _____

Title: _____

Date: _____

APPROVED BY CUSTODIAL AGENCY:

By: _____

Terry White, General Manager
King County Metro Transit Department

Date: _____

APPROVED AS TO FORM:

By: _____

Senior Deputy Prosecuting Attorney

LEASE AGREEMENT

I. SPECIAL TERMS AND CONDITIONS

1. **PARTIES.** This Lease Agreement (“Agreement” or “Lease”) is executed by and between KING COUNTY, a political subdivision of the State of Washington (“King County”), and THE CENTER FOR WOODEN BOATS, a Washington nonprofit corporation (“Lessee” or “CWB”), and is effective as of December 5, 2021 (“Effective Date”). Together, King County and Lessee are sometimes referred to herein as the “Parties.”

2. **PREMISES.** King County hereby leases to Lessee, upon the following terms and conditions, a portion of that certain real property commonly known as 1445 N Northlake Place, Seattle, Washington 98103, and the improvements there upon, also known as King County Assessor’s Tax Parcel No. 408880-4670, (the “Real Property”) the legal description of which is:

The Southeasterly half of Lot 10 and all of Lots 11 to 16 inclusive, and the Northwesterly 6 feet of Lot 17, in Block 101, Land Union Shore lands, records of King County, Washington,

and

The Southeasterly 29.075 feet of Lot 17, Block 101, Lake Union Shore Lands, records of King County, Washington, and more particularly described as follows:

Beginning at the northeast corner of Lot 17, Block 101, Lake Union Shore Lands from which the concrete monument at the intersection of the center line of Northlake Avenue and the center line of that part of Densmore Avenue between Northlake Avenue and North 34th Street, as established, bears North 20°04’37” East a distance of 234.78 feet, thence North 34°22’32” West along the north boundary of said Lot 17, a distance of 29.973 feet, thence South 41°33’54.7” West paralleling the East boundary of said Lot 17, a distance of 238.282 feet to a point on the South boundary of said Lot 17, thence South 58°26’05.3” East along the South boundary of said Lot 17, a distance of 29.075 feet to the Southeast corner of said Lot 17, thence North 41°33’54.7” East along the East boundary of said Lot 17 and West boundary of Waterway No. 20, as established, a distance of 231.00 feet to the place of beginning.

The portion of the Real Property leased to Lessee under this Lease specifically excludes any property and improvements waterward of the fence line location depicted on the attached Exhibit C-1, including but not limited to the dock, shoreline, or shorelands (such excluded portion of the Real Property herein the “Excluded Area”) and as more specifically set forth in Section I.8, No Access To Shoreline or Shorelands. The portion of the Real Property leased to Lessee under this Lease is hereafter referred to as the “Premises” as depicted on the diagram in Exhibit A, attached to and incorporated herein by this reference. Lessee expressly understands, acknowledges, and agrees that this Lease does not authorize Lessee to use, possess, or access the Excluded Area. .

3. TERM.

- A. The Lease term shall be for sixty (60) months (“Term”), and shall begin on the 5th day of December, 2021 (“Commencement Date”), and end at 11:59 PM on the 4th day of December , 2026 (“Expiration Date”).
- B. Extension Options. Provided that Lessee is not in default of any of its obligations under this Lease, either at the time of the exercise of the options set forth herein or at the time of the commencement of the extension periods hereunder, Lessee may elect to extend the Lease Term (“Extension Option(s)”) for the Premises for two (2) additional periods of five (5) years each (collectively, the “Extension Periods”; individually the “First Extension Period”; and the “Second Extension Period”) by delivering to King County not later than six (6) months before the expiration of the Term or the First Extension Period, as the case may be, a written notice (the “Option Notice”) of such election. The First Extension Period shall commence on the day immediately following the last day of the Term, and the Second Extension Period shall commence on the day immediately following the last day of the First Extension Period, and each extension period shall be subject to all of the terms and conditions of this Lease, including but not limited to, the FMV Adjustments as defined and set forth in Section I.13. The Extension Options set forth herein are personal to Lessee and may not be exercised by any assignee or transferee. Any reference to the “Lease Term” elsewhere in this Agreement will include any Extension Periods which are then in effect. Lessee may terminate this Lease at any time, without cause, upon not less than Ninety (90) days’ prior written notice to King County; but in no event shall Lessee’s termination relieve Lessee of any duties or obligations under Sections II.7, II.18, or II.28 of this Lease, or any other obligation or liability under the Lease that by its nature survives termination.

4. RENT.

- A. Lessee shall pay to King County the sum of Four Thousand Two Hundred and Fifty and No/100 Dollars (\$4,250.00) as rent payable in advance on or before the first (1st) day of each and every calendar month of the Lease Term (hereinafter called “Rent”) and subject to the FMV Adjustments as provided in Section I.13. The Rent is initially calculated based on 20,627 square feet of leasehold area at \$4,250.00 per month NNN at \$2.40 per square foot per year. The Rent shall increase by three percent (3.0%) on the anniversary of the Commencement Date and annually thereafter for the duration of the Term and any Renewal Terms. Rent is due on or before the first day of each month during the term.

The Rent schedule shall be:

Period	Monthly Base Rent
December 5, 2021 - December 4, 2022	\$4,250.00

December 5, 2022 - December 4, 2023	\$4,377.50
December 5, 2023 - December 4, 2024	\$4,508.83
December 5, 2024 - December 4, 2025	\$4,644.09
December 5, 2025 - December 4, 2026	\$4,783.41

To the extent applicable by law, and consistent with Subsection II.1.B of this Lease, Lessee shall also pay a Leasehold Excise Tax (presently 12.84%) as Additional Rent. As set forth in Section II.27, below, the Rent shall automatically and immediately increase if Lessee holds over beyond the expiration or earlier termination of the Lease. All Rent and Additional Rent shall be made payable to the King County Office of Finance and shall be sent to:

Metro Transit, Transit Real Estate & Environmental TREE
King Street Center, MS KSC-TR-0431
201 S. Jackson St.
Seattle, WA 98104-3856

- B. The Rent and Additional Rent are exclusive of any other sale, franchise, business or occupation, local improvement district tax, or other tax or assessment that may exist at the time this Agreement is executed or arise during the term thereof. Should any such taxes apply during the term of this Lease, then the Rent shall be increased by such amount.
- C. Notwithstanding any provision to the contrary, for the first two years from the Commencement Date Lessee shall be entitled to a credit against payment of monthly Rent equal to the total cost of certain capital improvements to be made to or for the benefit of the Premises (the proposed "Lessee Improvements", defined herein) by Lessee at Lessee's sole cost and expense (herein after called "Rent Credit"), except that Lessee's monthly Rent Credit shall not exceed the amount due as monthly Rent as provided in Section I.4.A of this Agreement. The cost of such improvements shall include both soft costs (*e.g.*, professional fees, permitting fees, etc.) and hard costs (*e.g.*, labor, materials, contractors profit and overhead, etc.). Donated services or materials shall be included at their fair market value. The Rent Credit shall be an in-kind payment in lieu of Rent amortized on a straight-line basis over the term of the Lease, with any deficiency owing to be paid by Lessee on a monthly basis. Credit does not apply to fees for surface water management, noxious weeds or conservation.
- D. Lessee agrees that during the first six months of the Term Lessee shall develop and propose an updated capital plan and budget for proposed Lessee Improvements to the Premises that may qualify for Rent Credits. The proposed Lessee Improvements shall be consistent with the requirements stated in paragraph 4.C of this Lease and shall be subject to review and approval by King County, such review and approval not to be unreasonably withheld, conditioned, or delayed. Lessee understands,

acknowledges, and agrees that not all proposed Lessee Improvements to the Premises may qualify or be approved for Rent Credits. The agreed costs of the proposed Lessee Improvements which are to be the basis of the Rent Credit shall be listed in Exhibit B, which, along with its attachments, is incorporated herein by this reference. Exhibit B shall be updated from time to time to reflect the documented costs of completed Lessee Improvements and the estimated cost of any additional planned Lessee Improvements. Any qualified rent credits shall not be effective after 2 years from the Commencement Date when rental payment will be due in full.

- E. If Lessee fails to provide an updated capital plan for additional improvements by the end of month six during the Term then Lessee shall be obligated to pay the Rent in money (cash, check, or wire transfer) beginning on the first day of month seven and every month thereafter unless and until King County agrees otherwise in writing in its sole and absolute discretion.
- E. Upon written request from King County, Lessee shall submit to King County an itemized statement along with copies of invoices or similar documents reflecting the actual cost of construction of the Lessee Improvements for the purpose of reconciling the actual costs with the cost estimates provided in Exhibit B. Lessee shall promptly respond to any request for additional information from King County.
- F. Upon written request from King County, Lessee and King County shall review Lessee's documented expenditures on the Lessee Improvements for the prior calendar year, and compare Lessee's total costs for Lessee Improvements (as defined Section I.6 below) from the Effective Date up to and through that prior calendar year against the total amount of Rent due from the Effective Date up to and through that prior calendar year. If the total amount of Rent exceeds Lessee's total costs for Lessee Improvements up to and through that prior calendar year, then Lessee shall pay the difference to King County within sixty (60) days. If, however, Lessee's total costs for Lessee Improvements exceed the total amount of Rent up to and through that prior calendar year, then the difference shall be added to Lessee's Rent Credit (not to exceed the monthly Rent due under subsection I.4.A) and amortized on a straight-line basis over the remaining term of the Lease consistent with Section I.4.C.
- G. Should Lessee fail to timely initiate or to timely complete the improvements as provided in Section I.6 of this Agreement, Lessee shall be in default of this Agreement and shall pay to King County all Rent that would have been due and payable under this Agreement as provided in Section I.4.A from the Commencement Date to the first day of the month immediately following the date on which King County provided written notice of said default to Lessee, and Lessee shall pay Rent every month thereafter as provided in Section I.4.A herein.
- H. Any dispute arising under or relating to Subsections I.4.A-F shall be resolved using the dispute resolution process set forth in Section I.12 of this Lease.

- I. In addition to Rent and Additional Rent, Lessee shall pay all direct costs associated with initiating this Lease.

5. USE. Subject to the other restrictions on use as contained in this Lease, Lessee shall use the Premises for the following purposes only and for no other without prior written consent of King County, which consent may be withheld in King County's sole and absolute discretion: the display, storage, use, maintenance and repair of wooden boats, provided such activities do not pose an adverse environmental impact; the presentation of public educational programs involving the construction, renovation, maintenance, storage, display, and use of significant wooden boats; for maritime heritage skill programs; for related instructional, educational, and recreational programs; and for such incidental purposes such as storage of materials, administrative uses, fundraising activities and for occasional special events in direct support of Lessee's mission. Any dispute arising under or relating to this Section I.5 shall be resolved using the dispute resolution process set forth in Section I.12 of this Lease.

6. LESSEE IMPROVEMENTS.

- A. Prior to constructing any improvements, and as soon as is reasonably practical after this Lease is executed as defined in Section I.1, Lessee shall submit to King County detailed plans and specifications ("Plans") for at least the first phase of the improvements to or for the benefit of the Premises ("Lessee Improvements"). The first phase of the improvements would be those planned for installation in 2022.
- B. Unless King County and CWB mutually agree to a different timeline, King County must provide any comments on the Plans to CWB within thirty (30) days of receiving the Plans, or King County will be deemed to have waived its opportunity to submit comments on the Plans. CWB shall incorporate the King County's comments into the Plans, or shall address King County's comments to King County's satisfaction, unless individually or collectively it is not practicable to do so. For purposes of this Agreement, the term "practicable" means a proposed revision that is capable of being designed, constructed, and implemented in a reliable and effective manner including consideration of cost. When considering cost under this analysis, a proposed revision to the Plans shall not be considered practicable if the incremental costs of the proposal are disproportionate to the incremental degree of benefits provided by the proposal over the existing proposal or other lower cost alternatives.
- C. Any phase of Lessee Improvements shall be substantially under construction no later than ninety (90) days after the date that King County approves the Plans or indicates that King County's comments are otherwise addressed to King County's satisfaction. Each phase of Lessee Improvements shall be substantially complete as defined herein with all work completed except for routine and customary punch list items, no later than one hundred eighty (180) days after (a) approval of the Plans by

King County, or (b) Lessee's receipt of all necessary permits and approvals and final inspections by the Authority Having Jurisdiction for such Lessee Improvements, whichever is later. The deadline for substantial completion of the Lessee Improvements may be extended upon the written agreement of Lessee and King County, the approval of which shall not be unreasonably withheld by King County. For purposes of this Lease, "substantially complete" means (i) the relevant Lessee Improvements have been completed by Lessee other than minor incidental work, corrections or repairs, the completion of which will not have a material effect on Lessee's use of the Lessee Improvements, (ii) the relevant Lessee Improvements may be utilized for all intended purposes, (iii) all systems and utilities relating to the relevant Lessee Improvements are operational in a manner materially consistent with the purpose for which they are intended, and (iv) any governmental or regulatory approvals or authorizations, if any, required in order to legally utilize the relevant Lessee Improvements have been obtained, including but not limited to certificates of occupancy and operating permits.

- D. Lessee shall be responsible for securing all permits and approvals for the construction of the Lessee Improvements and shall be solely liable for all costs, including the costs of construction, maintenance and repair thereof. If required by a permitting agency, King County will provide Lessee with a form letter and a copy of the fully executed Lease to document that Lessee has the rights of use and possession of the Premises. Lessee further acknowledges and agrees that prior to any utility work or improvements involving any soil disturbance on the Premises, Excluded Area, or any real property or right of way adjacent to the Real Property whatsoever, Lessee shall have obtained all relevant and necessary consents and approvals of the Washington State Department of Ecology ("Ecology") as may be set forth in the Consent Decree (defined in Section I.7 below) or pursuant to any rules, regulations, holdings, laws, or agreements as Ecology may promulgate or otherwise require.
- E. Any dispute arising under or relating to this Section I.6 shall be resolved using the dispute resolution process set forth in Section I.12 of this Lease.
- F. Prior to Lessee commencing any Lessee Improvement in any manner that may cause any soil disturbance to the Premises, Excluded Area or any adjacent right-of-way or adjacent property, and prior to Lessee commencing any other work or improvement that may cause any soil disturbance to the Premises, Excluded Area or any adjacent right-of-way or adjacent property, (i) the indemnity provisions set forth in Section II.7, (ii) the insurance provisions set forth in Section II.9, and (iii) the hazardous materials and environmental compliance provisions set forth in Section II.28 shall be subject to the review of, and amendment by, King County in its sole and absolute discretion. The requirements of this Section I.6.F are in addition to any requirements of Ecology set forth herein, under the Consent Decree or pursuant to any rules, regulations, holdings, laws, or agreements as Ecology may promulgate or otherwise require.

7. CONSENT DECREE.

A. Lessee acknowledges that the Premises are subject to a consent decree filed with and approved by the Superior Court of the State of Washington in and for King County, Washington, in that certain litigation styled as State Department of Ecology v. King County and Chevron Products Company, a division of Chevron USA, Inc, a Pennsylvania Corp., King County Superior Court Cause No. 99-2-08651-1 SEA, which has, *inter alia*, a Restrictive Covenant attached as Exhibit C thereto and recorded as document number 20021126001566 (collectively "Consent Decree"). A copy of the Consent Decree and the Restrictive Covenant are attached hereto as Exhibit D and made a material and integral part of this Lease. Lessee acknowledges that it and its environmental consultants and legal counsel have reviewed the Consent Decree and Restrictive Covenant and understand the nature and extent of the environmental covenants, conditions, and restrictions as set forth therein. Lessee covenants, warrants, and agrees that Lessee's use of the Premises shall not violate the Consent Decree or the Restrictive Covenant, and that Lessee shall take no action nor cause others to take action that would violate the Consent Decree.

B. Lessee shall provide and allow unobstructed access over and across the Premises, including for access to the Excluded Area for King County, its employees, agents, consultants and designees, including the employees, agents and consultants of Chevron USA, Inc. (collectively, "Chevron USA, Inc.") and the Washington State Department of Ecology for purposes of testing, monitoring, inspection, and remediation related to the Consent Decree ("Consent Decree Access"). Lessee acknowledges that Consent Decree Access may occur at any time for any reason, without advance notice to Lessee, 24 hours a day 7 days a week, for any and all Consent Decree related activities, including access to any and all parties to the Consent Decree and its agents, contractors and invitees, all the sole and absolute discretion of King County, Ecology, Chevron and other related governmental or associated entities.

C. Lessee shall not obstruct access to any test wells for monitoring and other activities required pursuant to the Consent Decree. King County, its employees, agents, consultants and designees, including Chevron USA, Inc. and DOE, shall have access to all test wells located on the Real Property at all times and without advance notice to Lessee.

D. Lessee initials and dates below to indicate that Lessee has read subsections A through C of this Section I.7, and that Lessee agrees to comply with the requirements of this Section I.7.

LESSEE INITIALS: _____

DATE: 7/21/21

8. NO ACCESS TO EXCLUDED AREA.

A. Any access waterward of the fence delineating the Premises from the Excluded Area, as shown on Exhibit C-1, including access to the dock, shoreline and shorelands portion of the Excluded Area and its appurtenances, whether accessed overland or via the waters adjacent to the Excluded Area, is prohibited for Lessee, its employees, members, agents, invitees, guests, and the public. Lessee shall maintain a permanent and sturdy gated fence separating the Premises and the Excluded Area, as depicted in the diagram attached to Exhibit C as Exhibit C-1. The parties acknowledge that the sole purpose of the fence is to prohibit overland access to the shoreline, shorelands, and dock located waterward of the fence. The gate in the fence shall remain locked at all times, and Lessee shall provide King County with all keys to the gate lock. Lessee understands that the docks are structurally unsafe and that any access may pose a danger to anyone who uses them. Any changes to the existing fence shall be subject to King County's prior written approval, which approval may be denied, withheld, or conditioned by King County in its sole and absolute discretion.

B. Lessee shall take all reasonable and necessary actions to actively enforce paragraph I.8.A to prohibit overland access to the dock, shoreline, and shorelands by Lessee's employees, members, agents, invitees, guests, and the public.

C. Other than maintaining the existing fence, and subject to paragraph B of this Section I.8, Lessee shall have no obligation to police the dock, shoreline, or shorelands, or to prohibit trespass by third parties waterward of the fence described in paragraph A of this Section I.8. However, Lessee agrees to notify King County if Lessee observes any human activity occurring waterward of the fence, along the shoreline or the shorelands portion of the Premises or its appurtenances, including the docks. Lessee shall provide such notice in a reasonably prompt manner, during regular business hours, to:

Transit Real Estate & Environmental
Capital Division—King County Metro Transit Department
King Street Center, MS KSC-TR-0435
201 S. Jackson St.
Seattle, WA 98104-3856
transitproperty@kingcounty.gov

9. TERMINATION FOR REMEDIATION. King County may terminate this Agreement at any time if, in its sole and absolute discretion, it determines that termination of Lessee's leasehold is necessary in order to perform remediation work pursuant to its obligations (i) under the Consent Decree or in response to any administrative or judicial order related thereto; or (ii) any subsequent consent decree, agreed order, or administrative or judicial order relating to the shoreline or shorelands portions of the Premises. Notwithstanding the foregoing, King County shall use all reasonable efforts to work with Lessee to accommodate such remediation work without terminating

the Lease, and shall only exercise its right to terminate if, in King County's sole discretion, King County determines that the remediation work cannot reasonably be performed without Lessee vacating the Premises. In the event King County elects to terminate this Agreement, it shall (a) provide Lessee ninety (90) days advance written notice and refund any (to the extent paid to King County in cash) Rent and Additional Rent on a pro rata basis that was paid after notice of termination and Lessee's surrender of the Premises.

10. ENTIRE AGREEMENT - AMENDMENTS - EXHIBITS. This Lease together with any and all exhibits expressly incorporated herein by reference or attached hereto shall constitute the whole agreement between the parties. No modification or amendment of this Lease shall be valid or effective unless evidenced by an agreement in writing signed by both parties. This Lease contains and incorporates the following Exhibits:

Exhibit A	Illustration of Premises
Exhibit B	Calculation of Rent Credit
Exhibit C	Lessee Improvements
Exhibit C-1	Illustration of Fence-line dividing Premises and Excluded Area
Exhibit D	Consent Decree

11. NOTICES.

A. Required notices shall be given in writing to the following respective address:

If to COUNTY, to: Transit Real Estate & Environmental
Capital Division
King County Metro Transit Department
King Street Center, MS KSC-TR-0415
201 S. Jackson St.
Seattle, WA 98104-3856
Email: transitproperty@kingcounty.gov

If to LESSEE, to: The Center for Wooden Boats
1010 Valley Street
Seattle, WA 98109
Attn: Executive Director
Email: janderson@cwbo.org

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing.

B. All formal notices under this Lease shall be in delivered in person or sent by registered or certified mail, postage prepaid, or by private overnight courier. Notices mailed as provided in this Section I.9 shall be deemed given and received

on the date that is three (3) business days following the date of post mark, in the case of mailing, or one (1) day after deposit with a private overnight courier.

12. DISPUTE RESOLUTION PROCESS. The Parties will work collaboratively in accordance with the following steps to resolve disagreements arising from or relating to this Lease. Disagreements will be resolved promptly and at the lowest level of authority feasible. The Parties shall use their best efforts to resolve disputes and issues arising out of or related to this Lease following this four-step process:

- A. Notice. Each party shall notify the other in writing of any problem or dispute the party believes needs formal resolution. Notice shall be provided as required under Section I.11. This written notice shall include: (1) a description of the issue to be resolved; (2) a description of the difference between the Parties on the issue; and (3) a summary of steps taken by the Parties to resolve the issue.
- B. Meet. The Parties shall meet within three (3) business days of receiving the written notice and attempt to resolve the dispute.
- C. Elevate. In the event the Parties cannot resolve the dispute within fourteen (14) business days of first meeting to resolve the dispute, they shall notify CWB's Executive Director and the Director of the Capital Division in the King County Metro Transit Department (or designees) of their inability to resolve the dispute and these officials shall meet within six (6) business days of receiving such notice and attempt to resolve the dispute.
- D. Negotiation. In the event CWB's Executive Director and the Director of the Capital Division in the King County Metro Transit Department (or their designees) cannot resolve the dispute, then CWB's Executive Director and the General Manager of the King County Metro Transit Department or his/her designee shall meet within fourteen (14) business days of receiving such notice and engage in good faith negotiations to resolve the dispute.

13. RENT ADJUSTMENT. To ensure a fair Rent based upon the fair market value of the Premises, King County may adjust the Rent (i.e., by increasing or decreasing the Rent) to the then current Fair Market Rental Value (as defined below) upon the exercise of each Extension Option (the "FMV Adjustment"). Each FMV Adjustment becomes effective on the first day of each Extension Period, such day the "Rent Adjustment Date."

- A. Fair Market Rental Value Defined. For all purposes required under this Lease, "Fair Market Rental Value" is defined as: An amount in the competitive market that a well-informed and willing lessor, who desires but is not required to lease, would accept, and which a well-informed and willing lessee, who desires but is not required to lease, would pay for the temporary use of the Premises (excluding improvements to the Premises constructed at Lessee's expense made during the

Lease Term), after due consideration of all the elements reasonably affecting value

- B. Notice of Rental Adjustment. King County will give Lessee written notice of the adjusted Rent for the succeeding Extension Period upon sixty (60) days of receipt of Lessee's intent to exercise an Extension Option as set forth in Section 3(B) hereinabove.

II. GENERAL TERMS AND CONDITIONS

1. LATE PAYMENT, TAXES, LICENSES, FEES AND ASSESSMENTS.

- A. LATE PAYMENTS. There will be a late collection charge of FIFTY DOLLARS (\$50.00) or the maximum rate permitted by law, plus one and a half percent (1 1/2%) per month interest for any delinquent Rent not delivered to King County by the tenth (10th) of the month.
- B. LEASEHOLD TAX. A Leasehold Excise Tax, if applicable, is levied pursuant to the Revised Code of Washington (R.C.W.) Chapter 82.29A. The Lessee agrees to pay this tax to King County. If the State of Washington changes the Leasehold Excise Tax or if King County receives authorization to levy this tax, the tax payable shall be correspondingly changed.
- C. LICENSE, TAXES AND FEES. Lessee shall pay throughout the term of this Lease all applicable taxes and all license and excise and other applicable fees (surface water management, noxious weeds, and conservation).
- D. OTHER CONSIDERATION. Except as otherwise set forth in this Lease, no offset, reduction, or credit toward rent shall be allowed unless it is specifically provided in writing and signed by the Manager of the Real Estate Services Section of King County Facilities Management Division.

2. COMPLIANCE WITH ALL LAWS AND REGULATIONS. In using the Premises, Lessee shall comply with all applicable laws, ordinances, and regulations from any and all authorities having jurisdiction, including without limitation any lot line adjustment, short subdivision, binding site plan, or equivalent action that may be required by the City of Seattle. The Lessee specifically agrees to comply and pay all costs associated with achieving such compliance without any notice from King County, and further agrees that King County does not waive this Section II.2 by giving notice of demand for compliance in any instance.

3. UTILITIES. Lessee shall pay for all costs, expenses, fees, services, and charges of all kinds for heat, light, water, gas, and telephone, and for all other public utilities used on

the Premises (excluding the dock pursuant to Section I.2) so that the same shall not become a lien against the Premises.

4. IMPROVEMENTS AND ALTERATIONS.

- A. Except as specifically provided in this Lease, Lessee shall make no alterations or improvements to or upon the Premises, or install any fixtures (other than trade fixtures which can be removed without injury to the premises) without first obtaining written approval from King County, whose approval may be withheld in its sole and absolute discretion.
- B. At the election of King County, in its sole and absolute discretion, all Lessee Improvements and alterations erected or made on the Premises may, upon expiration or earlier termination of this Lease, belong to King County without compensation to the Lessee. In the event King County elects otherwise, the Lessee shall remove at its sole cost and expense, all improvements so designated as unacceptable improvements from the Premises on or before the expiration or earlier termination of the Lease.

5. CONDITION OF PREMISES. LESSEE ACKNOWLEDGES AND AGREES THAT KING COUNTY HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, CONTRACTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO (i) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE REAL PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY; (ii) THE INCOME TO BE DERIVED FROM THE PREMISES; (iii) THE SUITABILITY OF THE PREMISES FOR ANY AND ALL ACTIVITIES AND USES WHICH LESSEE OR ANYONE ELSE MAY CONDUCT THEREON; (iv) THE COMPLIANCE OF OR BY THE PREMISES OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (v) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PREMISES; (vi) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PREMISES; OR (vii) ANY OTHER MATTER WITH RESPECT TO THE REAL PROPERTY, AND SPECIFICALLY, THAT KING COUNTY HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, ZONING OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PREMISES OF HAZARDOUS MATERIALS OR SUBSTANCES. LESSEE FURTHER ACKNOWLEDGES AND AGREES THAT, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PREMISES, LESSEE IS RELYING SOLELY ON

ITS OWN INVESTIGATION OF THE PREMISES AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY KING COUNTY. LESSEE FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PREMISES WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT KING COUNTY HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. LESSEE FURTHER ACKNOWLEDGES AND AGREES THAT KING COUNTY IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS, OR INFORMATION PERTAINING TO THE PREMISES, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON, AND, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE LEASE OF THE PREMISES AS PROVIDED FOR HEREIN IS MADE ON AN "AS-IS" CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE RENT REFLECTS THAT THE PREMISES ARE LEASED BY KING COUNTY TO LESSEE SUBJECT TO THE FOREGOING. ALL PROVISIONS OF THIS SECTION II.5 SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

6. MAINTENANCE.

- A. Lessee shall throughout the term of this Lease without cost or expense to King County, keep and maintain the Premises and all improvements, landscaping, fixtures, and equipment which may now or hereafter exist thereon, in a neat, clean, and sanitary condition and shall, except for reasonable wear and tear, at all times preserve the Premises in good and safe repair. Upon the expiration or sooner termination of the Lease, Lessee shall forthwith return the same in as good condition as existed at the Commencement Date (ordinary wear and tear excepted). Notwithstanding the foregoing, Lessee shall have no obligation to repair or maintain Excluded Area, including the existing dock, or any test wells located on the Real Property, except to provide and allow the access specified in Section I.7 of this Lease.
- B. If, after thirty (30) days' notice from King County, Lessee fails to maintain or repair any part of the Premises or any improvement, landscaping, fixtures or equipment thereon, King County may, but shall not be obligated to, enter upon the Premises and perform such maintenance or repair, and Lessee agrees to pay the costs thereof to King County upon receipt of a written demand. Any unpaid sums under this paragraph shall be payable as Additional Rent on the next rent payment date due following the written demand and will bear interest at the maximum rate allowed by Washington State Law.

7. INDEMNITY AND HOLD HARMLESS. The Lessee agrees to indemnify and hold King County harmless as provided herein to the maximum extent possible under law.

Accordingly, the Lessee agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless King County, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to Lessee's exercise of the rights and privileges granted by this Lease, except to the extent of King County's sole negligence. The Lessee's obligations under this Section II.7 shall include:

- A. The duty to promptly accept tender of defense and provide defense to King County at the Lessee's own expense;
- B. Indemnification of claims made by the Lessee's own employees or agents; and,
- C. Waiver of the Lessee's immunity under the industrial insurance provisions of Title 51 R.C.W. but only to the extent necessary to indemnify King County, which waiver has been mutually negotiated by the Parties.
- D. In the event it is necessary for King County to incur attorney's fees, legal expenses or other costs to enforce the provisions of this Section II.7, all such fees, expenses and costs shall be recoverable from the Lessee.
- E. In the event it is determined that R.C.W. 4.24.115 applies to this Lease or the improvements contemplated herein, the Lessee agrees to defend, hold harmless, and indemnify King County to the maximum extent permitted thereunder, and specifically for its negligence concurrent with that of King County to the full extent of Lessee's negligence. Lessee agrees to defend, indemnify, and hold harmless King County for claims by Lessee's employees and agrees to waiver of its immunity under Title 51 R.C.W., which waiver has been mutually negotiated by the Parties.
- F. The provisions of this Section II.7 shall survive the expiration, abandonment or termination of this Lease. Nothing contained within this Section II.7 shall affect and/or alter the application of any other provision contained within this Lease.

8. FIRE INSURANCE.

- A. From the Effective Date and for the duration of the Lease Term, Lessee shall carry fire and extended coverage insurance in an amount equal to the full insurable value of all improvements, structures, and buildings located on the Premises. The policy shall include King County as an insured for its vested interest in the Premises. A certificate of insurance must be provided to King County.
- B. King County will not carry insurance on Lessee's property. Lessee shall, at its option, insure its equipment, inventory, and other personal property located on the

Premises with such coverages and in such amounts as Lessee may consider appropriate.

- C. In the event of the total or partial destruction by fire, regardless of origin, or otherwise of the building, structures, or facilities currently on the Premises or subsequently constructed by the Lessee, Lessee shall have the obligation to reconstruct such facilities within six (6) months after their destruction. Notwithstanding the foregoing, so long as Lessee is not otherwise in default under this Lease, and subject to approval by King County in its sole discretion, in lieu of restoring the Premises Lessee may terminate this Lease by giving written notice to King County and assigning to King County Lessee's interest in the proceeds of the insurance required under Section II.9 and subsection A of this Section II.8.

9. INSURANCE REQUIREMENTS. As of the Effective Date of this Lease, the Lessee shall procure and maintain for the duration of this Lease, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with exercise of the rights and privileges granted by this Lease, by the Lessee, its agents, representatives, employees, contractors, or subcontractors. The cost of such insurance shall be paid by the Lessee.

By requiring such minimum insurance coverage, King County shall not be deemed or construed to have assessed the risks that may be applicable to the Lessee under this Lease. The Lessee shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Agreement.

For all coverages: Each insurance policy shall be written on an "Occurrence" form.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

General Liability: Insurance Services Office Form No. CG 00 01 Ed. 11-88, covering COMMERCIAL GENERAL LIABILITY.

B. Minimum Limits of Insurance

General Liability: Coverage shall be at least as broad as Insurance Services Office form number (CG 00 01) Commercial General Liability, in the amount of at least \$1,000,000 combined single limit per occurrence by bodily injury, and property

damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit. King County, its officers, officials, employees and agents shall be included and endorsed as an additional insured for liability arising out of the performance of activities under this Agreement (CG 2010 11/85 or its equivalent).

Stop Gap/Employers Liability: Coverage shall be at least as broad as the protection provided by the Workers' Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy. Minimum Limit \$1,000,000.

Builders Risk: When construction begins, the Lessee, at its own expense, will obtain or require its contractor to obtain, Builder's Risk and/or Installation Floater Insurance. The coverage shall insure for direct physical loss to property for 100% of the cost of the construction project. The policy shall be endorsed to cover the interests, as they may appear, of King County. In the event of a loss to any or all of the work and/or materials therein and/or provided at any time prior to the final acceptance of the project by King County, the contractor shall promptly reconstruct, repair, replace or restore all work and/or materials so destroyed.

C. Deductibles and Self-insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by King County. The deductible and or self-insured retention of the policies shall not limit or apply to the Lessee's liability to King County and shall be the sole responsibility of the Lessee.

D. Other Insurance Provisions

The insurance policies required in this Lease are to contain or be endorsed to contain the following provisions:

1. General Liability Policy:

a) King County, its officers, officials, employees, and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Lessee in connection with this Lease.

b) The Lessee's insurance coverage shall be primary insurance as respects King County, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by King County, its officers, officials, employees, or agents shall not contribute with the Lessee's insurance or benefit the Lessee in any way.

c) The Lessee's insurance shall apply separately to each insured against whom a claim is made and or lawsuit is brought, except with respect to the limits of the insurer's liability.

2. All Policies: Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, until after thirty (30) days prior notice - return receipt requested, has been given to King County.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a "Bests" rating of no less than A:VIII, or if not rated with "Bests" with minimum surpluses, the equivalent of "Bests" surplus size VIII.

If at any time, of the foregoing policies fail to meet the above stated requirements, the Lessee shall, upon notice to that effect from King County, promptly obtain a new policy, and shall submit the same to King County, with the appropriate certificates and endorsements for approval.

F. Verification of Coverage

Lessee shall furnish the County with certificate(s) of insurance and endorsement(s) required by this Lease. The certificate(s) and endorsement(s) for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by King County and are to be received and approved by King County prior to the commencement of activities associated with the Lease. King County reserves the right to require complete certified copies of all required insurance policies at any time.

10. MUTUAL RELEASE AND WAIVER. To the extent a loss is covered by insurance in force, King County and Lessee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance policies, including any extended coverage endorsements hereto; provided that this Section II.10 shall be inapplicable if it would have the effect of invalidating any insurance coverage of King County or the Lessee.

11. SURRENDER OF PREMISES. At the expiration or earlier termination of this Lease, Lessee shall promptly surrender possession of the Premises to King County, and shall deliver to King County all keys that it may have to any and all parts of the Premises. Lessee shall assign any warranties in force at the time of surrender to King County.

12. DEFAULT AND RE-ENTRY. In addition to any other right of early termination of this Lease in favor of King County, if any Rent, Additional Rent or other obligations provided herein, or any part thereof shall be and remain unpaid when the same shall become due,

or if Lessee shall violate or default on any of the covenants and agreements herein contained or referenced, including the Consent Decree and Restrictive Covenant, King County may terminate this Lease upon giving the notice required by law and re-enter said Premises using such force as may be required. Notwithstanding such re-entry by King County, and excepting Lessee's right to any refund of excess Rent or Additional Rent (if paid in cash) as provided elsewhere in this Lease, the liability of the Lessee for the Rent provided for herein shall not be extinguished for the balance of the term of this Lease, and Lessee covenants and agrees to make good to King County any deficiency arising from a re-entry and reletting of the Premises at a lesser rental than agreed to herein. The Lessee shall pay such deficiency each month as the amount thereof is ascertained by King County. In the event it becomes reasonably necessary to make any changes, alterations, or additions to the Premises or any part thereof for the purpose of reletting said Premises or any part thereof, Lessee shall also be responsible for such cost. **EXCEPT FOR LESSEE'S RIGHT TO TERMINATE THIS LEASE AS PROVIDED IN SECTION I.3.C, AND DISPUTE RESOLUTION AS PROVIDED IN SECTION I.12, THERE ARE NO OTHER REMEDIES AVAILABLE TO LESSEE AT LAW OR IN EQUITY. AS A MATERIAL INDUCEMENT FOR KING COUNTY TO ENTER INTO THIS LEASE, LESSEE HAS AGREED THAT IT HAS NO RECOURSE AGAINST KING COUNTY FOR ANY DECISION MADE BY KING COUNTY TO TAKE WHATEVER ACTION KING COUNTY DEEMS NECESSARY AND APPROPRIATE WITH RESPECT TO THE PREMISES, INCLUDING KING COUNTY'S RIGHT TO TERMINATE THIS LEASE IN ITS SOLE AND ABSOLUTE DISCRETION AS PROVIDED FOR IN THIS LEASE. LESSEE HEREBY AGREES THAT THE DAMAGES THAT WOULD BE SUFFERED BY LESSEE CONTESTING KING COUNTY'S DECISION TO TERMINATE THIS LEASE WOULD EXACT A TREMENDOUS HARM TO THE PUBLIC IN GENERAL. IN ADDITION, LESSEE HEREBY WAIVES TRIAL BY JURY. LESSEE UNDERSTANDS THAT KING COUNTY WOULD NOT HAVE ENTERED INTO THIS LEASE WITHOUT THIS PROVISION AND AS SUCH IN THE EVENT THAT LESSEE ATTEMPTS TO CONTEST OR CONTESTS KING COUNTY'S TERMINATION OF THIS LEASE EITHER IN A COURT OF LAW OR IN ANOTHER ADMINISTRATIVE ARENA, THEN THIS LEASE SHALL AUTOMATICALLY TERMINATE WITHOUT ANY FURTHER ACTION NECESSARY BY EITHER PARTY; AND THE FILING OF ANY SUCH CONTEST ACTION SHALL SERVE AS A NOTICE OF TERMINATION.**

13. ASSURANCE OF PERFORMANCE. In the event of a default in the performance of any obligation under this Lease which remains uncured for more than ten (10) days after demand, King County may request and the Lessee shall provide adequate assurance of the future performance of all obligations under this Lease. The adequacy of any assurance shall be determined according to commercially reasonable standards for lessors of real property in the County of King, State of Washington. Adequate assurance shall include, but not be limited to, a deposit in escrow, a guarantee by a third party acceptable to King County, a surety bond, or a letter of credit from a reputable lender in the Seattle metropolitan area. Lessee's failure to provide adequate assurance within ten (10) days of

King County's request shall constitute a material breach and King County may in its discretion terminate this Lease.

14. ADVANCES BY KING COUNTY FOR LESSEE. If Lessee fails to pay any fees or perform any of its obligations under this Lease other than payment of Rent, King County will mail notice to Lessee of its failure to pay or perform. Twenty (20) days after mailing notice, if Lessee's obligation remains unpaid or unperformed, except for Lessee's obligation to construct the Lessee's Improvements, King County may pay or perform these obligations at Lessee's expense but is under no obligation to do so. Upon written notification to Lessee of any costs incurred by King County under this Section II.14, Lessee will reimburse King County within twenty (20) days.
15. NON-WAIVER. It is hereby agreed that no waiver of any condition or covenant in this Lease or any breach thereof, shall be taken to constitute waiver of any subsequent breach.
16. SIGNS. No sign, advertisement, notice, or other lettering will be exhibited, inscribed, painted, or affixed by Lessee on any part of the outside of the Premises without the prior written consent of King County, provided that such consent shall not be unreasonably withheld. If Lessee violates this provision, King County may remove the sign without any liability and may charge the expense incurred by such removal to the Lessee; provided, however, King County shall give Lessee written notice of Lessee's violation of this provision and Lessee shall have forty-eight (48) hours after receiving said notice to comply with the terms of this provision. All signs erected or installed by Lessee shall be subject to any federal, state or local statutes, ordinances or regulations applicable to signs.
17. INSPECTION AND "FOR RENT" SIGNS. Except for King County's rights pertaining to inspection, monitoring and remediation under the Consent Decree and as specifically provided elsewhere in this Lease, King County reserves the right to inspect the Premises at any and all times throughout the Term of this Lease. The right of inspection reserved to King County hereunder shall impose no obligation on King County to make inspections to ascertain the condition of the Premises, and shall impose no liability upon King County for failure to make such inspections. King County shall have the right to place and maintain "For Rent" signs in conspicuous places on the Premises for thirty (30) days prior to the expiration or sooner termination of this Lease.
18. LIENS.
 - A. It is understood and agreed that this Lease is executed and delivered upon the express condition that the Lessee will not and cannot contract any debt or debts for labor, materials, services, or otherwise which will or may become a lien or encumbrance against the interest of King County in the Premises, and King County hereby denies to Lessee any right, power, or authority to do any act, or contract any obligation or liability which would in any way subject the interest of King County in the Premises to any lien, encumbrance, claim, or demand whatsoever.

B. Lessee will promptly, and in all events within forty-five (45) days following the attachment of any lien, remove and discharge any and all liens, which attach to, upon or against the Premises (other than liens arising from the actions of King County). Lessee reserves the right to contest the validity or amount of any such lien in good faith provided that, within forty-five (45) days after the filing of such lien, Lessee discharges said lien of record or records a bond which complies with the requirements of RCW 60.04.161 eliminating said lien as an encumbrance against the Premises. In the event Lessee shall fail to so remove any such lien, King County may take such action as it shall reasonably determine to remove such lien and all costs and expenses incurred by King County including, without limitation, amounts paid in good faith settlement of such lien and attorneys' fees and costs shall be paid by Lessee to King County together with interest thereon at the rate of twelve percent (12%) interest per annum from the date advanced until paid. Lessee's obligations pursuant to this Section II.18 shall survive the expiration or earlier termination of this Lease.

19. NO ASSIGNMENT OR SUBLEASE. Lessee shall not assign or transfer this Lease or any interest therein, nor sublet the whole or any part of the Premises, nor grant an option for assignment, transfer or sublease for the whole or any part of the Premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law, or by any process or proceeding of any court or otherwise, except with the prior written permission of King County, which permission may be granted or denied in King County's sole and absolute discretion.

20. CONDEMNATION.

A. King County and Lessee will immediately notify the other in writing of the receipt of notice of any proceedings with respect to a condemnation or intent of any authority to exercise the power of eminent domain.

B. If all of the Premises are taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Lease, then this Lease will terminate as of the date condemner takes possession, and Lessee will have no claim or interest in or to any award of just compensation except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in the Lessee Improvements made to the Premises by the Lessee and taken by the condemner, if any, but not to exceed the amount of that part, if any, of the award attributable to the value of the Lessee Improvements.

C. If part of the Premises is taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Lease, King County or Lessee may choose to terminate this Lease as of the date the condemner takes possession. If neither King County nor Lessee

elects to terminate this Lease, the Rent will be reduced in the same proportion that the value of the portion of the Premises to be taken bears to the value of the entire Premises as of the date condemner takes possession. Lessee will have no claim or interest in or to any award of just compensation or damages except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in the part of the Lessee Improvements taken by the condemner, if any, but not to exceed the amount of that part, if any, of the award attributable to the value of Lessee Improvements.

- D. If temporary use of all or a portion of the Premises is taken by any lawful authority for a period which would reduce the leasehold and, consequently, would cause the Premises to be untenable for the use by Lessee for the purposes set forth in Section I.5 of this Lease titled "Use," then, at Lessee's determination, King County or Lessee may choose to terminate this Lease. If King County or Lessee elect to terminate the Lease, the Lease will terminate the date the condemner takes possession and Lessee will have no claim or interest in or to any award of just compensation except that the Lessee will be entitled to an amount equal to the fair market value of the Lessee's leasehold interest in the Lessee Improvements, if any. If neither King County or Lessee elects to terminate this Lease, the Lease will continue in full force and Lessee will be entitled to receive any award from the condemner for the use of all or part of the Premises, EXCEPT that Lessee may elect to have the Rent reduced by the amount proportionally attributable to any partial temporary taking, in which event Lessee shall not be entitled to any portion of the award attributable to said use.
- E. It is understood and agreed that Lessee shall not be party to any negotiation or proceedings at law wherein King County claims compensation other than that which is defined statutorily as constituting "just compensation."

21. ANTI-DISCRIMINATION. In all services or activities and all hiring or employment made possible by or resulting from this Lease, there shall be no discrimination against any employee or applicant for employment because of sex, age (except minimum age and retirement provisions), race, color, creed, national origin, marital status, sexual orientation, gender identity or expression, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: Employment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Lessee shall not violate any of the terms of R.C.W. 49.60, Title VII of the Civil Rights Act of 1964, King County Code 12.16.020, or any other applicable federal, state, or local law or regulations regarding non-discrimination. Any violation of this provision shall be considered a violation of a material provision of this Lease and shall be grounds for cancellation, termination, or suspension, in whole or in part of the Lease by the County, and may result in ineligibility for further County leases or contracts. The Lessee will also comply with other anti-discrimination laws or requirements of any and all jurisdictions having authority.

22. HEIRS, AGENTS, AND ASSIGNS. Without limiting any provisions of this Lease pertaining to assignment and subletting, the provisions of this Lease bind the heirs, successors, agents and assigns of any of the parties to this Lease.
23. CAPTIONS. The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.
24. TIME IS OF THE ESSENCE. Time is of the essence of this Lease, and in the event of the failure of Lessee to pay any charges at the time in the manner herein specified, or to keep any of the covenants or agreements herein set forth, the Lessee shall be in default.
25. CUMULATIVE REMEDIES. No provision of this Lease precludes King County from pursuing any other remedies for Lessee's failure to perform his obligations.
26. ATTORNEY'S FEES/COLLECTION CHARGES. In the event legal action is brought by either party to enforce any of the terms, conditions, or provisions of this Lease, the prevailing party shall recover against the other party in addition to the costs allowed by law, such sum as the court may adjudge to be a reasonable attorney's fee. In addition to all other charges, Lessee shall pay a charge of \$150.00 to King County for preparation of a demand for delinquent rent or a notice of default.
27. HOLDING OVER. If the Lessee holds over after the expiration or earlier termination of the term hereof without the express written consent of King County, Lessee shall become a tenant at sufferance only at a rental rate equal to one hundred-fifty percent (150%) of the Rent in effect upon the date of such expiration or termination (prorated on a daily basis), and otherwise subject to the terms, covenants, and conditions herein specified so far as applicable; and the rent credit specified in Section I.4.C shall not apply. Acceptance by King County of Rent after such expiration or earlier termination shall not result in a renewal of this Lease, nor affect King County's right of re-entry or any rights of King County hereunder or as otherwise provided by law. If Lessee fails to surrender the Premises upon the expiration or earlier termination of this Lease despite demand to do so by King County, Lessee shall indemnify and hold King County harmless from all loss or liability including, without limitation, any claim made by any succeeding Lessee founded on or resulting from such failure to surrender, together with interest, attorney's fees, and costs.
28. HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE.
 - A. Definition. "Hazardous Materials" as used herein shall mean:
 1. Any toxic substances or waste, sewage, petroleum products, radioactive substances, medical, heavy metals, corrosive, noxious, acidic, bacteriological or disease-producing substances; or

2. Any dangerous waste or hazardous waste as defined in:
 - a. Washington Hazardous Waste Management Act as now existing or hereafter amended (RCW Ch. 70.105); or
 - b. Resource Conservation and Recovery Act as now existing or hereafter amended (42 U.S.C. Sec. 6901 et seq.); or
 3. Any hazardous substance as defined in:
 - a. Comprehensive Environmental Response, Compensation and Liability Act of 1980 as now existing or hereafter amended (42 U.S.C. Sec. 9601 et seq.); or
 - b. Washington Model Toxics Control Act as now existing or hereafter amended (RCW Ch. 70.105D); or
 4. Any pollutants, contaminants, or substances posing a danger or threat to public health, safety or welfare, or the environment, which are regulated or controlled as such by any applicable federal, state or local laws, ordinances or regulations as now existing or hereafter amended.
- B. Lessee shall not without first obtaining King County's prior written approval, use, generate, release, handle, spill, store, treat, deposit, transport, or dispose of any Hazardous Materials in, on, or about the Premises, or transport any Hazardous Material to or from the Premises. In the event, and only in the event that King County approves any of the foregoing, Lessee agrees that such activity shall occur safely and in compliance with all applicable federal, state, and local laws, ordinances and regulations.
- C. Environmental Compliance.
1. Lessee shall, at Lessee's own expense, comply with all federal, state and local laws, ordinances and regulations now or hereafter affecting the Premises, Lessee's business, or any activity or condition on or about the Premises, including, without limitation, all laws, ordinances and regulations related to Hazardous Materials and all other environmental laws, ordinances and regulations, and any other laws relating to the improvements on the premises, soil and groundwater, storm water discharges, or the air in and around the Premises, as well as such rules as may be formulated by King County ("the Laws"). Lessee warrants that its business and all activities to be conducted or performed in, on, or about the Premises shall comply with all of the Laws. Lessee agrees to change, reduce, or stop any non-complying activity, or install necessary

equipment, safety devices, pollution control systems, or other installations may be necessary at any time during the lease to comply with the Laws.

2. Lessee shall not cause or permit to occur any violation of the Laws on, under, or about the Premises, or arising from Lessee's use or occupancy of the Premises, including, but not limited to, soil and ground water conditions.
3. Lessee shall promptly provide all information regarding any activity of Lessee related to Hazardous Materials on or about the Premises that is requested by King County. If Lessee fails to fulfill any duty imposed under this Section II.28 within a reasonable time, then King County may do so; and in such case, Lessee shall cooperate with King County in order to prepare all documents King County deems necessary or appropriate to determine the applicability of the Laws to the Premises and Lessee's use thereof, and for compliance therewith, and Lessee shall execute all documents promptly upon King County's request. No such action by King County and no attempt made by King County to mitigate damages shall constitute a waiver of any of Lessee's obligations under this paragraph.
4. Lessee shall, at Lessee's own expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities ("the Authorities") under the Laws.
5. Should any Authority demand that a cleanup plan be prepared and that a cleanup be undertaken because of any deposit, spill, discharge or other release of Hazardous Materials that occurs during the term of this Lease at or from the Premises, or which arises at any time from or in connection with Lessee's use or occupancy of the Premises, then Lessee shall, at Lessee's own expense, prepare and submit the required plans and all related bonds and other financial assurances; and Lessee shall carry out all such cleanup plans. Any such plans and cleanup are subject to King County's prior written approval.

D. Indemnification.

1. Lessee shall be fully and completely liable to King County for any and all cleanup costs, and any and all other charges, fees, penalties (civil and criminal) imposed by any Authority with respect to Lessee's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials in or about the Premises, common area, or buildings. Lessee shall indemnify, defend, and save King County harmless from any and all of the costs, fees, penalties, and charges assessed against or imposed upon King County (as well as King

County's attorney's fees and costs) by any governmental authority as a result of Lessee's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials, or from Lessee's failure to provide all information, make all submissions, and take all steps required by all Authorities under the Laws.

2. Lessee shall indemnify and hold King County harmless from any and all claims, liabilities, lawsuits, damages, and expenses, including reasonable attorney's fees, for bodily injury or death, property damage, loss, or costs caused by or arising from the use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials by Lessee or any of its agents, representatives or employees in, on, or about the Premises occurring during the Term of this Lease.
- E. Reporting Requirements. Lessee shall comply with the Laws requiring the submission, reporting, or filing of information concerning Hazardous Materials with the Authorities, and shall provide to King County a full copy of any such filing or report as submitted within fifteen (15) days of such submission.
- F. Inspection. King County expressly reserves the right, and Lessee shall fully cooperate in allowing, from time to time, such examinations, tests, inspections, and reviews of the Premises as King County, in its sole and absolute discretion, shall determine to be advisable in order to evaluate any potential environmental contamination.
- G. Remedies. Upon Lessee's default under this Section II.28 HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE, King County shall be entitled to the following rights and remedies in addition to any other rights and remedies that may be available to King County:
1. At King County's option, to terminate this Lease immediately; and/or,
 2. At King County's option, to perform such response, remediation and/or cleanup as is required to bring the Premises and any other areas affected by Lessee's default into compliance with the Laws and to recover from Lessee all of King County's costs in connection therewith; and/or
 3. To recover from Lessee any and all damages associated with the default, including but not limited to, response, remediation and cleanup costs and charges, civil and criminal penalties and fees, adverse impacts on marketing the Premises, loss of business and sales by King County and other King County lessees, diminution of value of the Premises, the loss of or restriction of useful space in the Premises, any and all damages and

claims asserted by third parties, and King County's attorney's fees and costs.

- H. Remediation on Termination of Lease. Upon the expiration or earlier termination of this Lease, Lessee shall remove, remediate or clean up any Hazardous Materials released by Lessee on the Premises or released by others in connection with Lessee's use of the Premises, or emanating from the Premises in connection with Lessee's use of the Premises, and Lessee shall undertake whatever other action may be necessary to bring the Premises into full compliance with the Laws as to such releases ("Termination Cleanup"). The process for such Termination Cleanup is subject to King County's prior written approval. If Lessee fails or refuses to commence the Termination Cleanup process, or fails to reasonably proceed toward completion of such process, King County may elect to perform such Termination Cleanup after providing Lessee with written notice of the County's intent to commence Termination Cleanup, and after providing Lessee a reasonable opportunity, which shall be not less than ninety (90) days after such notice (unless King County is given notice by a government agency with jurisdiction over such matter that Termination Cleanup must commence within a shorter time, in which case King County shall give Lessee notice of such shorter time), to commence or resume the Termination Cleanup process. If King County performs such Termination Cleanup after said notice and Lessee's failure to perform same, Lessee shall pay all of King County's costs.
- I. Limitation Regarding Existing Conditions. Nothing in this Section II.28, HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE, shall make Lessee responsible to perform any removal, remediation, or cleanup required under the Consent Decree except to the extent that Lessee's acts or omissions exacerbate existing conditions or create new conditions requiring new or different removal, remediation, or cleanup obligations.
- J. Survival. Lessee's obligations and liabilities under this Section II.28, HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE, shall survive the expiration or earlier termination of this Lease.

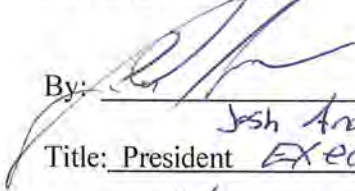
29. SEVERABILITY. If any term or provision of this Lease or the application of any term or provision to any person or circumstance is invalid or unenforceable, then the remainder of this Lease, or the application of the term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and will continue in full force.

END OF GENERAL TERMS AND CONDITIONS

IN WITNESS WHEREOF, King County and Lessee have executed this Lease on the dates specified below.

LESSEE:
Center for Wooden Boats, a Washington
Not-for-profit Corporation

LESSOR:
King County, a Political Subdivision of the
State of Washington

By: 
Title: President *Executive Director*

By: _____
Anthony Wright, Director
Facilities Management Division

Date: 6/25/21

Date: _____


LESSEE:
Center for Wooden Boats, a Washington
Not-for-profit Corporation

APPROVED BY CUSTODIAL AGENCY:

By: _____
Title: _____
Date: _____

By: _____
Terry White, General Manager
King County Metro Transit Department
Date: _____

APPROVED AS TO FORM:

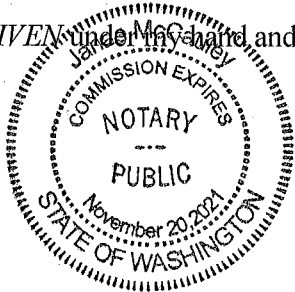
By: 
Senior Deputy Prosecuting Attorney

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

Joshua Cade Anderson Executive Director

On this day personally appeared before me _____ to me known to be _____ of the The Center for Wooden Boats that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and that he was authorized to execute the said instrument.

GIVEN under my hand and official seal this 25th day of June, 2021.



[Handwritten Signature]

NOTARY PUBLIC in and for the State of Washington residing at Seattle, 98103
My appointment expires 11/20/2021

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

On this day personally appeared before me _____ to me known to be the _____ of the _____ that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and that he was authorized to execute the said instrument.

GIVEN under my hand and official seal this _____ day of _____, 20 ____.

NOTARY PUBLIC in and for the State of Washington residing at _____
My appointment expires _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

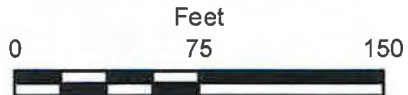
I certify that Anthony Wright signed this instrument, on oath stated that he was authorized by the King County Executive to execute the instrument, and acknowledged it as the Director, Facilities Management Division of King County, Washington to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

Date:

NOTARY PUBLIC in and for the State of
Washington residing at _____
My appointment expires



Photo: USGS High Resolution Orthoimagery for the Seattle, Washington Urban Area, 2009.



1 inch = 75 feet



Exhibit B - Rent Credit

**The Center for Wooden Boats
North Lake Union Site Improvement Projects
To offset monthly rent for lease period:
December 5, 2021 - December 4, 2026**

Project Number	Project Title	Estimated Cost *	Estimated Start Year *	Estimated Completion Year *	Permits / Inspections?	Ground Disturbance?
17-1	Enhance interior lighting and switches			completed		
17-2	Cover vents east and west end roof peaks			completed		
17-3	Wall insulation			completed		
17-4	Add smoke alarms	\$3,000				
17-5	Plug wall air leaks and plug scuppers around interior floor	\$5,000	2022	2022		
17-6	Add a wash room	\$32,000			yes	yes
17-7	Add exterior motion sensor lights	\$3,500				
17-8	Add fire exit door to east end			completed		
17-9	Expand concrete apron on west end	\$8,000				minimal
17-10	Build a shed structure on the west end	\$12,000	2023	2023	yes	minimal
17-11	Redeck the south porch			completed		
17-12	Add steps alongside of the west loading door			completed		
17-13	Add heating / humidity control system	\$20,000				
17-14	Add a roller remote-controlled cyclone-fence gate to NW lot end	\$8,000				
17-15	Add section of cyclone-fence to east end to complete fence	\$3,000	2023	2023		
17-16	Replace two closure panels with wall and windows	\$15,000	2023	2023		
17-17	Replace closure panel leading to south porch with double doors	\$6,000	2022	2022		
17-18	Re-route rain water from north and south side using above grade culverts	\$5,000	2023	2023		minimal
17-19	Add raised deck along the north side	\$22,000			yes	minimal
17-20	Build shed over new north-side deck	\$26,000			yes	
17-21	Add security bars over windows	\$10,000	2022	2022		
17-22	Add sprinkler system	\$18,000	2023	2023		
17-23	Build attic/loft storage areas between trusses	\$14,000				
17-24	Rmove old gas heater from trusses	\$4,000				
17-25	West lot regrade	\$12,000				minimal
17-26	Finish interior walls over insulation (#17-3)	\$30,000	2022	2022		
17-27	Add an interior ceiling	\$14,000				
	Total	\$270,500				
Rent		Rent	Offsets *	Cumulative *		
	2022	\$51,000	\$51,000	\$51,000		
	2023	\$52,530	\$53,000	\$104,000		
	2024	\$54,106	\$0	\$104,000		
	2025	\$55,729	\$0	\$104,000		
	2026	\$57,401	\$0	\$104,000		
	Total	\$270,766	\$104,000			

* All projects listed have prior King County Metro approval. Projects shown for 2022 and 2023 may be resequenced or replaced by other projects listed due to many factors such as materials and labor availability, interdependencies, permitting, etc. Start Years, Completion Years and Costs are estimates. Projects may be restructured or resequenced.



Photo: USGS High Resolution Orthoimagery for the Seattle, Washington Urban Area, 2009.



1 inch = 75 feet



Exhibit D
Consent Decree

FILED

1999 APR 13 PM 5:41

99 APR 13 PM 2:42

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY**

99-2-08651-1SEA
NO.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

KING COUNTY and CHEVRON
PRODUCTS COMPANY, a division of
Chevron U.S.A. Inc., a Pennsylvania
Corp.,

Respondent.

**ORDER ENTERING
CONSENT DECREE**

Having reviewed the Consent Decree signed by the parties to this matter, the Joint Motion for Entry of the Consent Decree and Memorandum in Support of Motion, the Declarations of Maura S. O'Brien and Thomas C. Morrill, and the file herein, it is hereby

ORDERED AND ADJUDGED that the Consent Decree in this matter is Entered and that the Court shall retain jurisdiction over the Consent Decree to enforce its terms.

DATED this _____ day of _____ 1999.
ORDER & ATTACHMENTS
APPROVED

APR 09 1999

MARILYN R. S. SELLERS
COURT COMMISSIONER
King County

1 Presented by:

2 CHRISTINE O. GREGOIRE
Attorney General

3

4 
5 THOMAS C. MORRILL, WSBA #18388
Assistant Attorney General

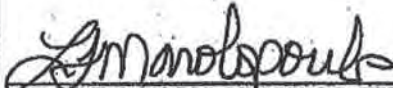
6

7 Attorneys for Plaintiff
State of Washington
Department of Ecology

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9 DATED: 3-30-99

10 CHEVRON PRODUCTS COMPANY

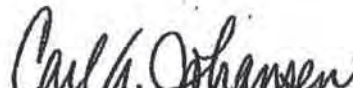
11 
12 LYNN T. MANOLOPOULOS, WSBA #21069
13 Attorney for Defendant
Chevron Company

14

15 DATED: 4/2/99

16 NORM MALING
King County Prosecuting Attorney

17

18 
19 CARL A. JOHANSEN, WSBA #1728
20 Senior Deputy Prosecuting Attorney
Civil Division
21 Attorney for Defendant King County

22

23 DATED: 4/6/99

24

25

26

CONSENT DECREE

**FORMER CHEVRON BULK TERMINAL #100-1327
FACILITIES NORTH/KING COUNTY METRO TRANSIT
LAKE UNION SITE**

SEATTLE, WASHINGTON

November 24, 1998



Facilities North Site/Metro Lake Union (former Chevron Bulk Plant #100-1327)



Environmental Cleanup Plan Now Available for Public Review and Comment

Comments Period
Now to Jan 5, 1999

Open House & Hearing
Tuesday, December 8, 1998
The Good Shepherd Center
5:00 - 7:30 p.m. open house
7:30 meeting & public hearing

Consent Decree, Cleanup Action Plan and SEPA

The Washington State Department of Ecology (Ecology), King County Metro Transit (Metro) and Chevron Products Company (Chevron) have prepared a draft Consent Decree and Cleanup Action Plan for the Facilities North/Metro Lake Union Site.

The Consent Decree will be the legal agreement, approved and issued by Washington Superior Court, for the three parties to conduct the cleanup at the site. The Cleanup Action Plan is the description of the proposed cleanup actions to remove contamination at the site following the Model Toxics Control Act.

Also available for your review is the State Environmental Policy Act (SEPA) Determination of Non-Significance (DNS) and environmental checklist. Under SEPA any activity that could adversely impact the environment must be reviewed. Metro and Ecology have prepared an

environmental checklist for the proposed cleanup actions and determined that they will not adversely effect the environment. This decision is called a Determination of Non-Significance.

Now is the Time to Comment

Ecology is currently accepting comments on the Consent Decree, Cleanup Action Plan, and the SEPA-DNS. These documents plus the Public Participation Plan are available for your review and comments through January 5, 1999 at the repositories listed in the box on the right.

An open house and public hearing will be held on Tuesday, December 8, 1998 at the Good Shepherd Center located at 4649 Sunnyside N in the community of Wallingford. The open house from 5:00 to 7:30 p.m. will provide an opportunity for interested citizens to stop in and learn about the site. A presentation and question and answer period will take place at the 7:30 p.m. hearing. You are invited to submit comments during the public hearing or by mail or email.

Site Background

The site is located along the north shore of Lake Union at 1602 N. Northlake Place in Seattle, Washington and has been known as the Metro Lake Union Site and Chevron Bulk Plant #1001327.

November 1998

Review Site Related Documents at:

Seattle Public Library
 Wallingford Branch
 4423 Parkmore Ave N
 Seattle (206) 884-4088

Good Shepherd Center
 4649 Sunnyside N
 Seattle (206) 487-8127

Department of Ecology
 3190 160th Avenue SE
 Bellevue, WA 98008-5452
 (425) 649-7190

King County Metro Transit
 Library - 3rd floor
 821 Second Ave, Seattle
 (206) 684-1129

Dept. of Ecology website
www.wa.gov/ecology

Send Comments To:

Site Manager: Maura O'Brien
 Department of Ecology
 3190 160th Avenue SE
 Bellevue, WA 98008-5452
 (425) 649-7249
 mob461@ecy.wa.gov

Questions? Call:

Public Involvement
 Christine Corrigan
 425-649-7254
 cscun481@gov.wa.gov

For special accommodation needs
 or language translation
 assistance, call
 425-649-7254 or
 425-649-7259 (TDD)

Ecology is an affirmative action
 and equal opportunity employer.

Shell Oil of California began the bulk fueling operation in 1975 and Metro, former King County Department of Metropolitan Services purchased the site in 1982. Metro continued operation until 1989. All tanks were drained and piping flushed and capped by April 1992. Now the facilities are used as a maintenance base.

The Proposed Cleanup

The proposed Cleanup Action Plan will be conducted under the Model Toxics Control Act (Chapter 173-340 WAC). The plan includes the following four tasks:

- ◆ Demolition of the above ground petroleum storage tanks and associated structures and piping.
- ◆ Excavation of the shallow soils contaminated with metals from sandblasting and painting operations.
- ◆ Remediation of soil and ground water contaminated with petroleum hydrocarbons using peroxide injection and ground water monitoring.
- ◆ Monitoring of ground water for petroleum hydrocarbons.

What Happens Next?

After this public comment period, Ecology will review all the comments submitted and will make recommendations for any suggested changes to the documents and proposed cleanup. Ecology will then prepare a summary of the comments and suggested changes. If substantive changes are recommended then there would be a second comment period. If no substantive changes are suggested, then the Consent Decree is recorded in Washington State Superior Court and cleanup action can begin.

The site cleanup is expected to begin in the summer of 1999 and to be completed by late 1999 with monitoring extended to 2002-4.

During Cleanup

During cleanup there may be construction impacts such as periods of increased traffic, noise and dust, specifically during tank demolition. These impacts are addressed in the SEPA Environmental Checklist. After cleanup, Metro will continue to use the facilities as a maintenance base.

ESTIMATED TIME LINE FOR FACILITIES NORTH SITE CLEANUP UNDER MODEL TOXICS CONTROL ACT

	8/91	11/93	6/95	12/95-98	4/98	4/98-6/98	11/98	1/99	1/99-4/99	08-2002/4		
Site Listed		Investigation RI/FS	MTCA Cleanup Action Plan Started	Investigation	Interim Action Plan & SEPA #1 Drafts	Comment Period #1 Interim Action Plan & SEPA Documents	Postponed to 1999	Consent Decree, MTCA Cleanup Action Plan & SEPA #2 Drafts	Comment Period #2 Consent Decree, Cleanup Plan & SEPA	Finalize Consent Decree, MTCA CAP & SEPA #2	MTCA Cleanup Design	MTCA Cleanup Completed & Compliance Monitoring Completed

*RI/FS = Site characterization (Remedial Investigation) and Feasibility Study for Facilities North Site, Washington by Applied Geotechnology, Inc. Draft, November 1993. *Investigation = Quarterly Sampling by AGI, May 1995; Groundwater Sampling by AGI, Jan 1997; Environmental Assessment by Pacific Environmental Group, Inc, Aug 1997 and April 1998; Field Activities Report by Foster Wheeler Environmental Corp, April 1998; Cleanup Level Development by FWEC April 1998; and Draft Cleanup Action Plan by FWEC.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY,

v.

King County and Chevron Products Company,
a division of Chevron U.S.A. Inc., a
Pennsylvania Corp.

No.

CONSENT DECREE

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V.	STATEMENT OF FACTS
VI.	WORK TO BE PERFORMED
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X.	SAMPLING, DATA REPORTING, AND AVAILABILITY
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XIII.	RETENTION OF RECORDS
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XVI.	RESOLUTION OF DISPUTES
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XIX.	ENDANGERMENT
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XXVI.	DURATION OF DECREE
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XXVIII.	COVENANT NOT TO SUE
XXIX.	RESERVATION OF RIGHTS
XXX.	EFFECTIVE DATE
XXXI.	PUBLIC NOTICE AND WITHDRAWAL OF CONSENT
	Exhibit A - Cleanup Action Plan
	Exhibit B - Site Diagram
	Exhibit C - Restrictive Covenant

I. INTRODUCTION

A. In entering into this Consent Decree (Decree), the mutual objective of the Washington State Department of Ecology (Ecology), and Chevron Products Company, a division of Chevron U.S.A. Inc. (Chevron) and King County (collectively Chevron and King County referred to as Defendants) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Decree requires the Defendants to undertake the remedial actions described in the Cleanup Action Plan attached hereto as Exhibit A. Ecology has determined that these actions are necessary to protect human health and the environment.

B. The Complaint in this action is being filed simultaneously with this Decree. An answer has not been filed, and there has not been a trial on any issue of fact or law in this case. However, the parties wish to resolve the issues raised by Ecology's complaint. In addition, the parties agree that settlement of these matters without litigation is reasonable and in the public interest and that entry of this Decree is the most appropriate means of resolving these matters.

C. In signing this Decree, Defendants agree to its entry and agree to be bound by its terms.

D. By entering into this Decree, the parties do not intend to discharge nonsettling parties from any liability they may have with respect to matters alleged in the Complaint. The parties retain the right to seek reimbursement, in whole or in part, from any liable persons for sums expended under this Decree.

E. This Decree shall not be construed as proof of liability or responsibility for any releases of hazardous substances or cost for remedial action nor an admission of any facts; provided, however, that the Defendants shall not challenge the jurisdiction of Ecology in any proceeding to enforce this Decree.

F. The Court is fully advised of the reasons for entry of this Decree, and good cause having been shown: IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

II. JURISDICTION

- A. This Court has jurisdiction over the subject matter and over the parties pursuant to Chapter 70.105D RCW, the Model Toxics Control Act (MTCA).
- B. Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable person if, after public notice and public hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a Consent Decree issued by a court of competent jurisdiction.
- C. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site which is the subject of this Decree.
- D. Ecology has given notice to Defendants, as set forth in RCW 70.105D.020(15), of Ecology's determination that the Defendants are potentially liable persons for the Site and that there has been a release or threatened release of hazardous substances at the Site.
- E. The actions to be taken pursuant to this Decree are necessary to protect human health, welfare, and the environment.
- F. Defendants have agreed to undertake the actions specified in this Decree and consent to the entry of this Decree under the MTCA.

III. PARTIES BOUND

This Decree shall apply to and be binding upon the signatories to this Decree (parties), their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Decree and to execute and legally bind such party to comply with the Decree. Defendants agree to undertake all actions required by the terms and conditions of this Decree and not to contest state jurisdiction regarding this Decree. No change

in ownership, corporate status, or municipal status shall alter the responsibility of the Defendants under this Decree. Defendants shall make a copy of this Decree available to all agents and contractors retained to perform work required by this Decree and shall condition any contract for such work on compliance with the applicable terms of this Decree.

IV. DEFINITIONS

Except for as specified herein, all definitions in WAC 173.340-200 apply to the terms in this Decree.

- A. Site: For purposes of this Decree, the Site, referred to as the Metro Lake Union Site located at 1602 N. Northlake Way, Seattle, Washington, including rights-of-way as appropriate, is more particularly described in Exhibit B to this Decree, which is a detailed site diagram.
- B. Parties: Refers to the Washington State Department of Ecology, Chevron and King County.
- C. Defendants: Refers collectively to Chevron and King County.
- D. Consent Decree or Decree: Refers to this Consent Decree and each of the exhibits to the Decree. All exhibits are integral and enforceable parts of this Consent Decree and the terms "Consent Decree" or "Decree" shall include all Exhibits to the Consent Decree.
- E. Days: Refers to calendar days, unless specified otherwise.

V. STATEMENT OF FACTS

Ecology makes the following finding of facts without any express or implied admissions by Defendants and without prejudice to Defendants' right to deny or otherwise challenge these findings of fact.

1. King County is the current owner and operator of the Site. Chevron, and its predecessor, Standard Oil of California, were a former owner and operator of the Site from approximately 1925 until 1982.
2. The Site is the location of a former bulk fuel storage and distribution facility.

3. Operation of the bulk fuel storage and distribution facility has resulted in the presence of hazardous substances, including petroleum hydrocarbons, volatile organic compounds, and metals in the soil and groundwater.

4. The concentrations of hazardous substances in the soil and groundwater exceed cleanup levels promulgated pursuant to the MTCA. The potential for hazardous substances to be present in the sediments in Lake Union and any cleanup thereof, if necessary, are not addressed in this Decree. Any future action concerning or related in any way to the sediments in Lake Union shall be addressed in a document other than this Decree, and this Decree shall not be amended or interpreted to address the sediments in Lake Union.

5. By letter dated December 29, 1988, Ecology notified the Municipality of Metropolitan Seattle (predecessor in interest to King County) that the Municipality was listed as an owner and/or operator of the Site that was potentially contaminated with hazardous substances and provided information Ecology had in its files regarding the site.

6. A Draft Remedial Investigation/Feasibility Study (RI/FS) dated November 1993 was prepared by Applied Geotechnology Inc. under contract issued by the Municipality of Metropolitan Seattle. Subsequent to the RI/FS, groundwater monitoring at the Site was undertaken in 1995 and 1997 by AGI Technologies (formerly known as Applied Geotechnology Inc.). The RI/FS and groundwater monitoring were conducted as independent remedial actions, and copies of all the reports related to such actions have been provided to Ecology.

7. By letters dated November 27, 1996, Ecology notified King County (successor in interest to the Municipality of Metropolitan Seattle) and Chevron that the Site was listed as a site known to be contaminated by hazardous substances, enclosed information Ecology believed reflected the status of the Site, and stated that if an independent cleanup action did not occur on the Site, Ecology would conduct a more detailed inspection at a future time and determine potentially liable person(s) responsible for cleanup costs.

Based on these facts, Ecology has determined that a release of hazardous substances at the Site requires remedial action to protect human health and the environment. This Decree sets forth the remedial measures necessary to clean up the Site in compliance with the MTCA.

VI. WORK TO BE PERFORMED

This Decree contains a program designed to protect human health, welfare and the environment from the known release, or threatened release, of hazardous substances or contaminants at, on, or from the Site.

1. King County agrees to perform the remedial actions described as Phase I in Sections 5.1.1.1, 5.2.1.1, 5.3.1.1, 6.2.1.1, and 6.3.1.1 of the Cleanup Action Plan attached hereto as Exhibit A.

2. Defendants agree to perform the remedial actions described as Phase II in Sections 5.1.1.2, 5.1.2, 5.2.1.2, 5.2.2, 5.3.1.2, 5.3.2, 6.2.1.2, 6.2.2, 6.3.1.2, and 6.3.2 of the Cleanup Action Plan attached hereto as Exhibit A.

3. Except for emergency situations, Defendants agree not to perform any remedial actions outside the scope of this Decree unless the parties agree to amend the scope of work to cover these actions. All work conducted under this Decree shall be done in accordance with Chapter 70.105D RCW and Chapter 173-340 WAC unless otherwise provided herein.

VII. GRANT FUNDING

Pursuant to RCW 70.105D.070(3)(a) and Ch. 173-322 WAC, Ecology has made the following determinations:

A. King County is a local government required, pursuant to this Decree, to undertake remedial action at the Site;

B. King County is prepared to proceed promptly to accomplish the remediation set forth in Exhibit A, and expenses incurred in implementing the Section VI Work to Be Performed hereunder are eligible for a local government grant; and

C. Implementation of this Decree will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with the cleanup standards of RCW 70.105D.030(2) (d).

VIII. DESIGNATED PROJECT COORDINATORS

The project coordinator for Ecology is:

Maura S. O'Brien
Department of Ecology
3190 - 160th Avenue S.E.
Bellevue, WA 98008-5452
(425) 649-7249

The project coordinator for King County is:

Judy A. Riley
King County Department of Transportation
821 Second Avenue, MS 118
Seattle, WA 98104-1598
(206) 684-1401

The project coordinator for Chevron is:

Ann Marie Johnson
Chevron Products Company
6001 Bollinger Canyon Road
San Ramon, CA 94583-0904
(925) 842-9525

Each project coordinator shall be responsible for overseeing the implementation of this Decree. The Ecology project coordinator will be Ecology's designated representative at the Site. To the maximum extent possible, communications between Ecology and the Defendants and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Decree, shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the remedial work required by this Decree. The project coordinators may agree to minor modifications to the work to be performed without

formal amendments to this Decree. Minor modifications will be documented in writing by Ecology.

Any party may change its respective project coordinator. Written notification shall be given to the other parties at least ten (10) calendar days prior to the change.

IX. PERFORMANCE

All work performed pursuant to this Decree shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or equivalent, with experience and expertise in hazardous substance site investigation and cleanup. Any construction work must be under the supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer.

X. ACCESS

Ecology or any Ecology authorized representatives shall have the authority to enter and freely move about all property at the Site at all reasonable times for the purposes of, inter alia: inspecting records and operation log related to the work being performed pursuant to this Decree; reviewing Defendants' progress in carrying out the terms of this Decree; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Decree; and verifying the data submitted to Ecology by the Defendants. While Ecology reserves its right to enter and inspect as set forth in the previous sentence, Ecology shall make best efforts to provide Defendants with 48 hours advance notice prior to entering the Site. Ecology shall make the results of all sampling, laboratory reports, videos, and/or test results generated by it or on its behalf, collected for the purposes of this Decree, available to Defendants. All parties with access to the Site pursuant to this paragraph shall comply with approved health and safety plans.

XI. SAMPLING, DATA REPORTING, AND AVAILABILITY

With respect to the implementation of this Decree, Defendants shall make the results of all sampling, laboratory reports, and/or test results generated by it, or on its behalf available and shall submit these results in accordance with Section XII of this Decree.

In accordance with WAC 173-340-840(5), ground water sampling data shall be submitted according to Section XII. These submittals shall be provided to Ecology in accordance with Section XII of this Decree.

If requested by Ecology, Defendants shall allow split or duplicate samples to be taken by Ecology and/or its authorized representatives of any samples collected by Defendants pursuant to the implementation of this Decree. Defendants shall make best efforts to provide Ecology with notice at least five (5) days in advance of any sample collection activity at the Site. Defendants shall provide Ecology with reasonable notice of any emergency sampling at the Site. Ecology shall, upon request, allow split or duplicate samples to be taken by Defendants or their authorized representatives of any samples collected by Ecology pursuant to the implementation of this Decree provided it does not interfere with Ecology's sampling.

XII. PROGRESS REPORTS

Defendants shall submit to Ecology written progress reports on all even months (e.g., February, April, June, etc.) which reports shall describe the actions taken during the previous two months to implement the requirements of this Decree. The progress reports shall include the following:

- A. A list of on-site activities that have taken place during the previous two months;
- B. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests;
- C. Description of all deviations from the schedule during the previous two months and any planned deviations in the upcoming two months;

D. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule;

E. After quality assurance/quality control review is complete, all data (including laboratory analysis) will be reported and summarized, including hard copy and electronic copy and identification of the source of the sample.

F. A list of deliverables for the upcoming two months if different from the schedule.

All progress reports shall be submitted by the tenth day of the month in which they are due after the effective date of this Decree. Unless otherwise specified, progress reports and any other documents submitted pursuant to this Decree shall be sent by mail or by facsimile to Ecology's project coordinator.

XIII. RETENTION OF RECORDS

Defendants shall preserve, during the pendency of this Decree and for ten (10) years from the date the hydrogen peroxide injection system has been taken out of service, all records, reports, documents, and underlying data in their possession relevant to the implementation of this Decree. Upon request of Ecology, Defendants, shall make all records developed pursuant to this Decree and in their possession available to Ecology and allow access for review. All records, developed pursuant to this Decree and in Defendant's possession, shall be made available to Ecology within a reasonable period of time.

XIV. TRANSFER OF INTEREST IN PROPERTY

No voluntary conveyance of title, easement, leasehold, or other interest in any portion of the Site shall be consummated without provision for continued operation and maintenance of any containment system, treatment system, and monitoring system required pursuant to this Decree.

Prior to transfer of any legal or equitable interest in all or any portion of the property, and during the effective period of this Decree, Defendants shall serve a copy of this Decree upon any prospective purchaser, lessee, transferee, assignee, or other successor in interest of the property;

and, at least thirty (30) days prior to any transfer, Defendants shall notify Ecology of said contemplated transfer.

XV. LAND USE RESTRICTIONS

Defendants agree that the restrictive covenant, Exhibit C, shall be recorded with the office of the King County Auditor within 10 days of the entry of this Decree and shall restrict future uses of the Site. Defendants will provide a copy of the recorded, restrictive covenant within thirty (30) days of the recording date.

XVI. RESOLUTION OF DISPUTES

A. In the event a dispute arises as to an approval, disapproval, proposed modification or other decision or action by Ecology's project coordinator, the parties shall utilize the dispute resolution procedure set forth below.

(1) Upon receipt of the Ecology project coordinator's decision, the Defendants have fourteen (14) days within which to notify Ecology's project coordinator of its objection to the decision.

(2) The parties' project coordinators and Ecology's project coordinator's supervisor shall then confer in an effort to resolve the dispute. If the project coordinators and Ecology's project coordinator's supervisor cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator and his/her supervisor shall issue a written decision.

(3) Defendants may then request Ecology management review of the decision. This request shall be submitted in writing to the Toxics Cleanup Program Manager within seven (7) days of receipt of Ecology's project coordinator's and his/her supervisor's written decision.

(4) Ecology's Program Manager shall conduct a review of the dispute and shall issue a written decision regarding the dispute within thirty (30) days of the Defendants' request for review. The Program Manager's decision shall be Ecology's final decision on the disputed matter.

B. If Ecology's final written decision is unacceptable to a Defendant or if Ecology fails to issue a final decision within said thirty (30) day period, the Defendant has the right to submit the dispute to the Court for resolution. The parties agree that one judge should retain jurisdiction over this case and shall, as necessary, resolve any dispute arising under this Decree. In the event a Defendant presents an issue to the Court for review and the issue is related to any action or decision of Ecology within the scope of RCW 70.105D.060, the Court shall review the action or decision of Ecology on the basis of whether such action or decision was arbitrary and capricious and render a decision based on such standard of review. For all other actions or decisions of Ecology, the appropriate standard of review shall be determined by the Court.

C. The parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

Unless delay of an activity poses an imminent and substantial threat to human health or the environment, all activities required in this Decree shall be stayed during the pendency of these dispute resolution procedures.

XVII. AMENDMENT OF CONSENT DECREE

A. Except as set forth in Paragraph C below, and minor modifications as set forth in Section VIII (Designation of Project Coordinators), this Decree may only be amended by a written stipulation among the parties to this Decree that is entered by the Court or by order of the Court. Such amendment shall become effective upon entry by the Court. Agreement to amend shall not be unreasonably withheld by any party to the Decree.

B. Defendants shall submit any request for an amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in a timely manner after the request for amendment is received, but no longer than thirty (30) days after receipt of the request. If the amendment to the Decree is substantial, Ecology will provide public notice and opportunity for comment. Reasons for the disapproval shall be stated in writing. If Ecology does not

agree to any proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section XVI of this Decree.

C. Written stipulation by the parties is not needed for schedule extensions granted pursuant to Section XVIII of this Decree.

XVIII. EXTENSION OF SCHEDULE

A. Except for minor modifications as set forth in Section VII (Designation of Project Coordinators), an extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least fifteen (15) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify the reason(s) the extension is needed.

An extension shall only be granted for such period of time as is reasonable under the circumstances. A requested extension shall not be effective until approved by Ecology or the Court. Ecology shall act upon any written request for extension in a timely fashion and, to the extent possible, within seven (7) days of the request. It shall not be necessary to formally amend this Decree pursuant to Section XVII when a schedule extension is granted.

B. The burden shall be on the Defendants to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause includes, but is not limited to, the following.

(1) Circumstances beyond the reasonable control and despite the due diligence of Defendants including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by Defendants; or

(2) Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty;

(3) Delays resulting from changes in permit terms or refusal to grant a permit needed to implement the requirements of the this Decree, provided the Defendants filed a timely application for the permit;

(4) Judicial review of the issuance, non-issuance, or reissuance of a permit necessary for the continuation of work;

(5) Other circumstances deemed in written notice by Ecology to be exceptional, extraordinary, or otherwise necessary to protect the environment or public interest; or

(6) Endangerment as described in Section XIX.

However, neither increased costs of performance of the terms of the Decree nor changed economic circumstances shall be considered circumstances beyond the reasonable control of Defendants.

C. Ecology may extend the schedule for a period not to exceed ninety (90) days, except where longer extension is needed as a result of:

(1) Delays in the issuance of a necessary permit which was applied for in a timely manner; or

(2) Other circumstances deemed exceptional or extraordinary by Ecology; or

(3) Endangerment as described in Section XIX.

Ecology shall give Defendants written notification in a timely fashion of any extensions granted pursuant to this Decree.

XIX. ENDANGERMENT

In the event Ecology determines that activities implementing or in noncompliance with this Decree, or any other circumstances or activities, are creating or have the potential to create a danger to the health or welfare of the people on the Site or in the surrounding area or to the environment, Ecology may order Defendants to stop further implementation of this Decree for such period of time as needed to abate the danger or may petition the Court for an order as appropriate. During any stoppage of work under this Section, the obligations of Defendants with

respect to the work under this Decree which is ordered to be stopped shall be suspended and the time periods for performance of that work, as well as the time period for any other work dependent upon the work which is stopped, shall be extended, pursuant to Section XVIII of this Decree, for such period of time as Ecology determines is reasonable under the circumstances.

In the event Defendants determine that activities undertaken in furtherance of this Decree or any other circumstances or activities are creating an endangerment to the people on the Site or in the surrounding area or to the environment, Defendants may stop implementation of this Decree for such period of time necessary for Ecology to evaluate the situation and determine whether Defendants should proceed with implementation of the Decree or whether the work stoppage should be continued until the danger is abated. Defendants shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after such stoppage of work, and thereafter provide Ecology with documentation of the basis for the work stoppage. If Ecology disagrees with the Defendants' determination, it may order Defendants to resume implementation of this Decree. If Ecology concurs with the work stoppage, the Defendants' obligations shall be suspended and the time period for performance of that work, as well as the time period for any other work dependent upon the work which was stopped, shall be extended, pursuant to Section XVIII of this Decree, for such period of time as Ecology determines is reasonable under the circumstances. Any disagreements pursuant to the clause shall be resolved through the dispute resolution procedures in Section XVI.

XX. INDEMNIFICATION

A. Defendants agree to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property arising from or on account of acts or omissions of Defendants, their officers, employees, agents, or contractors in implementing this Decree. However, the Defendants shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action arising out of the intentional

or negligent acts or omissions of the State of Washington, or the employees or agents of the State, in implementing the activities pursuant to this Decree.

B. To the extent permitted by law, Ecology agrees to indemnify and save and hold the Defendants, their agents and employees harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property arising from or on account of acts or omissions of Ecology, its employees, agents, or contractors in implementing this Decree. However, Ecology shall not indemnify the Defendants nor save nor hold their employees and agents harmless from any claims or causes of action arising out of the intentional or negligent acts or omissions of the Defendants, or the employees or agents of the Defendants, in implementing the activities pursuant to this Decree.

XXI. COMPLIANCE WITH APPLICABLE LAWS

A. All actions carried out by Defendants pursuant to this Decree shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in Paragraph B of this Section.

B. Pursuant to RCW 70.105D.090(1), the substantive requirements of Chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial action under this Decree that are known to be applicable at the time of entry of the Decree have been included in Exhibit A, the Cleanup Action Plan, and are binding and enforceable requirements of the Decree.

Defendants have a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Decree. In the event either Defendants or Ecology determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Decree, it shall promptly notify the other party of this determination. Ecology shall determine whether Ecology or Defendants shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Defendants shall promptly

consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by Defendants and on how Defendants must meet those requirements. Ecology shall inform Defendants in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Decree. Defendants shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this Section.

C. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the State to administer any federal law, the exemption shall not apply and the Defendants shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits. Ecology shall provide Defendants with written notice within fifteen (15) days of its determination.

XXII. REMEDIAL AND INVESTIGATIVE COSTS

The Defendants agree to pay costs incurred by Ecology pursuant to this Decree. These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW subsequent to the issuance of this Decree for investigations, remedial actions, and Decree preparation, negotiations, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). The Defendants agree to pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on

the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement will result in interest charges. Any dispute regarding Ecology's costs for the Site shall be subject to dispute resolution pursuant to Section XVI of this Decree.

XXIII. IMPLEMENTATION OF REMEDIAL ACTION

If Ecology determines that Defendants have failed without good cause to implement any material requirement of Section VI.2 of this Decree, Ecology may, after notice to Defendants, order Defendants to suspend implementation of this Decree. The parties shall then attempt in good faith to resolve any dispute pursuant to Section XVI (Resolution of Disputes). If the dispute remains unresolved and is submitted to court for resolution, Ecology may, after notice to Defendants, perform any or all portions of the work required under this Decree that remain incomplete. If Ecology performs all or portions of the remedial action, Defendants shall reimburse Ecology for the costs of doing work in accordance with Section XXII, provided that Defendants are not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Decree.

If Ecology determines that King County has failed without good cause to implement any material requirement of Section VI.1 of this Decree, Ecology may, after notice to King County, order King County to suspend implementation of this Decree. The parties shall then attempt in good faith to resolve any dispute pursuant to Section XVI (Resolution of Disputes). If the dispute remains unresolved and is submitted to court for resolution, Ecology may, after notice to King County, perform any or all portions of the work required under this Decree that remain incomplete. If Ecology performs all or portions of the remedial action, King County shall reimburse Ecology for the costs of doing work in accordance with Section XXII, provided that King County is not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Decree.

XXIV. PUBLIC PARTICIPATION

Ecology shall maintain the responsibility for public participation at the Site. However, Defendants shall cooperate with Ecology and, if agreed to by Ecology, shall:

A. Prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, and engineering design reports. Ecology will finalize (including editing if necessary) and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings;

B. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and at least five (5) days before major meetings with the interested public and local governments. Likewise, Ecology shall notify Defendants prior to the issuance of all press releases and fact sheets, and at least five (5) days before major meetings with the interested public and local governments;

C. Participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions, or as a presenter;

D. In cooperation with Ecology, arrange and/or continue information repositories to be located at King County Metro Transit Library, 9th Floor, 821 Second Avenue, Seattle, and Ecology's Northwest Regional Office, 3190-160th Avenue SE, Bellevue. At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured ground water, surface water, soil, and air monitoring data; remedial actions plans, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Decree shall be promptly placed in these repositories.

XXV. FIVE YEAR REVIEW

As remedial action, including ground water 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 Site monitoring as often as is necessary and appropriate under the circumstances. At

least every five years the parties shall meet to discuss the status of the Site and the need, if any, of further remedial action at the Site pursuant to WAC 173-340-420. This provision shall remain in effect for the duration of the Decree.

XXVI. DURATION OF DECREE

This Decree shall remain in effect and the remedial program described in the Decree shall be maintained and continued until the Defendants have received written notification from Ecology or the Court determines that the requirements of this Decree have been satisfactorily completed. Ecology shall issue a notice of completion when the requirements of this Decree have been satisfactorily completed.

XXVII. CLAIMS AGAINST THE STATE

Defendants hereby agree that they will not seek to recover any costs accrued in implementing the remedial action required by this Decree from the State of Washington or any of its agencies; and further, that the Defendants will make no claim against the State Toxics Control Account or any Local Toxics Control Account for any costs incurred in implementing this Decree. Except as provided above, however, Defendants expressly reserve their right to seek to recover any costs incurred in implementing this Decree from any other potentially liable person not a party to this Decree.

Nothing in this Decree shall impair King County's right to obtain grant funding from the Local Toxics Control Account under RCW 70.105D.070(3) and Ch. 173-322 WAC for any eligible portion of the work required by this Decree. The submission of an application for such grant funding shall not be deemed to be the filing of a "claim" for the purposes of this Section.

XXVIII. COVENANT NOT TO SUE

Ecology has determined that the requirements set forth under this Decree are protective of human health and the environment and that compliance with this Decree fully satisfies Defendant's obligations under RCW 70.105D for the type and location of contamination covered by this Decree. Therefore, in consideration of Defendants' compliance with the terms and

conditions of this Decree, Ecology covenants not to institute legal or administrative actions against Defendants regarding the type and location of contamination covered by this Decree unless confirmational monitoring indicates that additional remedial actions are necessary at the Site to attain the MTCA cleanup standards identified in the Cleanup Action Plan. Until cleanup standards identified in the Cleanup Action Plan are met at the Site, compliance with this Decree shall satisfy Defendants' cleanup obligations for the release or threatened release of hazardous substances covered by the terms of this Decree.

The terms and application of this Covenant Not to Sue are strictly limited to the contamination identified in the RI/FS and Cleanup Action Plan and only to the identified contamination located within the Site. This Covenant Not To Sue does not apply to any contamination of sediments or water in Lake Union.

A. Reopeners: Ecology specifically reserves the right to institute legal or administrative action against Defendants seeking to require them to perform additional response actions at the Site, and to pursue appropriate cost recovery in accordance with provisions set out in RCW 70.105D.050, under the following circumstances:

(1) Upon Defendants failure to meet the requirements of this Decree, including, but not limited to, failure of the remedial action to meet the cleanup standards identified in the Cleanup Action Plan;

(2) Upon Ecology's determination that confirmation monitoring indicates that additional remedial actions are necessary to meet the cleanup standards identified in the Cleanup Action Plan;

(3) Upon Ecology's determination that action beyond the terms of this Decree is necessary to abate an imminent and substantial endangerment to public health or welfare or the environment;

(4) In the event new information becomes available regarding factors previously unknown to Ecology, including the nature or quantity of hazardous substances at the

Site, and Ecology determines, in light of this information, that further remedial action is necessary at the Site to protect human health or the environment, and Defendants after notice, fail to take the necessary action within a reasonable time.

B: **Applicability:** Any Covenant Not To Sue concerning work performed under this Consent Decree shall have no applicability whatsoever to:

- (1) Criminal liability;
- (2) Liability for damages to natural resources;
- (3) Any Ecology action against potentially liable persons not a party to this Decree, including cost recovery.

XXIX. RESERVATION OF RIGHTS

The Defendants shall not be liable for claims of contribution by other persons not signatories to the Decree regarding matters addressed in this Decree. The percentage of response costs paid by Defendants under this Decree shall in no way constitute an admission as to an appropriate allocation of liability, if any, at the Site. This Section shall apply but is not limited to successors in interest who assume obligations under this Decree.

XXX. EFFECTIVE DATE

This Decree is effective upon the date it is entered by the Court.

XXXI. PUBLIC NOTICE AND WITHDRAWAL OF CONSENT

This Decree has been the subject of public notice and comment under RCW 70.105D.040(4)(a). As a result of this process, Ecology has found that this Decree will lead to a more expeditious cleanup of hazardous substances at the Site.

If the Court withholds or withdraws its consent to this Decree, it shall be null and void at the option of any party and the accompanying complaint shall be dismissed without costs and without prejudice. In such an event, no party shall be bound by the requirements of this Decree.

Signatures on next page.

James J. Pendowski

JAMES J. PENDOWSKI
Toxics Cleanup Program

3/1/99
Date

Thomas C. Morrill

THOMAS C. MORRILL, WSBA #18388
Attorney for Plaintiff

3-24-99
Date

Jeffrey W. Hartweg
Chevron Products Company

11/20/98
Date

King County

Date

THIS DECREE is approved and IT IS SO ORDERED this _____ day of _____, 1998.

SUPERIOR COURT JUDGE
King County Superior Court

CONSENT DECREE

EXHIBIT A

**FORMER CHEVRON BULK TERMINAL #100-1327-
FACILITIES NORTH/KING COUNTY METRO TRANSIT
LAKE UNION SITE**

SEATTLE, WASHINGTON

CLEANUP ACTION PLAN

Draft 11/24/98

**Draft Cleanup Action Plan
Former Chevron Bulk Plant 100-1327
Facilities North/King County Metro Transit
Lake Union Site**

Seattle, Washington

Prepared for

**Chevron Products Company
and
King County Metro Transit**

Prepared by

**FOSTER  WHEELER
FOSTER WHEELER ENVIRONMENTAL CORPORATION**

November 24, 1998



**Draft Cleanup Action Plan
Former Chevron Bulk Plant 100-1327
Facilities North/King County Metro Transit Lake Union Site**

Seattle, Washington

Prepared for

**Chevron Products Company
and
King County Metro Transit**

November 24, 1998

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ACRONYMS AND ABBREVIATIONS

AGI	Associated Geotechnology, Inc.
ARARs	Applicable or Relevant and Appropriate Requirements
ASTs	aboveground storage tanks
bgs	below ground surface
BTEX	benzene, toluene, ethylbenzene, and xylene
CAP	Cleanup Action Plan
Chevron	Chevron Products Company
CLARC II	Cleanup Levels and Risk Calculations
COCs	chemicals of concern
Ecology	Washington State Department of Ecology
Foster Wheeler Environmental	Foster Wheeler Environmental Corporation
gpm	gallons per minute
IRIS	Integrated Risk Information System
KJC	Kennedy/Jenks/Chilton
LTTD	low temperature thermal desorption
Metro	King County Metro Transit
mg/kg	milligrams per kilogram
MTCA	Model Toxics Control Act
MW	Monitoring Well
PAHs	polynuclear aromatic hydrocarbons
PEG	Pacific Environmental Group
ppb	parts per billion
ppm	parts per million
RCRA	Resource Conservation and Recovery Act
RI/FS	remedial investigation/feasibility study
SAIC	Science Applications International Corporation
SEPA DNS	State Environmental Policy Act Determination of Non-significance
SHP	Seattle Harbor Patrol
Site	Facilities North Site
SPHs	separate phase hydrocarbons
STP	sewage treatment plant
TPH	total petroleum hydrocarbons
UST	underground storage tank
VES	soil vapor extraction
WAC	Washington Administrative Code
WTPH-D	diesel range petroleum hydrocarbon

EXECUTIVE SUMMARY

This Cleanup Action Plan (CAP) presents the proposed cleanup actions under the Model Toxics Control Act (MTCA) for the Former Chevron Bulk Terminal #100-1327 currently owned by King County Metro Transit (Metro) for the Facilities North Site (Site) located along the north shore of Lake Union in Seattle, Washington (Figure 1). The site totals approximately three acres and consists of the North and South Yards. At this time, Metro plans to retain ownership and does not plan to alter the current industrial-commercial use of the site.

A number of investigations have been conducted at the site. The most comprehensive investigation was the remedial investigation/feasibility (RI/FS) study conducted by Associated Geotechnology Inc. (AGI) under contract with Metro (AGI Draft RI/FS, 1993). The RI/FS characterized the nature and extent of specific chemical compounds in soil and groundwater resulting from activities at the site and developed and evaluated cleanup action alternatives. Supplemental investigations were conducted by AGI, Pacific Environmental Group (PEG) and Foster Wheeler Environmental Corporation (Foster Wheeler Environmental) to augment existing site data and to develop site-specific cleanup levels for soil and groundwater.

The site is underlain primarily by glacial till, recessional sand, and fill material. Twenty-seven groundwater wells, installed to a depth of 20 to 40 feet below ground surface (bgs), are currently present at the site. The first occurrence of groundwater beneath the site is currently approximately 2 to 11 feet bgs. The groundwater is present within a discontinuous, semi-confined, water-bearing unit within the upper portion of the till. The direction of groundwater flow within this unit is to the south-southwest towards Lake Union. Aquifer testing conducted at the site indicates a sustained yield estimated at 2 gallons per minute (gpm) and ranging from 0.5 to 3 gpm. Washington State Department of Ecology (Ecology) has determined that this shallow groundwater is unlikely a potential future source of drinking water (Ecology letter dated August 10, 1998).

Several cleanup actions have been completed or are on-going at the site. Subsurface product piping traversing the North and South Yards was cleaned and capped in 1992. Separate phase hydrocarbons (SPHs) have been removed through bailing (skimming) from on-site wells over the past few years. Recent groundwater well monitoring indicates that no measurable SPHs are currently present.

The proposed CAP includes two phases of soil and groundwater remediation. Phase I addresses demolition of the aboveground storage tanks (ASTs), removal of the aboveground piping and associated structures, and remediation of the shallow soil containing metals from AST sand blasting and painting activities (AGI, Interim Action Plan, April 1998). During Phase I, shallow soil will be excavated and disposed of at an approved landfill or recycled where practical. The ASTs and associated piping and structures will be removed and disposed of off-site or recycled where practical.

Phase II proposes methods to increase bioremediation. Phase II will use hydrogen peroxide injection and monitoring to enhance bioremediation of soil and groundwater containing petroleum hydrocarbons. It also includes contingency measures such as continued groundwater monitoring. Future groundwater use, institutional controls, and/or restrictive covenants to restrict disturbance to site soil will require Ecology approval prior to excavation or disturbance of site soil. The cleanup

EXECUTIVE SUMMARY (continued)

actions will also include ancillary soil sampling, analyses, and remediation to address petroleum hydrocarbon constituents in soil.

Cleanup levels for the chemicals of concern (COCs) in soil and groundwater were developed based upon estimates of the highest beneficial use and the reasonable maximum exposure expected to occur under both current and potential future site use conditions. The COCs are listed in Table 1.

A risk evaluation was conducted to assess risks to human health and the environment. The results of the risk evaluation indicated that the site poses minimal risk from groundwater to surface water when statistical averaging and chemical migration from groundwater and surface water are considered. The risk evaluation also indicated that surface soil concentrations (metals) in the tank farm area are at levels which could pose a threat to worker health should contact occur.

Soil cleanup levels for total petroleum hydrocarbons (TPH) were derived in the Cleanup Development Level Report (Foster Wheeler Environmental, 1998a) using Ecology's Interim TPH Policy. Method C Industrial Soil Cleanup Levels are used for benzene and carcinogenic polynuclear aromatic hydrocarbons (PAHs) (MTCA, Cleanup Levels and Risk Calculations [CLARC II], February 1996). For metals, Method A Industrial Soil Cleanup Levels are proposed.

The shallow groundwater beneath the site has an extremely low probability for use as a drinking water source, but likely discharges to Lake Union. Therefore, Method B surface water cleanup levels are proposed as groundwater cleanup levels for this site. The proposed soil and groundwater cleanup levels are provided in Table 2.

Remedial alternatives were developed for the site by combining remedial technologies and their respective process options. Prior to developing specific cleanup alternatives, the site was separated into two operable units with differing cleanup requirements. The first operable unit is the Tank Farm soil and includes the surface soil containing elevated metal concentrations within the tank farm containment area. The second operable unit is the Lower Areas soil and groundwater and includes the soil and groundwater in the lower half of the North Yard, the South Yard, and the property between the two yards, containing elevated concentrations of petroleum hydrocarbons.

After investigation and evaluation, discussions with Ecology, and considering the findings of the RI/FS, the proposed cleanup for the Tank Farm soil operable unit includes removal of the ASTs, the excavation of shallow soil near these ASTs, and surface water controls or capping. Additional sampling is proposed for limited areas in both operable units where shallow soil was found to contain petroleum or petroleum constituents exceeding proposed cleanup levels.

The proposed groundwater cleanup actions for the Lower Areas soil and groundwater operable unit consists of hydrogen peroxide injection and monitoring with contingencies if necessary. Additional soil sampling is also proposed for limited areas of both operable units where shallow soil was found to contain petroleum or petroleum constituents exceeding proposed soil cleanup levels.

Institutional controls include restrictive covenants on use of the site: 1) only for industrial purposes; 2) on extraction or use of groundwater beneath the site; and 3) on excavation activities.

Engineering controls proposed include maintenance of existing fencing and containment wall to restrict site access and possible paving of the tank farm area with asphalt. Compliance, protection,

1. INTRODUCTION

1.1 PURPOSE

This Cleanup Action Plan (CAP) presents the proposed cleanup actions under the Model Toxics Control Act (MTCA) for the Former Chevron Bulk Terminal #100-1327. The terminal is currently owned by King County Metro Transit (Metro) and is located along the north shore of Lake Union at 1602 North Northlake Place, Seattle, Washington (Figure 1). The selection of cleanup actions presented in this document are based upon the findings of previous investigations conducted at the site and recent negotiations with the Washington State Department of Ecology (Ecology). The cleanup will be conducted by Chevron Products Company (Chevron), Metro, and Ecology under a legal agreement, called a Consent Decree.

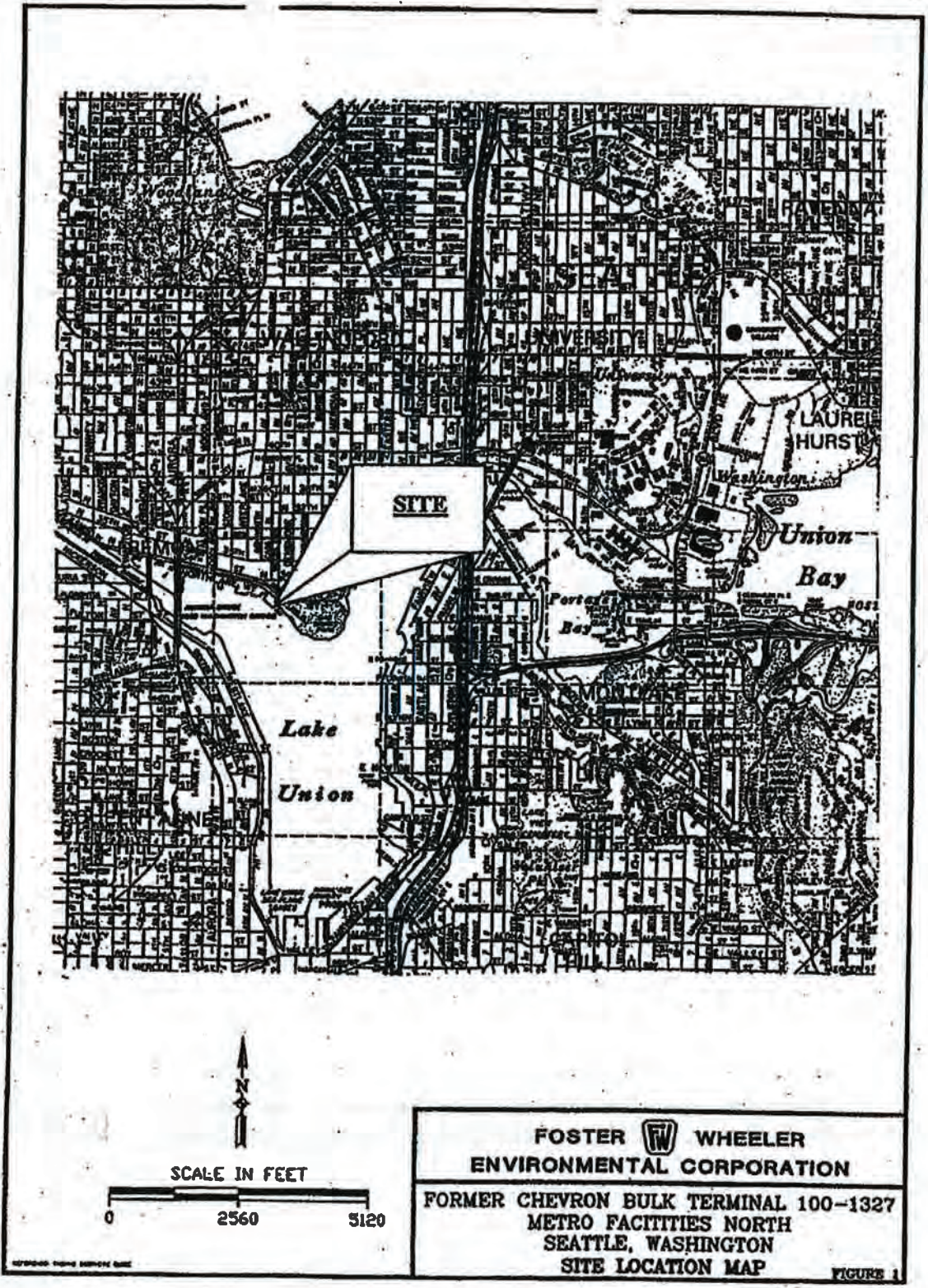
1.2 SCOPE

The requirements regarding cleanup actions and cleanup action plans are outlined in MTCA. The objectives of this document are to:

- Briefly describe the history of the site;
- Describe the nature and extent of contamination on the site by summarizing existing applicable reports;
- Provide cleanup standards protective of human health and the environment for the site;
- Describe proposed cleanup action alternatives; and,
- Select cleanup actions to meet cleanup objectives for the site.

Key documents previously submitted to Ecology include:

- Draft remedial investigation/feasibility study (RI/FS) (Draft RI/FS; Associated Geotechnology, Inc. [AGI], 1993);
- Quarterly Groundwater Monitoring Report (AGI, 1995);
- Environmental Assessment Former Chevron Bulk Terminal 100-1327 (Pacific Environmental Group [PEG], 1997);
- Quarterly Groundwater Monitoring Report (AGI, 1997);
- Cleanup Level Development Report (Foster Wheeler Environmental Corporation [Foster Wheeler Environmental], 1998a);
- Interim Action Plan Shallow Soil Remediation Facilities North (AGI, 1998);
- Groundwater Monitoring and Sampling Activities Report (PEG, 1998a).



1.3 THE CAP, CLEANUP PROCESS, MTCA, AND CONSENT DECREE

In 1988, the MTCA (Ch. 70.105D RCW) was passed by initiative in Washington. This law directed Ecology to establish a cleanup process and cleanup levels for hazardous substances, including petroleum hydrocarbons. A site is defined in the MTCA as "any building, ... site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located." The site, which consists of a North Yard and a South Yard (Figure 2) and is currently owned by Metro and formerly owned by Chevron, meets this definition.

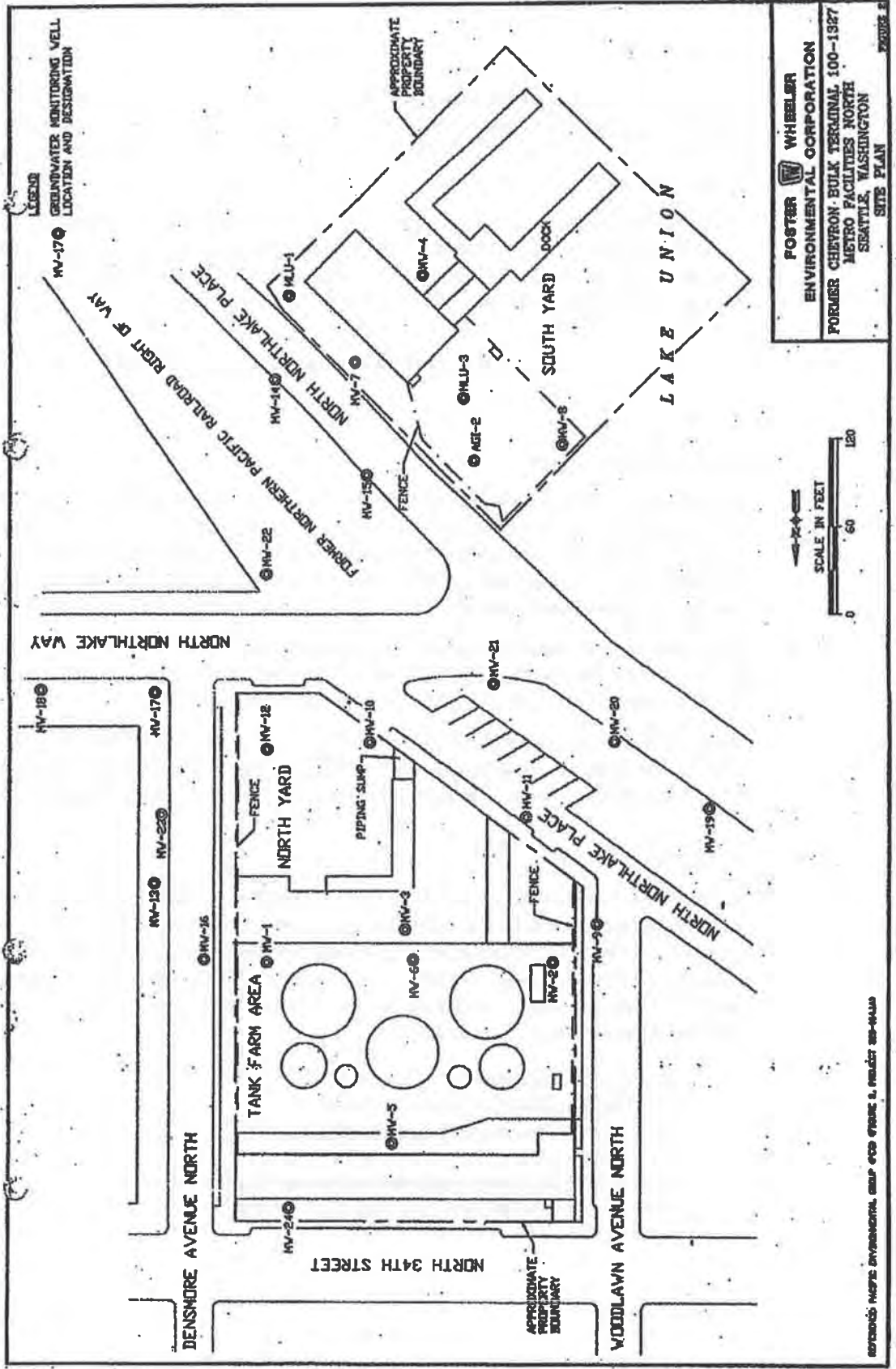
This CAP is one in a series of documents used by Ecology to monitor the progress of site investigation and cleanup. These documents typically include:

- Remedial Investigation/Feasibility Study
- Cleanup Action Plan
- Engineering Design Report
- Construction Documentation
- Operation and Maintenance Plan
- Compliance Monitoring Plan

As mentioned earlier, an RI/FS (AGI, 1993) has been performed at the site. The RI/FS reports the results of investigation into the nature and extent of chemical compounds in soil and groundwater, summarizes the risks to human health and the environment posed by those chemicals, and describes cleanup action alternatives that may be implemented to remove, control, or minimize contamination and risks. Based on this RI/FS and other site specific data and reports, a CAP is then developed. In many cases, additional investigation and/or pilot testing is conducted to provide a better understanding of site conditions and application of remediation technologies.

This CAP relies on the previous investigations and studies referenced in this document and establishes functional requirements for the cleanup. These include specification of cleanup standards and actions that are required to address chemicals of concern (COCs) above those standards. This document along with the Consent Decree, State Environmental Policy Act Determination of Non-significance (SEPA DNS) and environmental checklist, and Public Participation Plan have been prepared for public review. Following public comment and public meeting, the CAP will be revised based on comments from the public and Ecology review. If significant change is recommended to this draft CAP, then revisions will be made and a second public comment period will be held. The final CAP will be then prepared and with the Consent Decree will be recorded at the Washington State Superior Court under Chapter 70. 105D RCW.

The proposed cleanup actions are applicable only to this site and were selected because they will be protective of human health and the environment including surface water and aquatic organisms. Furthermore, the selected remedy is consistent with the preference of the State of Washington as stated in RCW 70. 105D.030(1)(b) for permanent solutions. Cleanup levels have been set and



FOSTER WHEELER
 ENVIRONMENTAL CORPORATION
 FORMER CHEVRON BULK TERMINAL 100-1927
 METRO FACILITIES NORTH
 SEATTLE, WASHINGTON
 SITE PLAN
 FIGURE 2

DATE: 11/15/94
 DRAWN BY: J. H. HARRIS
 CHECKED BY: J. H. HARRIS
 APPROVED BY: J. H. HARRIS

PROJECT: 1400000/PRO/ENVIRONMENTAL
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cleanup actions have been chosen as an overall remediation process being conducted under Ecology oversight using MTCA authority. Applicable or Relevant and Appropriate Requirements (ARARs) are provided in Appendix A. The SEPA DNS and environmental checklist are provided as a separate document.

The documents used to make the decisions discussed in this CAP are on file in the administrative record for the site. Referenced documents are detailed in the reference section of this document. The entire administrative record for the site is available for public review by appointment at Ecology's Northwestern Regional Office, located in Bellevue, Washington.

2. SITE DESCRIPTION AND HISTORY

2.1 SITE LOCATION

The site is located on the north shore of Lake Union, approximately 3 miles north of downtown Seattle (Figure 1). The legal description of the property is provided in the Consent Decree as Exhibit C. The location is described as the northwest ¼ of the northeast ¼ of Section 19, Township 25 N, Range 4 E. The site totals approximately 3 acres and consists of the North and South Yards, separated by public streets North Northlake Place and North Northlake Way (Figure 2).

The North Yard is bounded by North 34th Street on the north, Woodlawn Avenue North on the west, North Northlake Place on the south, and Deansmore Avenue North on the east. The street address of the North Yard is 1602 North Northlake Place, Seattle, Washington 98103.

The South Yard is bounded by North Northlake Place on the northeast, the Seattle Harbor Patrol (SHP) on the southeast, Northlake Ship builders (former Unimar shipyard) on the northwest, and Lake Union on the southwest. The South Yard street address is 1475 North Northlake Place.

2.2 SITE HISTORY

The North Yard was first developed by Standard Oil Company of California in 1925. The aboveground storage tanks (ASTs) and piping were reportedly constructed in 1925. The garage along the north boundary and the tank-truck loading racks were constructed in 1927. Various small buildings and sheds associated with oil delivery were constructed in the southern portion of the North Yard. Historic Sanborn maps indicate 11 tanks within the tank farm. The size and recorded contents of these eleven tanks are as follows:

- Two 440,000-gallon tanks containing gasoline
- One 440,000-gallon tank containing fuel oil
- One 45,150-gallon tank containing gasoline
- One 160,000-gallon tank containing refined oil
- Four 11,750-gallon tanks containing lubricating oils
- One 45,150-gallon tank containing gasoline distillates
- One 160,000-gallon tank containing diesel oil

The South Yard was reportedly developed prior to 1908, when it was occupied by Puget Sound Sheet Metal Works. A number of wood-frame buildings were reportedly present at the site during this time. In 1912, the property was occupied by a tannery which operated until the late 1920s. By 1950, the building in the South Yard was used by Standard Oil as a warehouse. In 1960, the South Yard was reportedly occupied by the California Spray and Chemical Company. A railroad spur was formerly located east of the South Yard. For additional information regarding site history refer to the draft RI/FS (AGI, 1993).

In 1982, Metro purchased the entire property from Chevron and refurbished the seven tanks, piping, fuel racks, and docks for diesel fuel storage. As part of the refurbishment, the tanks were emptied, sandblasted, and painted. In 1992, the bulk storage tanks were cleaned, ventilated and secured, and the petroleum lines flushed and secured, and closed for no future use. A 500-gallon underground storage tank (UST) containing heating oil was removed from an area adjacent to the office and the tank-truck loading rack in the North Yard was demolished.

2.3 CURRENT STATUS AND ZONING

At present, the North and South Yards continue to be occupied by Metro. The North Yard is used for office and shop space, storage, and parking. Approximately 70 percent of the North Yard is occupied by buildings or covered by asphalt or concrete pavement. The ASTs and associated piping in the tank farm area are empty, ventilated, secured, and ready to be abandoned. The North Yard is currently zoned industrial/commercial 45 (I/C 45).

The immediate vicinity surrounding the North Yard is mixed industrial, commercial, and residential. Immediately adjacent to the North Yard are streets, public right-of-ways, and small businesses. Most of the neighboring properties contain structures or are paved and used for parking.

The South Yard is used to store equipment, materials, and Metro vehicles. The area is secured with chain-link fencing. Approximately 30 percent of the South Yard is occupied by buildings and is covered with crushed rock. A dock extends out into Lake Union and is currently in use. The South Yard is currently zoned industrial/commercial 45 with an urban maritime overlay.

2.4 PAST ACTIVITIES OF ENVIRONMENTAL CONCERN

The tank farm located in the North Yard currently contains seven inactive ASTs ranging in size from 37,800 to 440,700 gallons (Figure 2). Metro refurbished the tanks and received, and distributed diesel fuel from 1983 to 1984. In 1992, the tanks were reported emptied, cleaned, ventilated and secured. The ASTs were removed from service and have remained empty since that time. The aboveground piping for the tanks is about 1 to 2 feet above the ground surface. The aboveground piping has been disconnected 5 feet from its juncture with the south containment wall. All below grade piping has been flushed and capped. The floor of the tank farm is unpaved, except the northern portion which is covered with a 2-3 inch layer of asphalt. The tank farm floor is generally sloped toward a catch basin located in the northwest corner. The catch basin is connected to a nearby oil/water separator.

Buried steel pipelines exit the south containment wall and traverse beneath the southern portion of the North Yard, under North Northlake Place and beneath the South Yard where they formerly connected to the piping under the former fuel docks. The subsurface piping has since been detached from the piping still present under the docks.

As a result of past site activities, petroleum releases to soil and groundwater are believed to have occurred from the ASTs, tank truck loading racks, and piping. Periodic leaks, drips, and minor spills that occurred during operation and maintenance also likely contributed to the presence of petroleum hydrocarbons in subsurface soil and groundwater. Concentrations of metals—specifically arsenic, cadmium, lead, and mercury—appear to be localized to surficial soils within the Tank Farm Area and are believed to be the result of sandblasting lead-based paints from the tanks.

In the South Yard, petroleum releases likely resulted from leaks in product piping and fittings and/or drums and small tanks. Diesel and, to a lesser extent, oil were found in shallow soil near the end of the product piping near Lake Union. Gasoline-range hydrocarbons found in subsurface soil in the South Yard are believed to be related to groundwater contamination due to location, depth, and distribution from sources in the North Yard.

Potential off-site contaminated soils and groundwater were identified in the draft RI/FS. Based on historical data, contaminant type, and distribution potential up-gradient sources include Gas Works Park located east of the South Yard and Nortar (formerly American Tar Company) located east of the North Yard.

2.5 FUTURE USE AND ZONING

At this time, Metro plans to retain ownership and does not plan to alter the current commercial/industrial use of the site. Land use in the area surrounding the site is also expected to remain commercial/industrial with mixed residential properties located to the north (up-gradient).

3. SUMMARY OF ENVIRONMENTAL ISSUES AND INVESTIGATIONS

3.1 SITE GEOLOGY AND HYDROGEOLOGY

Past investigations have identified that the site is underlain primarily by glacial till, recessional sand, and fill material. Glacial till was encountered to a maximum depth explored of 73 feet below ground surface (bgs) immediately north of the site, and was characterized as dense to very dense, silt to sandy gravel. Recessional sand was found along the southern boundary near Lake Union to a maximum depth of 37 feet bgs and was characterized as dense-to-very dense, clean-to-silty, fine-to-medium sand. Fill material, consisting of loose-to-dense, clean-to-silty, sandy gravel was encountered to a maximum depth of 20 feet bgs in the South Yard. Outwash sand is believed to be present beneath the till and is characterized as very dense, sandy gravel-to-gravelly sand.

The first occurrence of groundwater beneath the North and South Yards is approximately 2 to 8 feet bgs and approximately 6 to 11 feet bgs, respectively. The groundwater is present within a discontinuous, semi-confined, water bearing unit within the upper portion of the till. The direction of groundwater flow within this unit is to the south-southwest towards Lake Union. Aquifer testing conducted at the site indicates a sustained yield estimated at 2 gallons per minute (gpm) and ranging from 0.5 to 3 gpm. Ecology has determined that this shallow groundwater is unlikely a potential future source of drinking water (Ecology letter dated August 10, 1998).

3.2 METHODS OF INVESTIGATION

Subsurface conditions at the site have been investigated through the excavation of test pits, the drilling of shallow soil borings using hand auguring equipment, and the mechanical drilling of soil borings and installation of groundwater monitoring wells. Groundwater wells were installed to a depth of 20 to 40 feet bgs at the site.

Soil samples were collected from these test pits, borings, and wells for physical identification and/or chemical analyses. Water levels and separate phase hydrocarbon (SPH) thickness have been monitored periodically in groundwater wells constructed at the site since 1991. In addition, groundwater samples have also been collected from wells on a periodic basis for chemical analyses. Details of these investigations are provided in the following section.

3.3 SUMMARY OF PAST INVESTIGATIONS

In April 1988, Kennedy/Jenks/Chilton (KJC) drilled three soil borings on the south side of the North Yard and one boring west of the South yard warehouse, apparently in conjunction with a seismic evaluation completed in 1991 by Dames & Moore. Although the findings from this investigation were not available, gasoline range petroleum hydrocarbon compounds were reportedly detected in subsurface soil collected from these borings.

In April 1991, Science Applications International Corporation (SAIC), under contract with Ecology, installed one groundwater monitoring well (MLU-1) in the southwest side of the North Yard and two wells (MLU-2 and MLU-3) in the South Yard. The wells were reportedly installed to a maximum depth of 24 feet bgs. Groundwater samples collected from these wells reportedly contained gasoline and diesel range petroleum hydrocarbons, benzene, toluene, ethylbenzene, and xylene (BTEX); specific polynuclear aromatic hydrocarbons (PAHs); and heavy metals.

In mid-1992, Enviro, under contract with Metro, collected 24 surface soil samples, and sampled four test pits and a former UST excavation located east of the office of the North Yard. The results of this testing indicated the presence of gasoline, diesel, and oil range hydrocarbons in soil in these areas of the site.

In June 1993, AGI, under contract with Metro, conducted a limited preliminary investigation (prior to the RI/FS) which included drilling two soil borings (AGI-1 and AGI-2) to depths of approximately 84 and 41 feet bgs, respectively. The 41-foot boring (AGI-2) was converted to a

groundwater monitoring well. In addition, five shallow surface soil samples (HS1 through HS5) were collected from the upper two feet of soil at selected areas of the site.

The RI/FS was conducted by AGI from July 28, 1993 through September 1993. The field portion of the RI/FS consisted of the excavation and sampling of 12 test pits (TP1-TP12), the drilling and sampling of 9 shallow hand borings (HB1-HB9), the drilling of 11 soil borings (SB1-SB11), and the installation of 17 groundwater monitoring wells (MW) (MW-1 through MW-17).

The purpose of the RI/FS was to characterize the nature and extent of specific chemical compounds in soil and ground water resulting from activities at the site and to develop and evaluate cleanup action alternatives. Physical and chemical characteristics of soil and petroleum product were studied, and systematic groundwater sampling and analysis was performed (RI). Based on the results of the physical and chemical analyses of the site, a feasibility study (FS) was conducted to analyze alternative solutions to environmental issues on the site. A complete discussion of the program is found in the draft RI/FS report (AGI, 1993), and continued groundwater monitoring in the quarterly reports (AGI, May 1995 and January 1997).

In July and August 1997, PEG conducted supplemental environmental assessment to further assess and document soil and groundwater quality with respect to petroleum hydrocarbons at and adjacent to the site. This investigation included the drilling and installation of seven additional groundwater monitoring wells (MW-18 through MW-24).

In February 1998, groundwater monitoring and sampling was conducted at the site (PEG, 1998a). Of the 27 wells installed at the site, three wells (MLU-3, AGI-2, and MW-6) could not be accessed (two were buried and one was blocked by sand).

In March 1998, Foster Wheeler Environmental collected vapor samples and additional soil samples to augment previous investigations and provide data necessary to develop site specific cleanup levels for soil and groundwater (Foster Wheeler Environmental, 1998). The findings from this additional assessment, along with the site-specific cleanup levels derived from these data, were provided in a Cleanup Level Development Report prepared for the site (Foster Wheeler Environmental, 1998a). On May 14, 1998, Foster Wheeler Environmental provided supplemental information to support the Cleanup Level Development report.

In June and July 1998, an aquifer test evaluation (slug tests and aquifer drawdown pump test) was performed by Foster Wheeler Environmental. These data were used to derive hydraulic parameters of the first water-bearing unit beneath the site (i.e., hydraulic conductivity and transmissivity). An estimate of sustainable yield was then calculated at an estimated 2 gpm and ranging 0.5 to 3 gpm. This material is presented in reports dated June 30, 1998 and July 23, 1998.

In July 1998, PEG collected groundwater samples from wells MW-3, MW-9, MW-10, and MW-12 for petroleum hydrocarbon and metal analyses. The laboratory results were submitted to Ecology (PEG, 1998b).

3.4 PREVIOUS CLEANUP ACTIONS

Several cleanup actions have been completed or are on-going at the site. (These actions include cleaning and closing the ASTs and aboveground piping removing floating SPHs.) Subsurface product piping was cleaned and capped in 1992 and is located at the south wall of the AST containment area and traverses under the office at the North Yard, and beneath North Northlake Place, beneath the South Yard to the north end of the dock on Lake Union.

SPHs have been identified and removed through bailing (skimming) from on-site wells over the past few years. Petrolbelts were installed in 1997 to remove SPH from four wells (MW-3, MW-9, MW-10, and MW-12) at the site. As a preventative measure, petroleum hydrocarbon sorbent 'socks' have been used in these wells to remove trace amounts of SPH that may appear with groundwater fluctuations. These four wells are currently monitored monthly and no measurable SPH is present. Results of monthly gauging and removal of SPH are included in Appendix B.

3.5 CHEMICALS OF CONCERN

COCs for soil and groundwater were identified in the April 1998, Foster Wheeler Environmental Cleanup Level Development Report. For soil, the COCs include gasoline, diesel, and oil range TPH, benzene, carcinogenic PAHs, arsenic, cadmium, chromium, lead, and mercury. For groundwater, the COCs include benzene, ethylbenzene, toluene, carcinogenic PAHs, arsenic and lead. The COCs are listed in Table 1.

3.6 RISKS TO HUMAN HEALTH AND THE ENVIRONMENT

3.6.1 Media of Concern

The media of concern for the site are soil, groundwater, and surface water. The source of petroleum has been determined to be the ASTs and minor incidental releases during fuel terminal operations. However, the ASTs and piping are no longer operational and do not contain petroleum. Petroleum in subsurface soil and groundwater consists primarily of aged gasoline, diesel, with some oil range hydrocarbons. Petroleum hydrocarbons can transfer from one media to another by such mechanisms as leaching from subsurface soil to groundwater to surface water.

Because diesel and oil range hydrocarbons generally have low volatility, the transfer to air from soil and/or groundwater at concentrations of concern is considered unlikely. On the other hand, because gasoline product is highly volatile, its capacity to produce vapor constituents is strongly influenced by its residence time in the soil. The age of the gasoline-range hydrocarbons found in soil at the site greatly reduces the potential for exposure to humans through vapor migration. Vapor sampling of indoor and outdoor air at the site confirmed this, showing air samples contained low to non-detectable levels of volatile organics. Therefore, vapor was eliminated as a media concern.

Table 1. Chemicals of Concern

Soil	Groundwater
TPH-Gasoline	Benzene
TPH-Diesel	Ethylbenzene
TPH-Oil	Toluene
Benzene	Benzo(a)pyrene
Benzo(a)pyrene	Chrysene
Chrysene	Dibenzo(a,h)anthracene
Dibenzo(a,h)anthracene	Indeno(1,2,3-cd)pyrene
Indeno(1,2,3-cd)pyrene	Benzo(k)fluoranthene
Benzo(k)fluoranthene	Benzo(a)anthracene
Benzo(a)anthracene	Benzo(b)fluoranthene
Benzo(b)fluoranthene	Fluoranthene
Fluoranthene	Napthalene
Napthalene	Arsenic
Arsenic	Lead
Cadmium	
Chromium	
Lead	
Mercury	

3.6.2 Risk Assessment

As outlined in the April 1998, Foster Wheeler Environmental Cleanup Level Development Report, a risk evaluation was undertaken to assess risks to human health and the environment. Consistent with MTCA, the risk evaluation included an exposure assessment, toxicity assessment, and risk characterization. The results of these assessments are summarized below.

During the exposure assessment, the pathways through which human and ecological receptors could intersect with COCs were identified. For humans, the assessment considered the following pathways: soil and fish ingestion, indoor and outdoor vapor inhalation by workers, and ingestion from potential groundwater discharge to surface water. Worker populations were selected for evaluation, because current zoning is industrial/commercial for both the North and South Yards.

Groundwater ingestion was not selected as an exposure pathway because the first occurrence of groundwater beneath the site does not serve as a current source of drinking water. Aquifer test evaluation (Foster Wheeler Environmental, 1998c and 1998d) indicated sustainable groundwater yields of 2 gpm and ranging from 0.5 to 3 gpm could be expected from this shallow water-bearing unit. Considering this relatively low sustainable yield, a commercial/industrial location, and the availability of city-supplied water, there appears to be an extremely low probability that the shallow groundwater beneath the site will actually be used as a source of drinking water. Further, Ecology has determined that this shallow groundwater is unlikely a potential future source of drinking water (Ecology letter dated August 10, 1998).

For ecological receptors, exposure from potential groundwater discharge to surface water, including aquatic organisms, was considered. Toxicity information for humans was obtained from EPA's Integrated Risk Information System (IRIS) and other sources as specified by MTCA. Toxicity information for aquatic resources was obtained from Ecology's surface water quality criteria (Washington Administrative Code [WAC] 173-201A) or EPA's lowest observed effects levels.

The exposure and toxicity information were combined in the risk characterization portion of the risk evaluation. This was accomplished first by developing risk-based cleanup levels and/or identifying Ecology's risk-based cleanup levels from the exposure and toxicity assessments, as appropriate. The maximum detected site concentrations were then compared to the cleanup levels. Maximum site concentrations were selected as a conservative estimate. Chemicals whose maximum concentrations exceeded the cleanup levels were evaluated further to assess their risk to human health and the environment. This evaluation consisted of using a statistical representation of the chemical concentrations consistent with MTCA and by conducting fate and transport modeling to estimate surface water impacts.

The results of the risk evaluation indicated that the site poses minimal risk from groundwater to surface water when statistical averaging and chemical migration from groundwater and surface water are considered. A specific risk-based cleanup level was derived for the COCs in media of concern using appropriate modeling methods. The risk evaluation also indicated that surface soil concentrations (metals) in the tank farm area are at levels which could pose a threat to worker health should contact occur.

3.7 MTCA MEDIA CLEANUP LEVELS

Through evaluation and discussions with Ecology, MTCA media cleanup levels have been established for the site. The proposed cleanup levels considered site location, current and future land use, potential exposure pathways, and COCs in order to establish levels which are protective of human health and the environment at the site. In some cases, engineering or institutional controls may be required before the proposed cleanup levels are considered protective.

3.7.1 Selection of Cleanup Level Methods

For both soil and groundwater, cleanup levels are based upon estimates of the highest beneficial use and the reasonable maximum exposure expected to occur under both current and potential future site use conditions. As mentioned earlier, the North and South Yards are zoned industrial/commercial (IC-45). The site is currently planned to remain commercial/industrial. Therefore, maximum exposure potential for soil is expected to be through soil ingestion by workers. For groundwater, the maximum exposure potential is expected to be its impact on the nearby surface water body (Lake Union).

3.7.2 Soil Cleanup Levels

The cleanup action levels for Phase I shallow soil containing COCs for metals from sandblasting and lead paint are MTCA Method A Industrial Soil Cleanup Levels (AGI, 1998). Soil cleanup levels for Total Petroleum Hydrocarbons (TPH) were derived in the Cleanup Development Document (Foster Wheeler Environmental, 1998a). For benzene and carcinogenic PAHs, Method C Industrial Soil Cleanup Levels were used (MTCA, Cleanup Levels and Risk Calculations [CLARC II], February 1996). Method B Interim TPH Policy, residual saturation-based evaluation, was used for TPHs. For metals, Method A Industrial Soil Cleanup Levels were used as listed in Table 2.

3.7.3 Groundwater Cleanup Levels

As outlined in MTCA (WAC 173-340-720), there may be sites where there is an extremely low probability that groundwater classified as potential future source of drinking water will actually be used for that purpose. At such sites, Ecology may approve groundwater cleanup levels that are based on protecting beneficial uses of adjacent surface water (Ecology letter dated August 10, 1998). As described earlier, the shallow groundwater beneath the site likely discharges to Lake Union and has an extremely low probability for use as a drinking water source. Therefore, groundwater cleanup levels based on protecting the beneficial use of Lake Union (surface water) are appropriate for this site. For these reasons, Method B surface water cleanup levels are proposed as groundwater cleanup levels for this site. The proposed groundwater cleanup levels are provided in Table 2.

4. SUMMARY OF PROPOSED ALTERNATIVE CLEANUP ACTIONS

4.1 CRITERIA FOR CLEANUP REMEDIES

Cleanup action objectives are goals for protecting human health and the environment. They are developed considering the characteristics of the contaminated medium (e.g., soil, groundwater, air, etc.), the characteristics of the hazardous substances present, migration and exposure pathways, and potential receptor points.

As discussed, there are three media of concern: soil, groundwater, and surface water. Benzene, ethylbenzene, toluene, TPH, carcinogenic PAHs, and arsenic, cadmium, lead, and mercury are the COCs potentially impacting human health and the environment in these media. Human exposure to these chemicals is possible through direct contact with soil and surface water.

MTCA's seven requirements for cleanup alternatives are outlined in WAC 173-340-360 through 173-340-760, which states that cleanup actions shall:

1. Protect human health and the environment.
2. Comply with cleanup standards.
3. Comply with applicable state and federal laws.
4. Provide compliance monitoring.

TABLE 2

**PROPOSED CLEANUP LEVELS - FACILITIES NORTH SITE
FORMER CHEVRON BULK FUELING 100-1327 AND CURRENT
KING COUNTY (METRO) FACILITIES NORTH, SEATTLE, WASHINGTON**

Chemical of Concern	Soil	Units
TPH-Gasoline	4520	mg/kg
TPH-Diesel	5140	mg/kg
TPH-Oil	5780	mg/kg
Benzene	4530	mg/kg
Benzo(a)pyrene	18	mg/kg
Chrysene	18	mg/kg
Dibenzo(a,h)anthracene	18	mg/kg
Indeno(1,2,3-cd)pyrene	18	mg/kg
Benzo(k)fluoranthene	18	mg/kg
Benzo(a)anthracene	18	mg/kg
Benzo(b)fluoranthene	18	mg/kg
Fluoranthene	18	mg/kg
Napthalene	18	mg/kg
Arsenic	200	mg/kg
Cadmium	10	mg/kg
Chromium	500	mg/kg
Lead	1000	mg/kg
Mercury	1	mg/kg

Chemical of Concern	Ground Water	Units
Benzene	43	ug/L
Ethylbenzene	6910	ug/L
Toluene	48500	ug/L
Benzo(a)pyrene	0.0296	ug/L
Chrysene	0.0296	ug/L
Dibenzo(a,h)anthracene	0.0296	ug/L
Indeno(1,2,3-cd)pyrene	0.0296	ug/L
Benzo(k)fluoranthene	0.0296	ug/L
Benzo(a)anthracene	0.0296	ug/L
Benzo(b)fluoranthene	0.0296	ug/L
Fluoranthene	90.2	ug/L
Napthalene	9880	ug/L
Arsenic	0.0982	ug/L
Lead	5	ug/L

Note: If COCs (metals) in soil or COCs in groundwater are found during remediation then MTCA Method A Industrial Soil Cleanup Levels and MTCA Method B Surface Water Cleanup Levels will be used, respectively.

5. Use permanent solutions to the maximum extent practical.
6. Provide for a reasonable restoration time frame.
7. Consider concerns raised during public comment on the draft CAP.

The use of permanent solutions is based on seven evaluation criteria as follows:

1. Overall protection of human health and the environment
2. Long-term effectiveness
3. Short-term effectiveness
4. Permanent reduction of toxicity, mobility, and volume
5. Implementability
6. Cleanup costs
7. Community concerns

4.2 SUMMARY OF REMEDIAL ALTERNATIVES/CLEANUP ALTERNATIVES

Alternatives for addressing COCs in soil and groundwater and meeting the above remedial action objectives and criteria were presented in the draft RI/FS (AGI, 1993). Remedial alternatives were developed for the site by combining remedial technologies and MTCA requirements and criteria. Prior to developing specific cleanup alternatives, the site was separated into two operable units with differing cleanup requirements. The first operable unit is the Tank Farm soil and includes the surface soil containing elevated metal concentrations within the tank farm containment area. The second operable unit is primarily the Lower Areas soil and groundwater unit and includes the soil and groundwater containing elevated levels of petroleum hydrocarbons in the lower half of the North Yard, the South Yard, the property between the two yards, and isolated occurrences in North Yard.

Two cleanup alternatives were presented for the Tank Farm soil and three alternatives were presented for the Lower Areas soil and groundwater. These alternatives are summarized in the following section.

Tank Farm Soil—Alternative 1

The existing petroleum storage tanks would remain in place, but all process lines would be removed. The remediation actions employed would be:

- Fencing
- Land use restrictions
- Excavation (metals- and carcinogenic PAH-impacted soil only)
- Landfill disposal (Resource Conservation and Recovery Act [RCRA] Subtitle C)
- Surface Water Controls (capping/paving)

Tank Farm Soil—Alternative 2

The tanks and aboveground piping would be removed prior to cleanup and the following remediation actions employed:

- Fencing
- Land use restrictions
- Excavation of all soils exceeding cleanup levels
- RCRA Subtitle C landfill disposal (metals and carcinogenic PAHs)
- Soil treatment and disposal (TPH - and benzene-impacted soil contingency)
 - low temperature thermal desorption (LTTD)
 - RCRA Subtitle D landfill disposal
 - aerobic biodegradation (on-or-off site)
- Surface water controls (capping/paving)
- Asphalt cap

Lower Areas Soil and Groundwater—Alternative 1

This alternative primarily employs institutional controls including:

- Fencing
- Land use restrictions
- Surface water controls
- Asphalt cap
- Groundwater use restriction
- Groundwater monitoring

Lower Areas Soil and Groundwater—Alternative 2

This alternative employs groundwater extraction and treatment in conjunction with in situ soil vapor extraction with remediation actions including:

- Land use restrictions
- Fencing
- Surface water controls
- Asphalt cap
- Groundwater extraction
- Groundwater treatment (air stripping)
- Discharge of treated water to sewage treatment plant (STP)
- In situ soil vapor extraction (VES)

- Soil excavation/treatment (limited to process pipe trench)
- Groundwater use restriction
- Groundwater monitoring
- Groundwater sparging (contingency)

Lower Areas Soil and Groundwater—Alternative 3

This alternative employs similar technologies to those of Alternative 2, but treated groundwater is reintroduced to promote in situ degradation and includes the following remediation actions:

- Land use restrictions
- Fencing
- Surface water controls
- Asphalt cap
- Groundwater extraction
- Groundwater treatment (bioreactor followed by carbon filtering)
- Discharge of treated water to reintroduction
- VBS
- Soil excavation/treatment (limited to process pipe trenches)
- Groundwater use restriction
- Groundwater monitoring
- Groundwater sparging (contingency)

As outlined in the 1993 AGI draft RI/FS, a detailed analysis was conducted that evaluated the two cleanup alternatives for the Tank Farm soil and the three alternatives for the Lower Areas soil and groundwater. The detailed analysis process was designed to compare the alternatives, select an appropriate remedy for each operable unit at the site, and demonstrate that MTCA requirements are satisfied.

Within the Tank Farm soil operable unit, the draft RI/FS, based on the detailed analysis, indicated that both Alternative 1 and 2 meet MTCA requirements. Alternative 2, however, allowed for a more thorough evaluation of tank farm soils because the ASTs would be removed. Both alternatives involve the excavation of shallow soil impacted with metals near the ASTs.

Within the Lower Areas soil and groundwater, the draft RI/FS indicated that both Alternatives 2 and 3 would comply with MTCA requirements, with Alternative 3 offering the shortest restoration time. Alternative 1, which generally consists of institutional controls and monitoring, provides protection from direct contact with soil or groundwater, but did not block the potential pathway by which contaminated groundwater could enter surface water. Based on this and the longer expected restoration time period, the draft RI/FS indicated that Alternative 1 did not comply with MTCA requirements.

4.3 SELECTED REMEDIAL ALTERNATIVE AND JUSTIFICATION

4.3.1 Selected Remedial Alternative

After further investigation and evaluation by Foster Wheeler Environmental, discussions with Ecology, and considering the findings of the draft RI/FS, Alternative 2 was selected as the remedial alternative proposed for the Tank Farm soil operable unit. For the Lower Areas soil and groundwater operable unit, Alternative 2; modified to include hydrogen peroxide injection in place of groundwater extraction, air stripping, and vapor extraction, was selected.

As outlined in the draft RI/FS, Alternative 2 for the Tank Farm soil, which includes removal of the ASTs, the excavation of shallow soil near these ASTs, and surface water controls or capping, meets MTCA requirements. In fact, this alternative is considered more thorough than Alternative 1 because the ASTs would be removed.

Alternative 2 for the Lower Areas soil and groundwater operable unit, as outlined in the RI/FS, meets MTCA requirements. The proposed modifications to Alternative 2 address groundwater remediation and thereby meet MTCA requirements as outlined in the following sections.

The proposed groundwater cleanup actions for the Lower Areas soil and groundwater operable unit consist of Alternative 2 as outlined in the draft RI/FS, but modified to include hydrogen peroxide injection and monitoring in place of groundwater extraction, air stripping, and vapor extraction. Hydrogen peroxide has proven effective in reducing petroleum hydrocarbon concentrations in soil and groundwater and controlling further migration of petroleum hydrocarbons in groundwater. Hydrogen peroxide injection was not included as an alternative in the RI/FS (AGI, 1993), but is now deemed appropriate based on success at other sites and because recent site conditions indicate:

- The use of the site will remain industrial/commercial and soil and groundwater cleanup levels proposed in this CAP are higher than those presented in the RI/FS;
- Measurable SPHs are no longer present in the groundwater wells at the site; and
- The most recent groundwater monitoring data (February and July 1998) indicate lower COC concentrations in groundwater than those identified in the RI/FS (AGI, 1993).

It should also be noted that use of hydrogen peroxide for in-situ groundwater treatment is an emerging technology and its use at the time of preparing the draft RI/FS may have been limited. Recently, Ecology has provided information confirming its effectiveness at similar sites.

4.3.2 Selected Remedial Alternative Justification

For soil, the selected remedy will comply with proposed soil cleanup levels. For groundwater, the proposed treatment of groundwater represents a practicable approach to treat and contain COCs and also be protective of human health and the environment. Based on current concentrations and distribution, it is believed the selected remedial alternative will result in compliance with groundwater cleanup standards in a reasonable time. In addition, the cleanup action complies with applicable state and federal laws.

Shallow soils removal and subsequent disposal or recycling where practical is considered a permanent solution under MTCA. The treatment of groundwater through peroxide injection is also a permanent solution. Institutional controls are considered to be containment. Ecology recognizes the need to use these controls for sites or portions of sites where treatment is impracticable. The chosen alternative uses permanent solutions to the maximum extent practicable, in accordance with MTCA.

The proposed cleanup action will eliminate the human exposure to hazardous substances from contaminated soil and eliminate the potential groundwater to surface water exposure pathway. Removal and treatment alternatives will be implementable in a very short time. Ultimate achievement of cleanup standards for groundwater is dependent upon the effectiveness of peroxide injection. Since SPHs have been all but eliminated, site groundwater should respond favorably to peroxide injection. The estimated time period for site cleanup is 3 to 5 years. Considering the length of time COCs were believed to have been first released at the site (pre- 1970s), this is considered a reasonable restoration time frame for this site. The selected remedial alternative proposed is outlined in greater detail in the following sections.

5. SELECTED REMEDIAL ALTERNATIVE

5.1 OVERALL CLEANUP STRATEGY

The selected cleanup alternative is proposed to be conducted in two phases. Initial cleanup actions (Phase I) will begin with the demolition and removal of ASTs, aboveground piping, and associated structures and shallow soil (metals) remediation within the Tank Farm soil operable unit.

Phase II cleanup actions will be conducted in the Lower Areas soil and groundwater operable unit and will consist of enhanced groundwater bioremediation and monitoring. As part of Phase II, ancillary assessment and cleanup of soil containing petroleum hydrocarbons exceeding proposed cleanup action levels will be performed on a contingency basis within the Tank Farm soil operable unit. The proposed cleanup levels, actions, institutional controls, and points of compliance are outlined in the following sections of this CAP.

5.1.1 Overall Cleanup Strategy Phase I—Tank Farm Soil

5.1.1.1 Tank Demolition and Shallow Soil (Metals) Cleanup

Proposed cleanup actions within the Tank Farm soil operable unit will commence with AST demolition/removal and shallow soil (metals) remediation. A work plan prepared by AGI entitled "Interim Action Plan Shallow Soil Remediation Facilities North, Seattle, Washington" dated April 8, 1998, outlines the cleanup activities proposed for the Tank Farm soil. The work plan was submitted to Ecology in April 1998 and has undergone public review.

The objective of the Phase I cleanup actions within the Tank Farm soil is to eliminate the worker soil ingestion and dermal exposure pathway. This will be accomplished by removing aboveground structures, excavating shallow soil, and controlling surface water intrusion. The tasks include:

- AST demolition, removal, and off-site disposal with recycling of materials where practical;
- Removal of AST, aboveground piping, and associated structures for off-site disposal with recycling where practical; and
- Remediation of shallow soils using excavation and off-site disposal at an approved landfill and recycling where practical.

5.1.1.2 Petroleum Hydrocarbon Assessment and Cleanup Contingency

Based on the draft RI/FS and previous investigations, soil containing diesel range petroleum hydrocarbon (WTPH-D) concentrations exceeding proposed cleanup levels of 5,180 parts per million (ppm) are also present at three locations within the Tank Farm soil. These locations include hand sampling locations HS1 and HS2 both collected at less than 2 feet bgs and well MW-6 at depths of 5, 12.5, and 17 feet bgs. Total carcinogenic PAHs were found to exceed proposed cleanup levels of 18 ppm at one RI/FS soil sampling location within the Tank Farm soil (HB2 at 2 feet). No other soil samples collected within the Tank Farm soil operable unit were found to exceed proposed cleanup levels for the established COCs (see Table 3). Sample locations exceeding proposed soil cleanup levels are presented in Table 3.

Considering that the soil samples found to exceed proposed cleanup levels for diesel and/or PAHs were collected over five years ago and excavation and sampling is already proposed for the Tank Farm soil operable unit, further evaluation of current TPH-D and carcinogenic PAH concentrations in soil in these two shallow soil areas (HS1 and HS2) is proposed. Confirmation sampling proposed in the AGI Interim Action Plan will be amended to include collection of soil samples near HS1 and HS2 for TPH-D analyses. In the event diesel-range petroleum hydrocarbon or carcinogenic PAH concentrations are found to exceed proposed cleanup levels, these areas will be addressed as appropriate.

If SPHs are found during removal of the ASTs or other structures or during excavation activities within the Tank Farm soil operable unit, these SPHs will be removed immediately through pumping, skimming, or by use of petroleum sorbent materials. Additional sampling and excavation related to petroleum hydrocarbons in soil may also be necessary. Following excavation and sampling activities within the Tank Farm soil, the area will be backfilled with imported soil, compacted, and paved with asphalt.

Table 3

Chevron/Metro Lake Union Soil Concentrations Exceeding Proposed Cleanup Action Levels

Survey	Date	Sample	Analyte	Concentration	Units	Soil Cleanup Levels	Units
Envi, 1992	06/1992	WYTP4C	Diesel	6800	mg/kg	5140	mg/kg
Envi, 1992	06/1992	WYTP3C	Gasoline	8100	mg/kg	4520	mg/kg
AGI, 1993	08/1993	HB02-0.1	Arsenic	3000	mg/kg	200	mg/kg
AGI, 1993	08/1993	HB03-0.1	Arsenic	3000	mg/kg	200	mg/kg
AGI, 1993	08/1993	HB04-0.1	Arsenic	2500	mg/kg	200	mg/kg
AGI, 1993	08/1993	HB04-0.1 Dup	Arsenic	600	mg/kg	200	mg/kg
AGI, 1993	08/1993	HS1	Diesel	14000	mg/kg	5140	mg/kg
AGI, 1993	08/1993	HS2	Diesel	14000	mg/kg	5140	mg/kg
AGI, 1993	08/1993	HS5	Diesel	7700	mg/kg	5140	mg/kg
AGI, 1993	08/1993	MW06-17	Diesel	11000	mg/kg	5140	mg/kg
AGI, 1993	08/1993	MW06-5	Diesel	8000	mg/kg	5140	mg/kg
AGI, 1993	08/1993	MW10-11	Gasoline	6700	mg/kg	4520	mg/kg
AGI, 1993	08/1993	HB01-0.2	Lead	3900	mg/kg	1000	mg/kg
AGI, 1993	08/1993	HB02-0.1	Lead	7200	mg/kg	1000	mg/kg
AGI, 1993	08/1993	HB03-0.1	Lead	6400	mg/kg	1000	mg/kg
AGI, 1993	08/1993	HB04-0.1	Lead	5300	mg/kg	1000	mg/kg
AGI, 1993	08/1993	HB04-0.1 Dup	Lead	2000	mg/kg	1000	mg/kg
AGI, 1993	08/1993	HB01-0.2	Mercury	1.5	mg/kg	1	mg/kg
AGI, 1993	08/1993	HB02-0.1	Mercury	3.3	mg/kg	1	mg/kg
AGI, 1993	08/1993	HB03-0.1	Mercury	7.6	mg/kg	1	mg/kg
AGI, 1993	08/1993	HB04-0.1	Mercury	12	mg/kg	1	mg/kg
AGI, 1993	08/1993	HB04-0.1 Dup	Mercury	24	mg/kg	1	mg/kg
AGI, 1993	08/1993	SB8-12.5	Diesel	16000	mg/kg	5140	mg/kg

North Yard

Off-Site



Table 3 (Continued)

Chevron/Metro Lake Union Soil Concentrations Exceeding Proposed Cleanup Action Levels

Survey	Date	Sample	Analyte	Concentration	Units	Soil Cleanup Levels	Units
AGI, 1993	08/1993	SBS-12.5	Gasoline	7600	mg/kg	4320	mg/kg
AGI, 1993	08/1993	HB08-1.0	Diesel	7500	mg/kg	5140	mg/kg
AGI, 1993	08/1993	FHS4	Diesel	15000	mg/kg	5140	mg/kg
AGI, 1993	08/1993	AG12-12.5	Gasoline	5500	mg/kg	4520	mg/kg
AGI, 1993	08/1993	HB07-0.4	Lead	1300	mg/kg	1000	mg/kg

South Yard



5.1.2 Overall Cleanup Strategy Phase II—Lower Areas Soil and Groundwater

As mentioned earlier, the proposed cleanup actions for the Lower Areas soil and groundwater are based on Alternative 2 provided in the RI/FS (AGI 1993), but modified to include hydrogen peroxide injection in place of groundwater extraction, air stripping, and vapor extraction. The proposed cleanup actions were developed based on protection of human health and the environment; long- and short-term effectiveness; implementability; permanent reduction in toxicity, mobility, and volume of hazardous substances; reasonable restoration time; and costs as required by MTCA.

The site is currently used for commercial/industrial purposes. It is assumed that the site will continue to be used for these purposes. Groundwater is currently not used for drinking water and there is a low probability for such future use. Ecology has determined that the shallow groundwater is not a potential source of future drinking water (Ecology letter, August 10, 1998). Alternative 2 contains provisions for monitoring remediation, which includes active remediation and institutional controls such as restrictive covenants. Under MTCA, a longer period of time may be used for restoration if higher preference technologies are selected instead of offsite disposal, isolation, or containment options.

5.2 PROPOSED CLEANUP ACTION LEVELS

5.2.1 Proposed Cleanup Action Levels Phase I—Tank Farm Soil

5.2.1.1 Tank Demolition and Shallow Soil (Metals) Cleanup

Method A Industrial Soil Cleanup Levels for metals are proposed for the Tank Farm soil, as outlined in the work plan (AGI, 1998). For arsenic, cadmium, chromium, lead, and mercury these proposed cleanup levels are 200; 10; 500; 1,000; and 1.0 milligrams per kilogram (mg/kg) or ppm, respectively. Use of Method A Industrial Soil Cleanup Levels will require institutional controls including a deed restriction requiring site use to remain as industrial/commercial and limiting disturbance of site soils requiring Ecology's approval for excavation.

5.2.1.2 Petroleum Hydrocarbon Assessment and Cleanup Contingency

Cleanup levels for TPH, benzene, and carcinogenic PAHs were established based on current and planned future site use, through risk-based analyses, and through discussions with Ecology. For TPH in soil, cleanup levels are proposed based on residual petroleum hydrocarbon saturation, as part of the Interim TPH Policy and outlined in the Cleanup Level Development Report (Foster Wheeler Environmental, 1998a). Method C Industrial Cleanup Levels for soil are proposed for benzene and carcinogenic PAH compounds. The proposed soil cleanup actions levels for the site are provided in Table 2.

5.2.2 Proposed Cleanup Action Levels Phase II—Lower Areas Soil and Groundwater

The same soil cleanup levels proposed in Section 5.2.1.2 will apply to soil within the Lower Areas soil and groundwater operable unit. For COCs in groundwater, Method B surface water cleanup levels are proposed. The proposed soil and groundwater cleanup actions levels for the site are provided in Table 2.

5.3 PROPOSED CLEANUP ACTIONS

5.3.1 Proposed Cleanup Actions Phase I—Tank Farm Soil

5.3.1.1 Tank Demolition and Shallow Soil (Metals) Cleanup

As stated in the work plan (AGI, April 1998), the cleanup activities will begin with the removal of the seven ASTs and aboveground piping after May 1999. Removal of the ASTs will also include removal of miscellaneous concrete structures and piping supports. Once the structures are removed, excavation of an estimated 420 cubic yards of soil (upper 3-6 inches of soil) containing elevated levels of arsenic, cadmium, chromium, lead, and mercury will be performed.

Following shallow soil excavation activities, soil samples will be collected from excavated soil for waste characterization purposes. Soil samples will also be collected from the excavation area and analyzed for specific total metal analyses to meet compliance monitoring requirements. Sampling procedures, locations, and analytical testing are described in the work plan for the Tank Farm soil (AGI, 1998).

5.3.1.2 Petroleum Hydrocarbon Assessment and Cleanup Contingency

Based on the RI/FS and previous investigations, soil containing WTPH-D concentrations exceeding proposed cleanup levels of 5,180 ppm are also present at three locations within the Tank Farm soil. These locations include hand sampling locations HS1 and HS2 both collected at less than 2 feet bgs and MW-6 at depths of 5, 12.5, and 17 feet bgs. Total carcinogenic PAHs were found to exceed proposed cleanup levels of 18 ppm at one RI/FS soil sampling location within the Tank Farm soil (HB2 at 2 feet). No other soil samples collected within the Tank Farm soil operable unit were found to exceed proposed cleanup levels for the established COCs (see Table 3). Sample locations exceeding proposed soil cleanup levels are presented on Figure 3.

Considering that the soil samples found to exceed proposed cleanup levels for diesel and/or PAHs were collected over five years ago and excavation and sampling is already proposed for the Tank Farm soil operable unit, further evaluation of current TPH-D and carcinogenic PAH concentrations in soil in these two shallow soil areas (HS1 and HS2) is proposed. Confirmation sampling proposed in the AGI Interim Action Plan will be amended to include collection of soil samples near HS1 and HS2 for TPH-D analyses. In the event diesel-range petroleum hydrocarbon or carcinogenic PAH concentrations are found to exceed proposed cleanup levels, these areas will be remediated by an Ecology approved method.

If SPHs are found during removal of the ASTs or other structures or during excavation activities within the Tank Farm soil operable unit, these SPHs will be removed immediately through pumping, skimming, or by use of petroleum sorbent materials. Additional sampling and excavation related to petroleum hydrocarbons in soil may also be necessary. Following excavation and sampling activities within the Tank Farm soil, the area will be backfilled with imported soil, compacted, and paved with asphalt.

Cleanup of groundwater will be addressed in the Lower Areas soil and groundwater operable unit, which is outlined in the next section. It should also be noted that soil samples found to exceed proposed cleanup levels at depths of 5 to 17 feet in MW-6 are present at or near groundwater and will be addressed with the cleanup actions proposed for the Lower Areas soil and groundwater operable unit.

5.3.2 Proposed Cleanup Actions Phase II—Lower Areas Soil And Groundwater

The following proposed cleanup actions have been developed to address soil and groundwater exceeding proposed cleanup action levels within the Lower Areas soil and groundwater operable unit. Based on the RI/FS and findings of other referenced assessments, no soil samples exceeding proposed oil range hydrocarbons (WTPH-O) concentrations of 5,780 ppm or proposed benzene concentrations of 4,530 ppm were found. In addition, no metal concentrations in soil within this operable unit exceed proposed soil cleanup level concentrations.

Lower Areas Soil

Based on the referenced reports, gasoline range hydrocarbons (TPH-G) exceeding proposed soil cleanup levels of 4,520 ppm are present in three soil sampling locations within the Lower Areas soil and groundwater operable unit. These include MW-10 at 11 feet, Boring SB-8 at 12.5 feet and Well AGI-2 at 12.5 feet bgs. In addition, MW-6 has noted samples at 5, 12.5, and 17 feet bgs. Soil containing WTPH-D were found to exceed proposed soil cleanup levels of 5,140 ppm at nine RI/FS soil sampling locations. These locations include hand samples HS4 at 0.3 feet, HS5 at 0.5 feet, hand boring HB8 at 1 foot, and boring SB8 at 12.5 feet bgs. Total carcinogenic PAHs were found to exceed proposed cleanup levels of 18 ppm at RI/FS soil sampling locations HB2 at 2 feet, SB3 at 17 feet, MW-3 at 21 feet, MW-10 at 11 feet, and SB-2 at 12.5 feet. Soil sample locations exceeding proposed soil cleanup levels are shown in Figure 3.

As with the Tank Farm soil operable unit, shallow soil (defined as 2 feet bgs or above) found to exceed cleanup levels in soil near HS4, HS5, and HB8 will require further evaluation to assess current COC concentrations. In the event COC concentrations are found to exceed proposed cleanup levels, these areas will be remediated by natural attenuation and monitoring, or by another Ecology approved method.

The remaining soil samples found to exceed proposed cleanup levels within the Lower Areas soil and groundwater operable unit were found at or near groundwater and will be addressed by the proposed groundwater cleanup actions outlined below.

Lower Areas Groundwater

The primary COC for groundwater cleanup within the Lower Areas soil and groundwater operable unit is benzene. Based on the February 1998 groundwater sampling data (PEG, 1998a) and supplemental data collected in July 1998, seven wells (MW-3, MW-7, MW-8, MW-10, MW-12, MW-20, and MW-22) contain benzene concentrations exceeding proposed Method B surface water cleanup levels of 43 parts per billion (ppb) (Table 4).

Other chemical compounds found to exceed proposed groundwater cleanup levels include arsenic, bis(2-ethylhexyl) phthalate, and in MW-7, benzo(a)anthracene and benzo(a)pyrene. Based on December 1996 data, arsenic concentrations in wells MW-8 and MW-9 of 8 ppb and 13 ppb, respectively, exceed proposed cleanup levels of 5 ppb. Bis(2-ethylhexyl)phthalate, a semi-volatile compound, exceeded proposed groundwater cleanup levels of 3.56 ppb in nine wells; MW-3, MW-4, MW-7, MW-8, MW-9, MW-10, MW-12, MW-22, and MLU-1. Ethylbenzene concentrations exceeded proposed cleanup levels in off-site well MW-13.

No other compound was found to exceed proposed groundwater cleanup levels. Groundwater well locations exceeding proposed cleanup levels are shown in Figure 4.

Wells containing benzene, and other organic compounds including bis(2ethylhexyl)phthalate, benzo(a)anthracene and benzo(a)pyrene, will be selected as peroxide injection wells. Well MW-20, due to its down-gradient location, will be selected as a compliance monitoring well (see Section 5.5).

Thirteen existing wells are proposed as peroxide injection wells (MW-3, MW-6, MW-7, MW-8, MW-9, MW-10, MW-11, MW-12, MW-15, MW-22, MLU-1, MLU-3, and AGI-2). In addition, the installation of two supplemental peroxide injection wells are proposed (MW-27 and MW-28) as shown in Figure 5.

Based on conversations with Ecology, each proposed peroxide injection well must be registered with Ecology as an injection well. The latitudinal and longitudinal coordinates of each well may also need to be provided to Ecology.

The amount and frequency of peroxide injection can be adjusted to meet specific site conditions. However, at this time, it is proposed that peroxide injection be conducted initially in the 13 selected wells and monitored on a weekly basis for a period of 8 weeks. The peroxide injection treatment will be monitored and adjusted to optimize bioremediation and decrease of COCs. Contingency measures may be added to improve effectiveness of the injection treatment. Later the treatment will be monitored on a quarterly basis until trends are established and on an annual basis until cleanup action levels are achieved.

During each injection event, peroxide solution will be injected in each of the wells identified above. Prior to each injection event, dissolved oxygen levels will be measured in each injection well and in other monitoring wells as appropriate. To target specific areas of the site, the volume or frequency of peroxide solution injected can be increased in selected wells. To reduce the potential for increased COC leaching and migration due to the introduction of liquids into the subsurface, injection volumes will be carefully modulated. Monitoring wells located near injection wells will be monitored for dissolved oxygen and petroleum hydrocarbons constituents, as necessary.

Table 4

Chevron/Metro Lake Union Groundwater Concentrations Exceeding Proposed Cleanup Levels (Post 1995)

Survey	Date	Sample	Analyte	Concentration	Groundwater	
					Units	Cleanup Levels Units
FWBC, 1998	07/1998	MW-10	Benzene	347	ug/l	43
	07/1998	MW-12	Benzene	1700	ug/l	43
	07/1998	MW-3	Benzene	116	ug/l	43
	07/1998	MW-10	Bis (2-Ethylhexyl) Phthalate	279	ug/l	3.56
	07/1998	MW-12	Bis (2-Ethylhexyl) Phthalate	478	ug/l	3.56
	07/1998	MW-3	Bis (2-Ethylhexyl) Phthalate	530	ug/l	3.56
	07/1998	MW-9	Bis (2-Ethylhexyl) Phthalate	234	ug/l	3.56
	07/1998	MW-10	Benzene	890	ug/l	43
North Yard	12/1996	MW-10 Dup	Benzene	960	ug/l	43
	02/1998	MLU-1	Bis (2-Ethylhexyl) Phthalate	106	ug/l	3.56
	12/1996	MW-10	Lead	13	ug/l	5
	12/1996	MW-10	Lead	5.3	ug/l	5
	12/1996	MW-10 Dup	Lead	9.1	ug/l	5
	12/1996	MW-10 Dup	Lead	5.5	ug/l	5
	12/1996	MW-9	Arsenic	11	ug/l	0.0982
	12/1996	MW-9	Arsenic	13	ug/l	0.0982
Off-Site	02/1998	MW-15	Benzene	104	ug/l	43
	07/1997	MW-20	Benzene	112	ug/l	43
	07/1997	MW-20 Dup	Benzene	100	ug/l	43
	07/1997	MW-22	Benzene	169	ug/l	43
	02/1998	MW-22	Benzene	873	ug/l	43
	07/1997	MW-22	Bis (2-Ethylhexyl) Phthalate	20.9	ug/l	3.56
	12/1996	MW-13	Ethylbenzene	11000	ug/l	6910
	07/1997	MW-13	Ethylbenzene	10800	ug/l	6910
	02/1998	MW-13	Ethylbenzene	14100	ug/l	6910

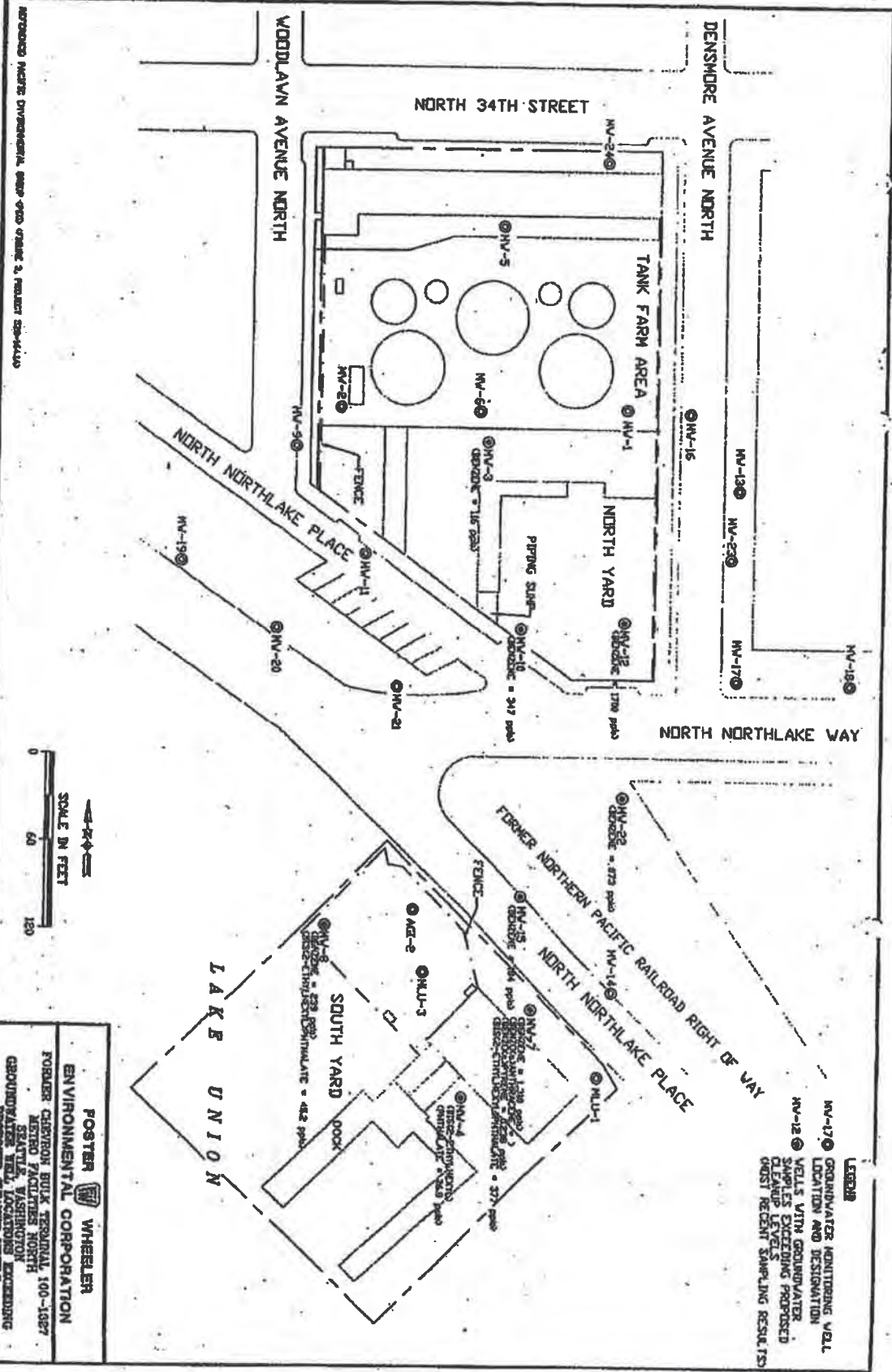


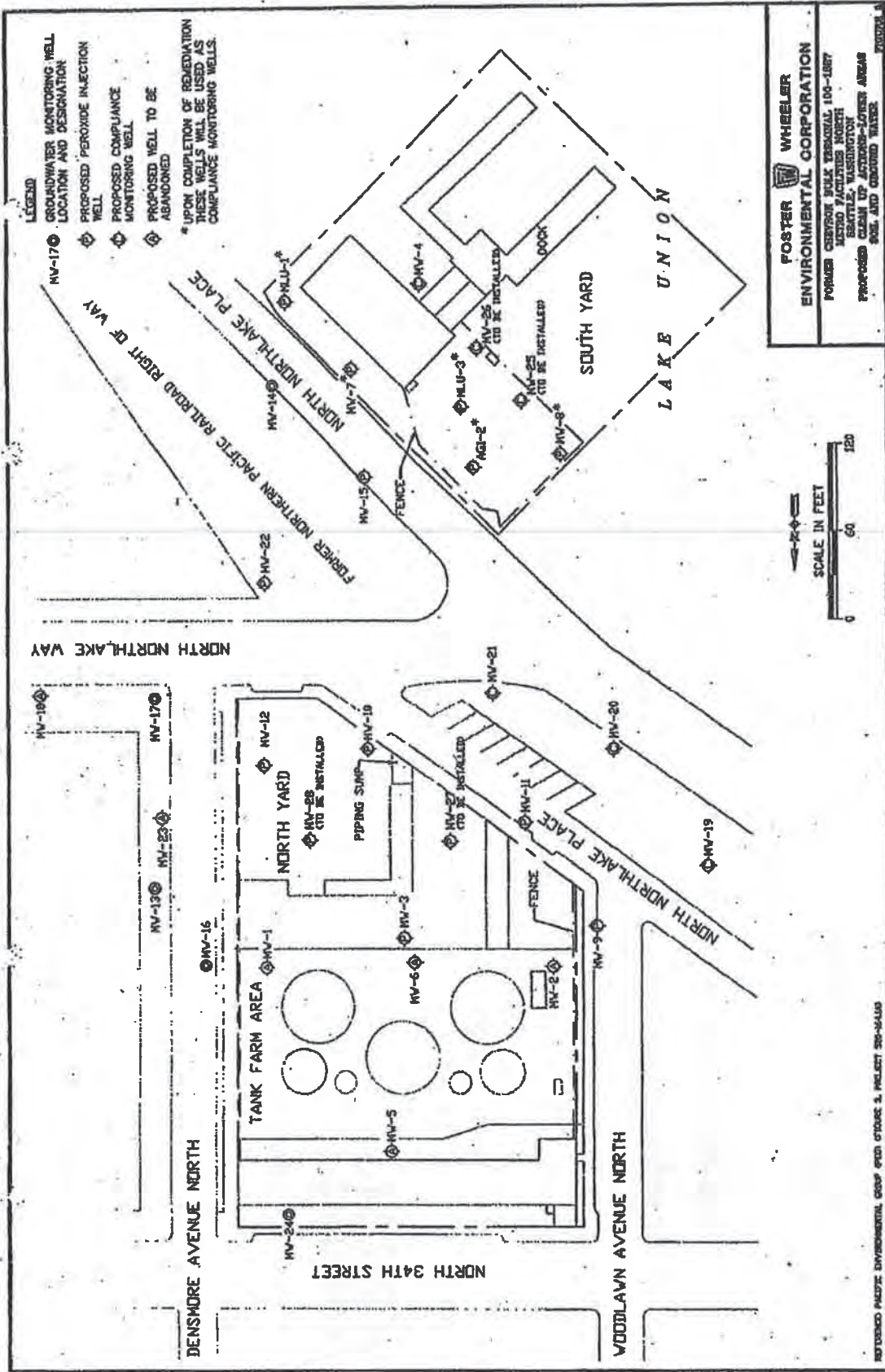
Table 4 (Continued)

Chevron/Metro Lake Union Groundwater Concentrations Exceeding Proposed Cleanup Levels (Post 1995)

Survey	Date	Sample	Analyte	Concentration	Groundwater	
					Units	Cleanup Levels
AGI, 1996	12/1996	MW-9	Lead	16	ug/l	5
AGI, 1996	12/1996	MW-3	Arsenic	8.4	ug/l	0.0982
AGI, 1996	12/1996	MW-3	Arsenic	7.8	ug/l	0.0982
AGI, 1996	12/1996	MW-8 Dup	Arsenic	8.1	ug/l	0.0982
AGI, 1996	12/1996	MW-8 Dup	Arsenic	8.9	ug/l	0.0982
AGI, 1997	07/1997	MW-7	Benzene	2060	ug/l	43
PBG, 1998	02/1998	MW-7	Benzene	1310	ug/l	43
PBG, 1998	02/1998	MW-7	Benzene	1290	ug/l	43
AGI, 1996	12/1996	MW-8	Benzene	1200	ug/l	43
PBG, 1997	07/1997	MW-8	Benzene	524	ug/l	43
PBG, 1998	02/1998	MW-8	Benzene	131	ug/l	43
PBG, 1998	02/1998	MW-8	Benzene	239	ug/l	43
AGI, 1996	12/1996	MW-8 Dup	Benzene	1200	ug/l	43
PBG, 1998	02/1998	MW-7	Benzo(e)anthracene	1.25	ug/l	0.0296
PBG, 1998	02/1998	MW-7	Benzo(e)anthracene	0.123	ug/l	0.0296
PBG, 1998	02/1998	MW-7	Benzo(a)pyrene	0.238	ug/l	0.0296
PBG, 1998	02/1998	MW-4	Bis (2-Ethylhexyl) Phthalate	26.9	ug/l	3.56
PBG, 1998	02/1998	MW-7	Bis (2-Ethylhexyl) Phthalate	377	ug/l	3.56
PBG, 1998	02/1998	MW-8	Bis (2-Ethylhexyl) Phthalate	45.2	ug/l	3.56
AGI, 1996	12/1996	MW-4	Lead	99	ug/l	5







Other activities believed to be vital to the success of site cleanup include:

- Abandonment of wells (MW-1, MW-2, MW-5, MW-6, MW-18, and MW-23) that will not be used for site cleanup or monitoring to minimize potential surface water impacts to groundwater (see Figure 5);
- Maintaining and repairing injection and/or monitoring wells during the course of remediation;
- Conducting yearly site visits to visually assess current site conditions such as ongoing operations, new construction or demolition activities, well conditions; and,
- Monitoring the property boundary along Lake Union for petroleum seeps as an added precaution even though there is no reason to suspect a problem.

5.4 INSTITUTIONAL CONTROLS

Institutional controls are an important element of the proposed cleanup action, ensuring protection of human health and the environment. Controls of this type are required when residual concentrations of COCs will remain in place and will be required until these residual COCs no longer exceed proposed cleanup levels at the points of compliance. At this site, institutional controls include restrictive covenants on use of the site only for commercial or industrial purposes, on extraction or use of groundwater beneath the site, and on excavation activities (see Consent Decree). Engineering controls proposed for the site include maintenance of existing fencing and containment wall to restrict site access and possible paving of the tank farm area with asphalt for use as a parking lot.

5.5 COMPLIANCE WELLS

The Point of Compliance is defined in MTCA as the point or points where cleanup levels established in accordance with WAC 173-340-720 through WAC 173-340-760 shall be attained (WAC 173-340-200). Once those cleanup levels have been attained at a point of compliance, the site is no longer considered a threat to human health and the environment.

The point of compliance for groundwater is defined in WAC 173-340-720(6)(b) to be the uppermost level of the saturated zone extending vertically to the lowest most depth potentially effected by the conditions at the site. If hazardous substances remain on site as part of the cleanup action, under WAC 173-340-720(6)(c), monitoring of groundwater shall be established as close as practicable to the edge of the contained hazardous substances, not to exceed the property boundary, so as to ensure the quality of groundwater and the performance of the containment system. Therefore, the point of compliance for groundwater in the North Yard will be the southern property boundary, and will be monitored using existing wells MW-19, MW-20, MW-21. The point of compliance for the South Yard will be the southern property boundary and will be monitored using existing wells MW-4, MW-7, MW-8, AGI-2, MLU1-3 and proposed wells MW-25 and MW-26, which will be installed as part of site cleanup activities (see Figure 5).

6. COMPLIANCE MONITORING

6.1 PROTECTION MONITORING

Protection monitoring will be conducted to confirm that human health and the environment are being protected during implementation of the cleanup action. This information will be provided in a site specific health and safety plan and will include appropriate soil and air monitoring, chemical and waste handling, and documentation procedures.

6.2 PERFORMANCE MONITORING

6.2.1 Performance Monitoring Phase I—Tank Farm Soil

6.2.1.1 Tank Demolition and Shallow Soil (Metals) Cleanup

Performance monitoring will be conducted following soil excavation within the Tank Farm soil operable unit to assess whether cleanup actions for metals have attained proposed cleanup levels. Performance monitoring proposed for Phase I work within the Tank Farm soil is presented in the Interim Action Plan (AGI, 1998). In general, soil samples will be collected from the bottom of the excavation and analyzed for arsenic, cadmium, chromium, lead, and mercury.

6.2.1.2 Petroleum Hydrocarbon Assessment and Cleanup Contingency

Soil samples will also be collected near hand samples HS1 and HS2 for diesel-range petroleum hydrocarbon and carcinogenic PAH analyses. The results of the analyses will be used to evaluate whether proposed cleanup levels have been met and/or if any additional actions are necessary for this area of the site. Any additional cleanup activities required will be performed on a contingency basis as a result of field observations or analytical results and approved by Ecology.

6.2.2 Performance Monitoring Phase II—Lower Areas Soil and Groundwater

Performance monitoring for Phase II activities will begin with quarterly groundwater monitoring and sampling of the six proposed compliance wells. Monitoring of these wells will include inspection for measurable SPHs, measuring water levels and dissolved oxygen concentrations, and sampling the wells for appropriate COC analyses, as necessary. As remediation progresses and COC concentrations in soil and groundwater decline, the frequency of groundwater monitoring, sampling, and analyses will be reduced as site conditions warrant.

Water level measurements and inspection for measurable SPHs will be performed quarterly on all available wells at the site for the first five quarters of remediation. Wells slated for peroxide injection should also be monitored for dissolved oxygen concentrations prior to peroxide injection activities that may occur during the site visit.

6.3 CONFIRMATION MONITORING

6.3.1 Confirmational Monitoring Phase I—Tank Farm Soil

6.3.1.1 Tank Demolition and Shallow Soil (Metals) Cleanup

Confirmation monitoring will be conducted to confirm the long-term effectiveness of the cleanup actions. Confirmation monitoring will only be required in areas of the site where performance monitoring indicates cleanup levels have not been met. For example, if performance monitoring conducted in the Tank Farm soil operable unit shows that soil containing metals exceeding proposed cleanup levels remains, confirmation sampling will be required to meet final Ecology requirements.

6.3.1.2 Petroleum Hydrocarbon Assessment and Cleanup Contingency

As stated in Section 6.2.1.2, soil samples will be collected within the tank farm soil operable unit and analyzed for petroleum hydrocarbons as part of performance monitoring. Soil samples exceeding proposed cleanup levels for TPH, benzene and/or carcinogenic PAHs will be remediated by Ecology approved natural attenuation or other method. Confirmation monitoring will be conducted upon completion of soil remediation activities

6.3.2 Confirmational Monitoring Phase II—Lower Areas Soil and Groundwater

For groundwater, proposed confirmation monitoring will consist of quarterly groundwater sampling of all existing site wells following cessation of peroxide injection activities. If confirmation monitoring indicates that COCs in all wells are below proposed cleanup levels for five consecutive quarters, then site cleanup will have met MTCA requirements. Additional annual verification of cleanup through monitoring of wells MW-19, MW-20, MW-21, AGI-2, MLU-1, MLU-3, MW-4, MW-7, MW-8, MW-25, and MW-26 or subset of these wells will likely be required for up to five years beyond the remediation period.

7. SCHEDULE FOR IMPLEMENTATION

The CAP will be recorded with the Consent Decree in January 1999. The design and implementation schedule for the CAP is provided in Appendix C.

8. REPORTING

8.1 PROCEDURE

Unless otherwise specified by Ecology, all reports, plans, specifications, and similar information submitted shall meet the requirements outlined in MTCA (WAC 173-340-840). This includes submittal of three copies (three hard copies and one electronic copy) of the plan or report with a cover letter describing the submittal and specifying the desired department action or response. In some circumstances additional copies may be required to meet public participation and interagency coordination needs.

8.2 QUARTERLY REPORTING AND PERIODIC UPDATES

Quarterly reports (hard copy and electronic copy) will be submitted to Ecology in April 1999, July 1999, October 1999, January 2000, April 2000, and July 2000 detailing monitoring and sampling activities conducted at the site during the previous three months. A report will also be prepared detailing Phase I activities within the Tank Farm soil operating unit following completion of AST removal and soil excavation and sampling activities. Periodic updates will be provided during times of significant site activity, as required (i.e. during Phase I work, after well installations, or during initial stages of peroxide injection activities). Annual reports will be prepared once remediation is complete and verification monitoring is implemented.

8.3 PUBLIC PARTICIPATION AND PUBLIC INFORMATION REPORTING

MTCA regulations require that public concerns regarding the proposed cleanup action be addressed. A public comment period for this document formally presents the public an opportunity to comment on the proposed action. Public comments and concerns will be evaluated in developing the final cleanup action plan. A responsiveness summary will be included with the final CAP to respond to public comment.

8.4 FINAL DRAFT REPORT WITH COMPLIANCE MONITORING REPORT

Upon completion of site cleanup activities including final compliance monitoring results, a final draft report detailing site cleanup activities will be submitted to Ecology. Once approved, a final report will be submitted along with a petition to remove the site from the Site Hazard List. This petition can be submitted prior to completion of compliance monitoring if all remedial actions except confirmational monitoring have been completed.

9. REFERENCES

- AGI. 1993. Draft Remedial Investigation/Feasibility Study Facilities North Site. Seattle, Washington. November, 1993.
- AGI. 1995. Quarterly Ground Water Monitoring Results, Facilities North Site. Seattle, Washington. May 4, 1995.
- AGI. 1997. Summary December 1996 Groundwater Monitoring Results, Facilities North Site. Seattle, Washington. January 31, 1997.
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- Foster Wheeler Environmental. 1998a. Cleanup Level Development for the Former Chevron Bulk Terminal 100-1327 and Current King County Metro Transit Terminal. Seattle, Washington. April 21, 1998.
- Foster Wheeler Environmental. 1998b. Former Chevron Bulk Terminal 100-1327 and Current King County Metro Transit Terminal Supplemental Information. May 14, 1998.
- Foster Wheeler Environmental. 1998c. Estimate of Sustainable Well Yield and Slug test Data Former Chevron Bulk Terminal 100-1327 and Current King County Metro Transit Terminal. Seattle, Washington. June 30, 1998.
- Foster Wheeler Environmental. 1998d. Results of Pump Test and Estimate of Sustainable Yield for Well MW-10, Former Chevron Bulk Terminal 100-1327 and Current King County Metro Transit Terminal. Seattle, Washington. June 30, 1998.
- Pacific Environmental Group (PEG). 1997. Environmental Assessment Former Chevron Bulk Terminal 100-1327. Metro Facilities North, Seattle, Washington. August 29, 1997.
- PEG. 1998a. Groundwater Monitoring and Sampling Activities Former Chevron Bulk Terminal 100-1327. Metro Facilities North. Seattle, Washington. April 21, 1998.
- PEG. 1998b. Laboratory Reports of Groundwater Samples Collected from Wells MW-3, MW-9, MW-10, and MW-12. July 1, 1998.
- Washington State Department of Ecology (Ecology). 1996a. The Model Toxics Control Act Cleanup Regulation, Chapter 173-340 WAC (Publication No. 94-06). January 1996 (amended).
- Ecology. 1996b. Model Toxics Control Act Cleanup Levels and Risk Calculations (CLARC II) Update (Publication No.94-145). February 1996.
- Ecology. 1998. Proposed Cleanup Action Plan and Comments on Cleanup Level Development Draft for the Facilities North/Metro Lake Union Site, former Chevron Facilities #1001327. Seattle, Washington. June 24, 1998.

CONSENT DECREE

EXHIBIT B

**FORMER CHEVRON BULK TERMINAL #100-1327
FACILITIES NORTH/KING COUNTY METRO TRANSIT
LAKE UNION SITE**

SEATTLE, WASHINGTON

SITE DIAGRAM

CONSENT DECREE

EXHIBIT C

**FORMER CHEVRON BULK TERMINAL #100-1327
FACILITIES NORTH/KING COUNTY METRO TRANSIT
LAKE UNION SITE**

SEATTLE, WASHINGTON

RESTRICTIVE COVENANT

APPENDIX B
SEPARATE PHASE HYDROCARBON REMOVAL DATA
PROVIDED BY PACIFIC ENVIRONMENTAL GROUP (11/20/98)

SEPARATE-PHASE HYDROCARBON REMOVAL DATA

Former Chevron Bulk Terminal 100-1327
 Metro / Facilities North
 Seattle, Washington

Sample I.D.	Date	Depth to Water (feet)	Depth to Liquid (feet)	Hydrocarbon Thickness (feet)	Liquid Removed (Gallons)	Total Liquid Removed (Gallons)
MW-3	7/31/97	6.81	6.80	0.01	Not Bailed	-
	8/8/97	7.05	7.04	0.01	Not Bailed	-
	8/15/97	7.30	7.28	0.02	Not Bailed	-
	8/22/97	7.42	7.41	0.01	Not Bailed	-
	9/5/97	7.86	7.85	0.01	Not Bailed	-
	9/19/97	8.51	7.86	0.65	0.5	0.5
	10/3/97	8.02	8.02	0.00	Not Bailed	0.5
	10/24/97	8.29	8.29	0.00	Not Bailed	0.5
	10/31/97	8.04	8.04	0.00	Not Bailed	0.5
	11/26/97	7.03	7.03	0.00	Not Bailed	0.5
	12/31/97	7.66	7.66	0.00	Not Bailed	0.5
	2/6/98	5.76	5.76	0.00	Not Bailed	0.5
	2/26/98	5.75	5.75	0.00	Not Bailed	0.5
	4/1/98	5.72	5.72	0.00	Not Bailed	0.5
	5/8/98	6.63	6.63	0.00	Not Bailed	0.5
	6/9/98	7.23	7.23	0.00	Not Bailed	0.5
	7/1/98	7.69	7.69	0.00	Not Bailed	0.5
	8/12/98	8.84	8.84	0.00	Not Bailed	0.5
	9/10/98	9.73	9.73	0.00	Not Bailed	0.5
	10/23/98	10.05	10.05	0.00	Not Bailed	0.5
	11/16/98	10.09	10.09	0.00	Not Bailed	0.5

SEPARATE-PHASE HYDROCARBON REMOVAL DATA

Former Chevron Bulk Terminal 100-1327
 Metro / Facilities North
 Seattle, Washington

Sample I.D.	Date	Depth to Water (feet)	Depth to Liquid (feet)	Hydrocarbon Thickness (feet)	Liquid Removed (Gallons)	Total Liquid Removed (Gallons)
MW-9	7/31/97	11.85	11.37	0.48	1.5	1.5
	8/8/97	12.47	11.81	0.66	0.5	2.0
	8/15/97	12.38	12.16	0.22	0.2	2.2
	8/22/97	12.30	12.29	0.01	Not Bailed	2.2
	9/5/97	12.73	12.59	0.14	0.1	2.3
	9/19/97	12.87	12.74	0.13	0.5	2.8
	10/3/97	12.92	12.92	0.00	Not Bailed	2.8
	10/24/97	12.82	12.82	0.00	Not Bailed	2.8
	10/31/97	13.15	13.15	0.00	Not Bailed	2.8
	11/26/97	12.56	12.56	0.00	Not Bailed	2.8
	12/31/97	12.65	12.65	0.00	Not Bailed	2.8
	2/6/98	13.21	13.21	0.00	Not Bailed	2.8
	2/26/98	13.20	13.20	0.00	Not Bailed	2.8
	4/1/98	12.35	12.35	0.00	Not Bailed	2.8
	5/8/98	11.90	11.90	0.00	Not Bailed	2.8
	6/9/98	12.11	12.11	0.00	Not Bailed	2.8
	7/1/98	12.61	12.61	0.00	Not Bailed	2.8
	8/12/98	13.68	13.68	0.00	Not Bailed	2.8
	9/10/98	14.36	14.36	0.00	Not Bailed	2.8
	10/23/98	14.98	14.98	0.00	Not Bailed	2.8
	11/16/98	15.16	15.16	0.00	Not Bailed	2.8

SEPARATE-PHASE HYDROCARBON REMOVAL DATA

Former Chevron Bulk Terminal 100-1327
 Metro / Facilities North
 Seattle, Washington

Sample I.D.	Date	Depth to Water (feet)	Depth to Liquid (feet)	Hydrocarbon Thickness (feet)	Liquid Removed (Gallons)	Total Liquid Removed (Gallons)
MW-10	7/31/97	5.87	5.83	0.04	Not Bailed	-
	8/8/97	6.13	6.10	0.03	Not Bailed	-
	8/15/97	6.41	6.38	0.03	Not Bailed	-
	8/22/97	6.66	6.63	0.03	Not Bailed	-
	9/5/97	7.00	6.99	0.01	Not Bailed	-
	9/19/97	7.24	7.24	0.00	Not Bailed	-
	10/3/97	7.26	7.26	0.00	Not Bailed	-
	10/24/97	7.32	7.32	0.00	Not Bailed	-
	10/31/97	7.33	7.33	0.00	Not Bailed	-
	11/26/97	6.65	6.65	0.00	Not Bailed	-
	12/31/97	6.79	6.79	0.00	Not Bailed	-
	2/6/98	4.47	4.44	0.03	Not Bailed	-
	2/26/98	4.83	4.83	0.00	Not Bailed	-
	4/1/98	4.63	4.63	0.00	Not Bailed	-
	5/8/98	5.58	5.58	0.00	Not Bailed	-
	6/9/98	6.24	6.24	0.00	Not Bailed	-
	7/1/98	6.60	6.60	0.00	Not Bailed	-
	8/12/98	7.92	7.92	0.00	Not Bailed	-
	9/10/98	8.91	8.91	0.00	Not Bailed	-
	10/23/98	9.41	9.41	0.00	Not Bailed	-
11/16/98	9.50	9.50	0.00	Not Bailed	-	

SEPARATE-PHASE HYDROCARBON REMOVAL DATA

Former Chevron Bulk Terminal 100-1327
 Metro / Facilities North
 Seattle, Washington

Sample I.D.	Date	Depth to Water (feet)	Depth to Liquid (feet)	Hydrocarbon Thickness (feet)	Liquid Removed (Gallons)	Total Liquid Removed (Gallons)
MW-11	7/31/97	9.76	9.76	0.00	Not Bailed	-
	9/5/97	10.76	10.75	0.01	Not Bailed	-
	9/19/97	10.88	10.88	0.00	Not Bailed	-
	10/3/97	10.83	10.83	0.00	Not Bailed	-
	10/31/97	11.04	11.04	0.00	Not Bailed	-
	11/26/97	10.83	10.83	0.00	Not Bailed	-
	12/31/97	11.22	11.22	0.00	Not Bailed	-
	2/6/98	9.64	9.64	0.00	Not Bailed	-
2/26/1998***	9.80	9.80	0.00	Not Bailed	-	
MW-12	7/31/97	6.85	6.20	0.65	1.2	1.2
	8/8/97	6.97	6.61	0.36	0.7	1.9
	8/15/97	7.04	6.74	0.30	0.5	2.4
	8/22/97	7.23	6.95	0.28	0.7	3.1
	9/5/97	7.52	7.22	0.30	0.5	3.6
	9/19/97	7.25	7.14	0.11	0.5	4.1
	10/3/97	7.18	7.16	0.02	0.0	4.1
	10/24/97*	10.00	9.99	0.01	0.0	4.1
	10/31/97	6.98	6.98	0.00	0.4**	4.5
	11/26/97	6.35	6.35	0.00	0.0	4.5
	12/31/97	6.77	6.77	0.00	0.0	4.5
	2/6/98	5.23	5.23	0.00	0.0	4.5
	2/26/98	5.27	5.27	0.00	0.0	4.5
	4/1/98	5.32	5.32	0.00	0.0	4.5
	5/8/98	6.19	6.19	0.00	0.0	4.5
	6/9/98	6.68	6.68	0.00	0.0	4.5
	7/1/98	6.95	6.95	0.00	0.0	4.5
	8/12/98	7.79	7.79	0.00	0.0	4.5
9/10/98	8.42	8.42	0.00	0.0	4.5	
10/23/98	9.60	9.60	0.00	0.0	4.5	
11/16/98	8.47	8.47	0.00	0.0	4.5	

Water and Liquid measurements collected with a Slope Indicator Co. Oil-Water Interface Probe
 * - Depths measured from Petrobelt assembly.
 ** - Total gallons removed with Petrobelt
 *** - MW-11 was sampled on 2/26/98. Concentrations of gasoline, diesel, oil, and BTEX compounds were at non-detectable levels on this date. Well MW-11 has since been taken off of the monthly monitoring schedule.

APPENDIX A

**APPLICABLE OR RELEVANT AND
APPROPRIATE REQUIREMENTS (ARARs)**

**APPLICABLE OR RELEVANT AND APPROPRIATE REGULATIONS
(ARARS)**

REGULATION	COMMENTS
29 CFR 1910	Occupational Safety and Health Act (OSHA)
Ch. 43.21 RCW	State Environmental Policy Act (SEPA)
Ch. 296-155 WAC	Safety Standards for Construction Work
Ch. 173-351 WAC	Solid Waste Disposal Facility Standards
Ch. 173-160 WAC	Minimum Standards for Construction and Maintenance of Wells
Ch. 173-340 WAC	Model Toxics Control Act Cleanup Regulation
Ch. 173-303 WAC	Washington State Dangerous Waste Regulations
Ch. 70.95 RCW Ch. 173-351 WAC Ch. 173-304 WAC	Washington State Solid Waste Management Law and Regulations
RCW 90.58	State Shoreline Management Act
Ch. 173-216 WAC	Accreditation of Environmental Laboratories
PL 96-410, PL97-216, PL 98-272, PL 98-45, and PL99-499	Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
	Resource Conservation and Recovery Act (RCRA)
	Toxic Substance Control Act (TSCA)
	Puget Sound Air Pollution Control Agency (PSAPCA) Regulations
	King County Grading and Filling Regulations

APPENDIX C

**FORMER CHEVRON BULK TERMINAL #100-1327
FACILITIES NORTH/KING COUNTY METRO TRANSIT
LAKE UNION SITE**

SEATTLE, WASHINGTON

PROPOSED SCHEDULE WITH SCOPE OF WORK

DRAFT 11/20/98

APPENDIX C
FORMER CHEVRON BULK TERMINAL #100-1327
FACILITIES NORTH/KING COUNTY METRO TRANSIT
LAKE UNION SITE, SEATTLE, WASHINGTON

PROPOSED SCHEDULE WITH SCOPE OF WORK

Draft 11/20/98

All work performed at and around the Site pursuant to the Decree shall be accomplished in accordance with Chapter 173-340 WAC, and design documents prepared by the defendants shall be submitted for review and approval by Ecology.

The proposed schedule should list the work tasks to implement this Cleanup Action for the Facilities North site. The work tasks should include all significant work elements and deliverable due dates following WAC 173-340-400.

Task 0. Public Involvement and Finalize Documents.

- Public Comment Period - Nov 25, 1998 to Jan 5, 1999
- Public Meeting - Dec 8, 1998
- Ecology's Responsiveness Summary - estimated Jan 1999
- Finalize documents - estimated Jan 1999
- Recording of Consent Decree at Washington State Superior Court - estimated Jan 1999

Task 0 Schedule. To be completed at the time of court recording of the Consent Decree, estimated Jan 1999. The date of court recording will begin the time clock for this schedule and scope of work.

Task 1. Design Report for Phase 1A - Tank Farm Demolition and Shallow Soils with Metals Remediation 100% Completion.

Engineering Design Report at 100% Design.

Task 1. Schedule. Engineering Design Report at 100% design was completed April 8, 1998 with a SEPA Determination of Non-significance and a public comment period April 29-May 27, 1998, and reviewed and approved by Ecology May 1998.

Task 2. Contract Award for Demolition and Shallow Soils with Metals Remediation.

Bid documents and contract awards will be completed for demolition and shallow soils with metals remediation.

Task 2. Schedule. Within 120 days of the effective date of this Decree (estimated May 1999).

Task 3. Demolition and Shallow Soils with Metals Remediation Begins.

Demolition and shallow soils with metals remediation begins with confirmation of all state and local permits by Ecology.

Task 3. Schedule. Within 30 days of Task 2 and with approval from Ecology (estimated June 1999).

Task 3. Completed. Demolition and remediation completed and surface contoured and seeded.

Task 4. Phase II - Engineering Design Draft Report for Remediation of Petroleum Contaminated Soils and Ground Water in Lower Areas and Isolated Locations - 100% Completion.

The draft engineering design report for hydrogen peroxide injection will describe the approved cleanup at the 100% engineering design stage with contingencies and contain the following technical specifications:

- Detailed construction documentation
- Protection, Performance and Confirmation Monitoring Plan
- Permit requirements and schedules
- Operations and maintenance plan
- Proposed construction schedule and sequence
- Contractor staging areas, and other work areas

Task 4. Schedule. The draft design report will be submitted within 150 days of the effective date of this Decree (estimated June 1999). Ecology will endeavor to provide comments within 30 days of receipt (July 1999).

Task 5. Phase II - Final Engineering Design Report Phase II - Remediation for Petroleum Contaminated Soils and Ground Water in Lower Areas and Isolated Locations.

Task 5. Schedule. Ecology will endeavor to review and approve report within 15 days of receipt (August 1999).

Task 6. Remediation Begins for Phase II - Petroleum Contaminated Soils and Ground Water in Lower Areas and Isolated Locations.

Peroxide injection and monitoring begin. Contingencies added if necessary.

Task 6. Schedule. Start-up date estimated August-September 1999.

Task 6. Completed. Completion date estimated November 99-November 2000.

Task 7. Draft Compliance Monitoring Report.

Compliance monitoring report is to document that cleanup actions are complete and cleanup standards are achieved for phase I and II for soils and ground water monitoring results to date.

Task 7. Schedule. Draft compliance monitoring report is to be submitted to Ecology 60 days after completion of cleanup actions estimated January 2000-January 2001. Ecology will endeavor to provide comments within 30 days of receipt estimated February 2000-February 2001.

Task 8. Final Compliance Monitoring Report.

The final compliance monitoring report will incorporate Ecology's comments on the draft compliance monitoring report and will be submitted to Ecology for approval.

Task 8. Schedule. The final compliance monitoring report will be submitted within 30 days of receipt of Ecology's comments on the draft compliance monitoring report estimated March 2000-March 2001. Ecology will endeavor to issue a "No Further Action Letter with Restrictive Covenant" for the site within 30 days of receipt of the final compliance monitoring report.

Task 9. No Further Action Letter/Restrictive Covenant.

Ecology to issue the No Further Action Letter with Restrictive Covenant confirming that all cleanup actions have been completed.

Task 9. Schedule. Estimated 30 days after Ecology approval of task 8.

Task 10. Compliance Monitoring for Ground Water.

Ground water monitoring for petroleum compounds (TPH and BETX) will be conducted quarterly to assess the results of remediation for five quarters; then results will be evaluated and the monitoring schedule will be revised.

Task 10 Schedule. Estimated five quarters after completion of task 6 and re-evaluate if additional ground water monitoring is needed.

EXHIBIT C

DECLARATION OF RESTRICTIVE COVENANTS

KING COUNTY, a charter county of the State of Washington, hereby gives notice that the Property, which is the subject of the following restrictive covenants and is legally described as:

Parcel A: Lots 1 through 12 inclusive, Block 74, Lake Union Addition to the City of Seattle, according to the plat recorded in volume 1 of plats, page 238, in King County, Washington;

Parcel B: Southeasterly half of Lot 10 and all of Lots 11 to 16 inclusive, and Northwesterly 6 feet of Lot 17, in Block 101, Lake Union Shore Lands, records of King County, Washington; and

Parcel C: Southeasterly 29.075 feet of Lot 17, Block 101, Lake Union Shore Lands, records of King County, Washington, and more particularly described as follows:

Beginning at the Northeast corner of Lot 17, Block 101, Lake Union Shore Lands from which the concrete monument at the intersection of the center line of Northlake Avenue and the center line of that part of Densmore Avenue between Northlake Avenue and North 34th Street, as established, bears North 20°04'37" East a distance of 234.78 feet; thence North 34°22'32" West along the North boundary of said Lot 17, a distance of 29.973 feet; thence South 41°33'54.7" west paralleling the East boundary of said Lot 17, a distance of 238.282 feet to a point on the South boundary of said Lot 17; thence South 58°26'05.3" East along the South boundary of said Lot 17, a distance of 29.075 feet to the Southeast corner of said Lot 17; thence North 41°33'54.7" East along the East boundary of said Lot 17 and West boundary of Waterway No. 20, as established, a distance of 231.001 feet to the place of beginning

(the "Property"), was the subject of remedial actions under Chapter 70.105D RCW and implementing regulations.

The work performed in the remedial actions is described in the Consent Decree filed with and approved by the Superior Court of the state of Washington in and for King County, King County Cause No. _____

These restrictive covenants are required by ECOLOGY under WAC 173-340-440(5) because the Cleanup Action on the Property will result in residual levels of petroleum hydrocarbons in the soil and shallow groundwater beneath the Property which exceed ECOLOGY's residential cleanup levels for soil, and achieve Method B surface water standards for groundwater but do not achieve drinking water standards, as established under WAC chapter 170-340.

Subject to exceptions and reservations of record, KING COUNTY is the owner of the Property. KING COUNTY makes the following declaration as to limitations, restrictions and uses to which the Property may be put. KING COUNTY specifies that such declarations and the obligations created by the declarations shall constitute covenants to burden and run with the land and such covenants shall be binding on all parties and all persons, including KING COUNTY, who have or acquire any portion of, or interest in, the Property. Such declarations shall inure to the benefit of and be enforceable by the Washington State Department of Ecology and its successors and assigns ("ECOLOGY").

Pursuant to said Consent Decree, KING COUNTY subjects the Property to the following restrictive covenants:

1. No activities that interfere with the remedial actions required by the Consent Decree shall be undertaken on the Property without ECOLOGY approval.
2. No wells for the extraction of water shall be installed in the Property without ECOLOGY approval.
3. No development of the Property for uses other than industrial uses, as defined in Chapter 70.105D RCW, shall be undertaken without ECOLOGY approval.
4. With exceptions for landscaping and shallow underground utilities, no excavation of soils shall be permitted on the Property without ECOLOGY approval. Any excavation for such landscaping or underground utilities must ensure there is no increased exposure of the residual contaminants remaining in the Property after the Cleanup Action.
5. No title, easement, lease or other interest in the Property shall be conveyed or entered into without adequate provision for the terms of this Declaration of Restrictive Covenants.
6. Authorized representatives of ECOLOGY shall have the right to enter the Property at reasonable times with reasonable notice for the purposes of evaluating compliance with the terms of this Declaration of Restrictive Covenants.

Except as limited by the express provisions of this Declaration of Restrictive Covenants, KING COUNTY and its successors and assigns expressly reserve all rights of ownership, use and enjoyment of the Property.

Executed this ____ day of _____, 199_

KING COUNTY

By: _____

Its: _____

State of Washington
County of King

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of KING COUNTY to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Seal or stamp)

(Signature)

Title
My appointment expires _____

APPROVED:

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

STATE OF WASHINGTON
ATTORNEY GENERAL

By: _____
James J. Pendowski
Program Manager
Toxics Cleanup Program

By: _____
Assistant Attorney General
Attorneys for the State

Covenant7.doc

SCANNING CERTIFICATE

KING COUNTY

STATE OF WASHINGTON

I, the undersigned, do hereby certify that I have scanned the original instrument and compared the resulting electronic image with the original instrument as the same appears on file and of record in my office, and that the same is a true and correct transcript of said original and of the whole thereof.

I, the undersigned, do certify under penalty of perjury under the laws of the State of Washington, that the above statement is true and correct to the best of my knowledge.

Barbara Minor, Superior Court Clerk

By:

Carol Glover

Deputy Clerk

Dated:

03-03
