CONSENT DECREE

KENMORE INDUSTRIAL PARK
N.E. BOTHELL WAY AND JUANITA DRIVE N.E.
KENMORE, WASHINGTON

June 2001

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
KING COUNTY

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. Pioneer Towing Company, Inc., Respondent.	No. **CONSENT DECREE**

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I. INTRODUCTION

A. In entering into this Consent Decree (Decree), the mutual objective of the Washington State Department of Ecology (Ecology), and Pioneer Towing Company, Inc. (Pioneer Towing) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Decree requires Pioneer Towing to undertake the following remedial action(s):

1. Implement the Cleanup Action Plan, summarized in Section VI of this Decree and attached hereto as Exhibit B, and

2. Provide for public participation.

Ecology has determined that these actions are necessary to protect public 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, Pioneer Towing agrees to its entry and agrees 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 is not an admission of and shall not be construed against Pioneer Towing 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 Pioneer Towing 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) and venue is proper in King County.

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 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 Pioneer Towing, as set forth in RCW 70.105D.020(16), of Ecology's determination that Pioneer Towing is a potentially liable person 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 public health, welfare, and the environment and to comply with the MTCA and Chapter 173-340 WAC.

F. Pioneer Towing has agreed to undertake the actions specified in this Decree and consents to the entry of this Decree under the MTCA.

G. Ecology has determined that this Decree is not based upon circumstances unique to Pioneer Towing within the meaning of RCW 70.105.040(4)(e)(ii).

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. Pioneer Towing agrees 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 or corporate status shall alter the responsibility of the Pioneer Towing under this Decree. Pioneer Towing shall provide a copy of this Decree to all agents, contractors and subcontractors retained to perform work required by this Decree and shall ensure that all work undertaken by such contractors and subcontractors will be in compliance with 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: The Site, referred to as Kenmore Industrial Park, is located in King County, southwest of the intersection of NE Bothell Way and 68th Avenue NE. The Site is further described in Exhibit A, a Site map, and Exhibit E, a legal description of the property.

B. Parties: Refers to the Washington State Department of Ecology and Pioneer Towing.

C. Pioneer Towing: Refers to the Pioneer Towing Company Inc. The registered agent for Pioneer Towing is Mr. Gary Sergeant.

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. The terms "Consent Decree" or "Decree" shall include all Exhibits to the Consent Decree.

V. STATEMENT OF FACTS

Ecology makes the following finding of facts without any express or implied admissions by Pioneer Towing.

1. Pioneer Towing is the owner of real property located in King County, Washington southwest of the intersection of NE Bothell Way and 68th Avenue NE, and known as the Kenmore Industrial Park (hereinafter the Site).

2. The Site is approximately forty-five acres in size and is more particularly described in Exhibits A (Site Map) and E (Legal Description) which are incorporated herein by reference.

3. A landfill operated at the Site under King County Unclassified Use permits, numbers P-69-138 and 118-72-P, from 1969 until the landfill closed in 1976. The landfill received primarily wood construction debris. The landfill was limited by permit to receiving wood, rubble, brick, broken concrete, plaster, glass, dirt and gravel. Disposal of paper, garbage, organic material, solid and liquid chemicals, all liquid oil or other petroleum products and car bodies was prohibited as an express condition of permit approval. However, there is evidence that prohibited materials may have been disposed of at the landfill. As described in the Remedial Investigation/Feasibility Study (RI/FS), the landfill material is 15 to 20 feet deep over native peat and organic silt soils and covers most of the Site. Previous Site operations also included various industrial park uses.

4. In 1992, Ecology performed a Site Hazard Assessment (SHA) at the Site. The SHA identified several areas of concern: temporary waste piles maintained by Sterling Asphalt, the former landfill, and a truck wash-out impoundment. With the exception of the landfill, the areas of potential concern have been the subject of independent remedial actions and are no longer considered areas of concern.

5. AGRA Earth and Environmental (AGRA), the technical consultant for Pioneer Towing, characterized the nature and extent of soil and ground water contamination at the Site in

a RI/FS submitted to Ecology in October 1998 and revised in June 2001. Based on the RI/FS, Ecology finds that there is a release or threat of release of "hazardous substances" from the landfill, specifically, that the landfill contains hazardous substances including but not limited to lead, arsenic, and possibly petroleum hydrocarbons at levels above MTCA cleanup standards that pose a threat to human health and the environment.

6. Based on the RI, the following contaminants of concern (COC) were selected for evaluation in the FS:

a. Lead and arsenic were detected above their respective Method B soil cleanup calculations based on protection of groundwater, but dissolved arsenic concentrations did not exceed chronic aquatic criteria for surface water; and

b. Diesel- and oil-range TPH were detected using standard analysis techniques at levels slightly above the Method A cleanup standard in soil and groundwater samples from across the southern filled two-thirds of the Site. Use of the Draft TPH Method silica gel cleanup procedure to eliminate natural hydrocarbons from groundwater samples, however, resulted in no petroleum hydrocarbon detection above the MTCA Method A cleanup standard.

The proposed cleanup standards for the COCs (lead, arsenic, and petroleum hydrocarbons) are presented in the CAP. The groundwater cleanup levels are currently met at the proposed point of compliance.

7. The Site is included on Ecology's Hazardous Site List, and Ecology has concluded that remedial action is required at the Site.

8. Pioneer Towing Company, the owner of the Site, voluntarily accepts status as a potentially liable person pursuant to WAC 173-340-500(5).

9. Wellington Lakepointe proposes to redevelop the Site for residential and commercial uses.

VI. WORK TO BE PERFORMED

This Decree contains a program designed to protect public health, welfare and the environment from the known release, or threatened release, of hazardous substances or contaminants at, on, or from the Kenmore Industrial Park Site. Pioneer Towing agrees to take the remedial actions which are described in detail in the Cleanup Action Plan (CAP), Exhibit B to this Decree, and to perform all work in accordance with Chapter 173-340 WAC, as provided below. The work to be performed will be carried out in conjunction with redevelopment of the Site, occur in phases, and be implemented in accordance with the Schedule set out in Exhibit C. If redevelopment of the entire site is completed, Pioneer Towing shall complete the cleanup described in the CAP for the entire Site and obtain Ecology certification for all phases in accordance with Section XXVI of this Decree. If redevelopment of the Site is initiated but is not completed, Pioneer Towing shall complete the cleanup described in the CAP for the redeveloped phases, obtain Ecology certification of the redeveloped phase(s) in accordance with Section XXVI of this Decree, and implement the remedial actions set forth in the CAP for continued industrial use for the portion of the Site that remains industrial. If the Site is not redeveloped to commercial/residential uses and remains entirely industrial, Pioneer Towing shall implement only the remedial actions set forth in the CAP for continued industrial use. A summary of the work program to be performed is as follows:

A. Task 1: Develop engineering design for the development project structures that will form and constitute the landfill cap:

1. Submit a Draft Engineering Design Report to Ecology;
2. Submit a Final Engineering Design Report to Ecology.

B. Task 2: Implement the Cleanup Action Plan:

1. Construct in phases the development project structures that form the engineered cap over portions of the upland area of the property;

2. Implement physical measures in areas not yet redeveloped and in areas not currently under construction to limit access and potential exposure to landfilled debris at the Site.

3. Implement Site modifications outside the engineered cap that reflect habitat preservation and enhancement goals;

4. Implement institutional controls, including a deed notice;

5. Implement a worker safety and health plan per WAC 173-340-810(2);

6. Record a deed restriction as shown in Exhibit F (Restrictive Covenant) for the completion of each phase; and

7. Conduct long-term groundwater monitoring at the points of compliance in accordance with the Ecology Environmental Information Data Submittal Guide.

C. Task 3: Provide for public participation:

1. Implement the Public Participation Plan.

D. Task 4: Prepare and submit to Ecology bimonthly progress reports:

1. Include in the bimonthly progress reports a summary of actions taken, problems encountered, and progress made on the work during the past two months;

2. Include in the bimonthly progress reports a summary of anticipated activities for upcoming months and explanation of any problems with meeting the project Schedule.

E: Task 5: Submit groundwater sampling data to Ecology.

Pioneer Towing agrees not to perform any remedial actions outside the scope of this Decree unless the parties agree to amend the Cleanup Action Plan or this Section to cover these actions. All work conducted under this Decree shall be done in accordance with ch. 173-340 WAC unless otherwise provided herein.

VII. DESIGNATED PROJECT COORDINATORS

The project coordinator for Ecology is:

Ching-Pi Wang
Department of Ecology, NW Region
3190 160th Avenue SE
Bellevue, WA 98008-5452
Telephone (425) 649-7135

The project coordinator for Pioneer Towing is:

Gary Sergeant
P.O. Box 82298
Kenmore, WA 98028
Telephone (425) 486-2756

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 Pioneer Towing 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 without amendment of this Decree. Written notification shall be given to the other parties at least ten (10) calendar days prior to the change.

VIII. 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 waste site investigation and cleanup. Any construction work must be under the supervision of a professional engineer. Pioneer Towing shall notify Ecology in writing as to the identity of such engineer(s) or hydrogeologist(s), or others and of any contractors and subcontractors to be used in carrying out the terms of this Decree, in advance of their involvement at the Site.

IX. 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, operation logs, and contracts related to the work being performed pursuant to this Decree; reviewing Pioneer Towing's 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 Pioneer Towing. Without limitation on Ecology's rights under this section, Ecology will provide Pioneer Towing advance notice of its entry onto the Site when feasible. All parties with access to the Site pursuant to this paragraph shall comply with approved health and safety plans. Ecology shall make available to Pioneer Towing the results of all sampling, laboratory reports, photographs, videos, and other test results generated by Ecology or on its behalf.

X. SAMPLING, DATA REPORTING, AND AVAILABILITY

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

In accordance with WAC 173-340-840(5), ground water sampling data shall be submitted according to the Ecology Environmental Information Data Submittal Guide (and any updates or

revisions thereto, including succeeding publications). These submittals shall be provided to Ecology in accordance with Section XI of this Decree.

If requested by Ecology, Pioneer Towing shall allow split or duplicate samples to be taken by Ecology and/or its authorized representatives of any samples collected by Pioneer Towing pursuant to the implementation of this Decree. Pioneer Towing shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow split or duplicate samples to be taken by Pioneer Towing or its authorized representatives of any samples collected by Ecology pursuant to the implementation of this Decree provided it does not interfere with the Department's sampling. Without limitation on Ecology's rights under Section IX, Ecology shall strive to notify Pioneer Towing seven (7) days in advance of any sample collection activity.

XI. PROGRESS REPORTS

During engineering design and remedial action construction, Pioneer Towing shall submit to Ecology written monthly progress reports which describe the actions taken during the previous month 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 reporting period;

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 (Exhibit C) during the current reporting period and any planned deviations in the upcoming reporting period;

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

E. All validated data (including laboratory analysis) received by Pioneer Towing during the past reporting period and an identification of the source of the sample; and

F. A list of deliverables for the upcoming reporting period if different from the schedule.

All progress reports shall be submitted by the tenth day of the reporting period 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 to Ecology's project coordinator. The frequency of submission of progress reports following remedial action construction shall be reduced to the frequency required in the monitoring plan.

XII. RETENTION OF RECORDS

Pioneer Towing shall preserve, during the pendency of this Decree and for ten (10) years from the date this Decree is no longer in effect as provided in Section XXVII, all records, reports, documents, and underlying data in its possession relevant to the implementation of this Decree and shall insert in contracts with project contractors and subcontractors a similar record retention requirement. Upon request of Ecology, Pioneer Towing shall make all non-archived records available to Ecology and allow access for review. All archived records shall be made available to Ecology within a reasonable period of time.

XIII. TRANSFER OF INTEREST IN PROPERTY

No voluntary or involuntary conveyance or relinquishment 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 installed or implemented pursuant to this Decree.

Prior to transfer of any legal or equitable interest in all or any portion of the property, Pioneer Towing shall provide either a copy of the Consent Decree or a written disclosure statement of the status of the Site that includes notice of the availability of and instructions for obtaining a copy of the Consent Decree to any prospective purchaser, lessee, transferee, assignee, or other successor in interest of the property. Pioneer Towing shall provide a copy of the

Consent Decree to any purchaser or transferee that undertakes responsibility for continued operation and maintenance of any containment system, treatment system, or monitoring system installed or implemented pursuant to this Decree. For all other purchasers, lessees, transferees, assignees, or other successors in interest of the property, a disclosure statement shall be contained in the real estate purchase agreement, the lease agreement, the Public Offering Statement ("POS"), or other applicable transfer document. The disclosure statement shall contain language substantially to the effect that: 1) the property is a former landfill that is subject to a consent decree, 2) remedial actions were undertaken to address environmental concerns associated with the former landfill, 3) property owners and other persons holding an interest in the property may not interfere with the remedy or measures related to the cleanup, and 4) copies of the Consent Decree are available by request. Pioneer Towing shall also file a copy of the Consent Decree with the property record. Pioneer Towing shall notify Ecology at least thirty (30) days prior to any transfer of a fee interest in the Property, excluding any transfers of a fee interest in a condominium unit, a lease or rental of an apartment unit, or a commercial lease of less than 50,000 square feet.

XIV. RESOLUTION OF DISPUTES

A. In the event a dispute arises as to an approval, disapproval, certification, payment assessment or obligation, proposed modification, extension request, 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, Pioneer Towing has fourteen (14) days within which to notify Ecology's project coordinator of its objection to the decision.

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

3. Pioneer Towing 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 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 Pioneer Towing's 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 Pioneer Towing, the parties may, by mutual agreement, submit the dispute to a neutral mediator. If the parties reach agreement as a result of the mediation, they shall jointly prepare a written resolution of the dispute immediately following the mediation session. If the parties fail to reach agreement as a result of the mediation, then Ecology shall, within thirty (30) days after the conclusion of the mediation, issue a written statement either reaffirming its original decision or setting forth a new decision. Pioneer Towing has the right to submit the dispute to the Court for resolution within thirty (30) days after any of the following: (i) Pioneer Towing receives written notice that Ecology does not agree to submit the dispute to mediation; (ii) after mediation, Pioneer Towing receives a written statement from Ecology that is unacceptable to Pioneer Towing; or (iii) Ecology fails to issue the final decision described earlier in this paragraph. The parties agree that one judge should retain jurisdiction over this case and shall, as necessary, resolve any dispute arising under this Decree.

C. For disputes that involve Ecology's investigative and remedial decisions, and others covered by RCW 70.105D.060, the Court shall uphold Ecology's decisions unless the

decisions were arbitrary and capricious or the Court determines that that another standard of review is appropriate and Ecology's decisions are not in accord with such standard.

D. 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. Where either party utilizes the dispute resolution process in bad faith or for purposes of delay, the other party may seek sanctions.

Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Decree, unless Ecology agrees in writing to a schedule extension or the Court so orders.

XV. AMENDMENT OF CONSENT DECREE; ADDING PARTIES TO THE DECREE

Except for an extension granted pursuant to Section XVI below or technical revisions to Section VI (Work to be Performed) as detailed in the CAP (Exhibit B) that affect the nature or scope of remedial work and do not represent a substantial change, 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.

Pioneer Towing 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. 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 XIV of this Decree. Technical revisions to Section VI or the CAP affecting the nature or scope of remedial work that do not represent a substantial change, may be made by mutual agreement of the parties or by procedures established in the CAP without approval of the Court.

When Pioneer Towing contemplates conveyance of the Site, or a portion of the Site, to a proposed successor in interest that agrees to undertake compliance with the terms and conditions of this Decree and to become a party to this Decree, Pioneer Towing may request that the Decree be amended to add such successor in interest as a party to the Decree. Ecology shall consent to the amendment adding the proposed successor in interest as a party to the Decree unless it finds that Pioneer Towing or the proposed successor in interest are in violation or will be in violation of a material term of the Decree. An amendment to make a proposed successor in interest a party to the Decree shall not by itself require public notice or comment. In the event that a successor in interest becomes a party to this Decree, Ecology shall look first to such successor for performance of the requirements of this Decree, unless Ecology determines that such successor will not comply with the requirements of this Decree.

XVI. EXTENSION OF SCHEDULE

A. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) 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 Ecology determines 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. It shall not be necessary to formally amend this Decree pursuant to Section XV when a schedule extension is granted.

B. The burden shall be on Pioneer Towing to demonstrate to the reasonable 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 Pioneer Towing 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 Pioneer Towing; or

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

3. Endangerment as described in Section XVII; or

4. Other circumstances agreed to by Ecology to be exceptional or extraordinary.

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 Pioneer Towing.

C. Ecology may extend the schedule for a period not to exceed ninety (90) days where an 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 XVII.

Ecology shall give Pioneer Towing written notification in a timely fashion of any extensions granted pursuant to this Decree. Ecology shall not unreasonably withhold approval of requested extensions.

XVII. ENDANGERMENT

In the event Ecology determines that activities implementing or in compliance 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 Pioneer Towing 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 Pioneer Towing 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 XVI of this Decree, for such period of time as Ecology determines is reasonable under the circumstances.

In the event Pioneer Towing determines 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, Pioneer Towing may stop implementation of this Decree for such period of time necessary for Ecology to evaluate the situation and determine whether Pioneer Towing should proceed with implementation of the Decree or whether the work stoppage should be continued until the danger is abated. Pioneer Towing 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 Pioneer Towing's determination, it may order Pioneer Towing to resume implementation of this Decree. If Ecology concurs with the work stoppage, Pioneer Towing's 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 XVI of this Decree, for such period of time as Ecology determines is reasonable under the circumstances. Any disagreements pursuant to this section shall be resolved through the dispute resolution procedures in Section XIV.

XVIII. OTHER ACTIONS

Ecology reserves its rights to institute remedial action(s) at the Site and subsequently pursue cost recovery, and Ecology reserves its rights to issue orders and/or penalties or take any other enforcement action pursuant to available statutory authority under the following circumstances:

1. Where Pioneer Towing fails, after notice, to comply with any requirement of this Decree;

2. In the event or upon the discovery of a release or threatened release not addressed by this Decree;

3. Upon Ecology's determination that action beyond the terms of this Decree is necessary to abate an emergency situation which threatens public health or welfare or the environment; or

4. Upon the occurrence or discovery of a situation beyond the scope of this Decree as to which Ecology would be empowered to perform any remedial action or to issue an order and/or penalty, or to take any other enforcement action. This Decree is limited in scope to the geographic Site described in Exhibit A and Exhibit E and to those contaminants which Ecology knows to be at the Site when this Decree is entered.

Ecology reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances from Kenmore Industrial Park.

Ecology reserves the right to take any enforcement action whatsoever, including a cost recovery action, against potentially liable persons not party to this Decree.

XIX. RESERVATION OF RIGHTS

Pioneer Towing reserves all of its rights and defenses with respect to any actions against Pioneer Towing that are outside the scope of this Decree. By agreeing to this Decree, Pioneer

Towing and Ecology agree to abide by its terms. The execution and performance of the Decree is not, however, an admission by Pioneer Towing of any fact or liability for any purpose.

XX. INDEMNIFICATION

Pioneer Towing agrees 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 Pioneer Towing, its officers, employees, agents, or contractors in entering into and implementing this Decree. However, the Defendant 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 State of Washington's, or any of its agencies', status as a potentially liable person with respect to contamination at the Site or from any claims or causes of action arising out of the intentional misconduct 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.

XXI. COMPLIANCE WITH APPLICABLE LAWS

A. All actions carried out by Pioneer Towing 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 G, and are binding and enforceable requirements of the Decree. Pursuant to RCW 70.105D.090(1), Pioneer Towing is exempt from the procedural requirements of 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58

RCW and the procedural requirements of any laws requiring or authorizing local government permits or approvals for the remedial action.

Pioneer Towing has an obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(l) would otherwise be required for the remedial action under this Decree. In the event either Pioneer Towing or Ecology determines that additional permits or approvals addressed in RCW 70.105D.090(l) 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 Pioneer Towing shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Pioneer Towing 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 Pioneer Towing and on how Pioneer Towing must meet those requirements. Ecology shall inform Pioneer Towing in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Decree. Pioneer Towing shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination. Any disagreements pursuant to this section shall be resolved through the dispute resolution procedures in Section XIV.

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(l) 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 in such circumstances and

Pioneer Towing shall comply with both the procedural and substantive requirements of the particular law referenced in RCW 70.105D.090(l), including any requirement to obtain permits.

XXII. REMEDIAL AND INVESTIGATIVE COSTS

Pioneer Towing agrees to pay costs for work performed by Ecology or its contractors for, or on, the Site under Ch. 70.105D RCW both prior to and 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). Pioneer Towing agrees 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 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 and statement of work performed will result in interest charges at the rate specified in RCW 43.17.240. Pioneer Towing reserves the right to review and approve any charges prior to payment. Any dispute regarding costs shall be subject to dispute resolution pursuant to Section XIV. Pioneer Towing reserves the right to pay the undisputed portion of an invoice and not pay the disputed portion.

XXIII. IMPLEMENTATION OF REMEDIAL ACTION

If Ecology determines that Pioneer Towing has failed without good cause to implement the remedial action, Ecology may, after notice and reasonable opportunity for Pioneer Towing to cure the failure, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of Pioneer Towing's failure to comply with its obligations under this Decree, Pioneer Towing shall reimburse Ecology for the costs of doing such work in accordance with Section XXII, provided that Pioneer Towing is not

obligated under this section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Decree.

XXIV. FIVE YEAR REVIEW

As ground water monitoring continues at the Site, the parties agree to review the data accumulated as a result of Site monitoring as often as is necessary and appropriate under the circumstances. The parties agree to meet to discuss the Site status every five years upon request of either Ecology or Pioneer Towing. Ecology reserves the right to seek further remedial action at the Site under appropriate circumstances if necessary to protect public health and the environment. This provision shall remain in effect for the duration of the Decree.

XXV. PUBLIC PARTICIPATION

Prior to entry of this Decree, Pioneer Towing and Ecology prepared and implemented a Public Participation Plan for the Site, attached hereto as Exhibit D, that complied with MTCA and Chapter 173-340 WAC. Ecology shall maintain the responsibility for public participation at the Site. However, Pioneer Towing shall continue to 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, Remedial Investigation/Feasibility Study reports 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 before major meetings with the interested public and local governments. Likewise, Ecology shall notify Pioneer Towing prior to the issuance of all press releases and fact sheets, and 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. Provide Ecology with copies of documents for placement in information repositories to be located at the Kenmore Public Library and Ecology's Northwest Regional Office at 190 160th Avenue SE, Bellevue, Washington 98008-5452. At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured ground water, surface water, soil sediment, and air monitoring data; remedial action 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.

XXVI. CERTIFICATION OF PHASES OF CLEANUP

In order to facilitate the timely redevelopment of the Site, Pioneer Towing or any other party to the Decree may request a certification of completion from Ecology for each phase of the cleanup. Within sixty (60) days of receiving such a request, Ecology shall certify in writing that cleanup activities required pursuant to the CAP have been satisfactorily completed for that phase of the cleanup or provide written notice of any additional work required to be completed in order to satisfy the requirements of the Decree.

XXVII. DURATION OF DECREE

This Decree shall remain in effect and the remedial program described in the Decree shall be maintained and continued until Pioneer Towing has received written notification from Ecology that the requirements of this Decree have been satisfactorily completed. Ecology shall issue such notification within sixty (60) days after the requirements of this Decree have been satisfactorily completed. Thereafter, the parties within thirty (30) days shall jointly request that the Court vacate this Consent Decree. The provisions set forth in Section XXX (Contribution Protection), Section XXIX (Covenant Not to Sue), Section XX (Indemnification), and other such

continuing rights of Pioneer Towing, its successors in interest, or Ecology under this Decree shall survive the termination of the Decree pursuant to this Section. Any disagreements pursuant to this section shall be resolved through the dispute resolution procedures in Section XIV.

XXVIII. CLAIMS AGAINST THE STATE

Pioneer Towing hereby agrees that it 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, except to the extent that the State of Washington or any of its agencies is a potentially liable person with respect to contamination at the Site; and further, that the Pioneer Towing 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, Pioneer Towing expressly reserves its right to seek to recover any costs incurred in implementing this Decree from any other potentially liable person.

XXIX. COVENANT NOT TO SUE

A. In consideration of Pioneer Towing's compliance with the terms and conditions of this Decree, the State of Washington covenants not to institute administrative, legal, equitable, or enforcement actions against Pioneer Towing regarding matters within the scope of this Decree. Compliance with this Decree shall stand in lieu of any and all administrative, legal, and equitable remedies and enforcement actions available to the State against Pioneer Towing for the release or threatened release of hazardous substances covered by the terms of this Decree.

B. In accordance with RCW 70.105D.040(4)(e), the covenants in this Section XXIX shall apply to any owner or operator who is a successor in interest to Pioneer Towing if the successor owner or operator is liable solely due to that person's ownership interest or operator status acquired as a successor in interest to Pioneer Towing, unless under the terms of this Decree the State could enforce against Pioneer Towing.

C. This covenant is strictly limited in its application to the Site specifically defined in Exhibits A and E and to those hazardous substances which Ecology knows to be located at the Site as of the date of entry of this Decree. This covenant is not applicable to any other hazardous substances or area, and Ecology retains all of its authority relative to such substances and areas.

D. Reopeners: In the following circumstances, the State of Washington may exercise its full legal authority to address releases and/or threatened releases of hazardous substances at the Site notwithstanding the Covenant Not to Sue set forth above.

1. In the event Pioneer Towing fails to comply with the terms and conditions of this Decree, including all Exhibits, and Pioneer Towing, after written notices of noncompliance, fails to come into compliance;

2. In the event new information becomes available regarding factors previously unknown to Ecology at the time of entry of this Decree, including the nature or quantity of hazardous substances at, or originating from, the Site, and Ecology determines that these factors present a previously unknown threat to human health or environment requiring further remedial action at the Site; provided that if this paragraph becomes operative Ecology will allow Pioneer Towing to propose the further action where such proposal can be made promptly and without endangering human health or the environment; or

3. Upon Ecology's determination that action beyond the terms of this Decree is necessary to abate an emergency situation that threatens public health or welfare or the environment.

E. Applicability: The Covenant Not to Sue set forth above shall have no applicability whatsoever to:

1. Criminal liability;

2. Liability for damages to natural resources;

3. Liability for contaminated sediments;

4. Liability for cleanup of contiguous properties owned by Pioneer Towing; or

5. Any Ecology action against potentially liable persons not a party to this Decree, including cost recovery.

XXX. CONTRIBUTION PROTECTION

A. By signing this Decree, the parties intend that Pioneer Towing will receive full protection against claims for contribution for matters addressed in this Decree as is provided in RCW 70.105D.040(4)(d) or as is otherwise provided by law.

B. In accordance with RCW 70.105D.040(4)(f), this Section XXX shall apply to any owners or operators who are not subject to enforcement by the State under RCW 70.105D.040(4)(e).

XXXI. EFFECTIVE DATE

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

XXXII. 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.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CHRISTINE O. GREGOIRE
Attorney General

_____

_____
Andrew Fitz, WSBA #____
Assistant Attorney General

DATED: _____ DATED:_____

PIONEER TOWING COMPANY, INC.

_____

DATED: _____ DATED:_____

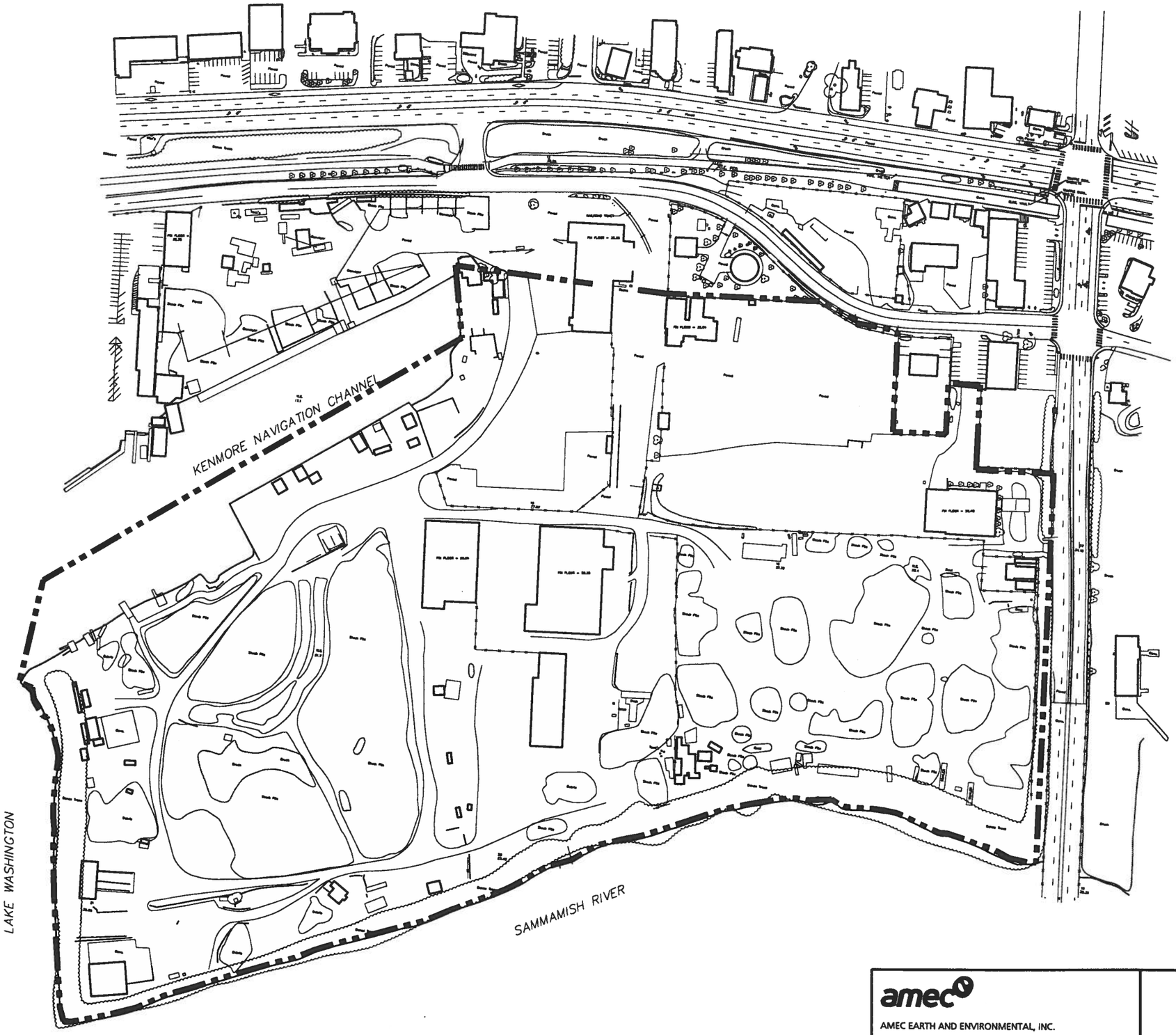
DATED this ____ day of _____, 2000.

_____
JUDGE
King County Superior Court

138085 v10.SE (2yjp10!.DOC)

EXHIBIT A

Site Map



LEGEND

SITE BOUDARY

0 200 400

SCALE IN FEET

amec

AMEC EARTH AND ENVIRONMENTAL, INC.
11335 N.E. 122nd Way, Suite 100
Kirkland, WA, U.S.A. 98034-6918

SITE MAP

KENMORE INDUSTRIAL PARK

KING COUNTY, WASHINGTON

FIGURE

4

3 NO. IM-1)-CA WG D 3-20 S 1"=2 DESI DHG LE N/ FIG-4 DWG

EXHIBIT B

Cleanup Action Plan

DRAFT

CLEANUP ACTION PLAN
KENMORE INDUSTRIAL PARK
N.E. BOTHELL WAY AND JUANITA DRIVE N.E.
KENMORE, WASHINGTON

June 2001

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DRAFT CLEANUP ACTION PLAN
KENMORE INDUSTRIAL PARK
N.E. BOTHELL WAY & 68TH AVENUE N.E.
KENMORE, WASHINGTON

1. INTRODUCTION

This Cleanup Action Plan (CAP) for the Kenmore Industrial Park was prepared in accordance with Washington Administrative Code (WAC) 173-340-360 and WAC 173-340-400 Model Toxics Control Act (MTCA) requirements for draft cleanup action plans.

2. SUMMARY

The site is located north of and adjacent to the mouth of the Sammamish River on an approximately 45-acre property. The property was used in the past as a demolition landfill between the late 1950s and early 1960s. An estimated 800,000 cubic yards of demolition debris underlie the southern two-thirds of the site. The demolition debris area is covered by an estimated 200,000 cubic yards (over 1 foot) of mineral soil cover. The property is currently industrial, but is slated for mixed-use redevelopment, including residential use.

The cleanup action will be implemented in conjunction with proposed redevelopment. The objectives of the cleanup action as described in the RI/FS are to prevent human contact with Contaminants of Concern (COCs) in the landfilled demolition debris and to reduce rainfall infiltration that might otherwise mobilize COCs above levels of concern to surrounding surface waters. The proposed cleanup action includes construction of an engineered cap on a portion of the upland area of the property, implementation of institutional controls, and performance of long-term groundwater monitoring at the points of compliance. The following presents a summary of the key elements of the Cleanup Action:

- Construction of an engineered cap will be phased with planned redevelopment such that the proposed new structures for the development will be designed as an engineered cap. The area between the proposed building footprint and the perimeter fire lane will also be covered with an engineered cap.

- Design and implementation of site modifications outside the engineered cap, between the proposed fire lane and the shoreline, will balance preservation and enhancement goals for natural habitat, public access, and stormwater swale functions.

- Surface deposits of roofing debris will be moved from the southern shoreline to the site interior and capped.

- Landfill gas and natural methane gas management will be implemented in conjunction with cap construction.

- The following institutional controls will be implemented in conjunction with site cleanup: filing a notice on the property deed to notify future owners of the presence of COCs under the property; recording of a restrictive covenant to limit inconsistent site uses, ensure that remedial measures are maintained, and prevent use of groundwater at the site; and preparation of a health and safety plan to address protective requirements for workers. Areas under construction and awaiting redevelopment will have access and erosion controls.

- Health and safety monitoring will be performed during construction activities.

- Groundwater performance and compliance monitoring will be performed during and after construction to verify that contaminants of concern meet cleanup standards at the conditional point of compliance.

If redevelopment is initiated, but is not completed to allow for commercial/residential use of the entire site, appropriate access restrictions and erosion controls will be implemented for the portions of the site that remain industrial. If the entire site remains industrial, deed notices, access restrictions, erosion controls and groundwater monitoring appropriate for continued industrial use and provided for in this Plan will be implemented as the cleanup action.

3. LOCATION AND FACILITY BACKGROUND

Kenmore Industrial Park is located southwest of the intersection of Bothell Way N.E. and 68th Avenue N.E. in Kenmore, King County, Washington, along the 6500 to 6800 blocks of N.E. 175th Street. The site comprises approximately 45 acres and its location is indicated on Figure 1, the Location Map. The southwestern portion of this property forms a peninsula that extends into Lake Washington. The site is currently utilized as an industrial park predominantly occupied by a sand and gravel stockpile yard, and several smaller storage and light industrial operations. The current owner is Pioneer Towing Company, Inc.

4. SUMMARY OF CLEANUP ALTERNATIVES

Based upon the RI, the following contaminants of concern (COC) were selected for evaluation in the FS: diesel- and oil-range petroleum hydrocarbons (DRPH, ORPH), arsenic, barium, lead and selenium in soil, and DRPH, ORPH, arsenic, barium, and lead in groundwater. These substances are randomly distributed within soils in the landfilled portion of the site. The affected media are soil, groundwater and surface water.

Five process options were developed in the FS: no action, institutional controls, groundwater monitoring, containment by engineered containment cap, and containment by permeable groundwater barrier. Various combinations of these process options were evaluated and developed into four viable cleanup action alternatives:

Alternative 1 - No Action
Alternative 2 - Institutional Controls and Monitoring
Alternative 3 - Engineered Low Permeability Cap across a Portion of the Site
Alternative 4 - Engineered Impermeable Cap with Permeable Groundwater Barrier

All these alternatives, except no action, include institutional controls and compliance monitoring.

In accordance with MTCA, each alternative was reviewed with respect to the following: protection of human health and the environment, compliance with cleanup standards, compliance with applicable state and federal laws, provision for compliance monitoring, short-term effectiveness, long-term effectiveness, permanent reduction of toxicity, mobility, and volume, ability to implement, cost, and provision for a reasonable restoration schedule.

Alternative 3 was selected in the FS process because it is protective of human health and the environment; is readily implementable in conjunction with property development; has a relatively low cost; will not exacerbate oxygen reducing conditions in groundwater at the site; is compatible with landfill gas management and surface water management; is compatible with proposed site redevelopment plans; and poses minimal impact to shoreline habitats.

4.1. Alternative 1 - No Remedial Action

Under the No Action alternative, site development would proceed without any required remedial action. Landfill gas mitigation and consolidation of roofing debris would occur as part of the development. A partial cap would also be constructed, but it would not be engineered to maximize its effectiveness.

4.2. Alternative 2 - Institutional Controls and Monitoring

Under this alternative, site development would proceed without any required remedial action. Landfill gas management and consolidation of roofing debris would occur as part of the development. A partial cap would also be constructed, but it would not be engineered to maximize its effectiveness. Notices would be attached to the existing deeds to prevent future owners from unknowingly intruding on potential subsurface contamination. Groundwater monitoring would be performed, in accordance with a Compliance Monitoring Plan approved by Ecology, to confirm long-term compliance.

4.3. Alternative 3 - Containment by an Engineered Cap on a Portion of the Site

Under Alternative 3 site development would occur in conjunction with installation of an engineered cap over a portion of the site to prevent human contact with the demolition debris and reduce the potential risk of contaminant migration in groundwater beneath the site. This alternative would include management of any landfill gases generated within the demolition debris layer below the cap and consolidation of roofing debris under the cap.

The engineered cap would extend to the proposed fire lane and generally be set back an average of 100 feet behind the shoreline along the river and the lake. The engineered cap would avoid impacting existing wetland, riparian and aquatic habitats around the southern and western site margin. The engineered cap would be extended in areas around the site margin where stormwater ponds/swales are constructed. Potential contact with the demolition debris by humans and the environment might result if excavation occurred in habitat areas designated for protection. Institutional controls would be implemented to limit human interference within those habitats and to require protection of workers performing any excavation activities. Notices and restrictions would be attached to the existing deeds to prevent future owners from unknowingly intruding on subsurface debris. Groundwater monitoring would be performed in accordance with a Compliance Monitoring Plan approved by Ecology.

This alternative assumes that proposed land use redevelopment would ultimately create an estimated 35 acres of engineered cap. The majority of the engineered cap will consist of new, concrete or asphalt structures supported upon structural piling. The landfilled area outside the building footprints that is not covered with concrete or asphalt paving (the "soil cover area") will have a soil cover overlain with landscaping. For purposes of this alternative, "soil cover" means at least 2 feet of soil or equivalent media. Consistent with WAC 173-304-461 specifications for closure of demolition waste landfills, the site was previously closed with a cover of at least 1 foot of soil. Although not required, up to one additional foot of soil or equivalent media will be added on top of the existing cover in the soil cover area where needed to bring the total cover to at least 2 feet in thickness. Soil for the cover may come from areas on-site where the existing cover currently exceeds 2 feet. The additional soil (or equivalent media) above the existing cover will provide an extra measure of protection at the site consistent with the overall goal of protection of human health and the environment. The structures, paved areas, and soil cover will prevent human contact with the demolition debris and reduce the risk of contaminant migration in groundwater beneath the site but without increasing the risk of landfill gas buildup or exacerbating the oxygen reducing conditions in groundwater under the site. A schematic of the non-structural landfill cap is shown in Detail B to figure 2. The area that would be capped under Alternative 3 is presented in Figure 4.

4.4. Alternative 4 - Engineered Impermeable Cap and Permeable Groundwater Barrier

Alternative 4 would include an engineered impermeable cap that encompassed the entire upland portion of the site. In addition, a groundwater barrier would be constructed around the site perimeter, extending out as close to the shoreline as feasible, to slow the rate of exchange between groundwater and adjacent surface water. The barrier would be permeable, to prevent the groundwater table from rising underneath the upland area.

Alternative 4 would cap the entire upland portion of the property. However, installation of the barrier would displace existing wetland, riparian and aquatic habitats in the vicinity of the southern and western site margins. Installation of the impermeable cap would potentially increase methane risk, exacerbate oxygen reducing conditions that could mobilize COCs in groundwater, and increase stormwater runoff. Expansion of the cap to the shoreline would also displace existing habitat areas in an effort to maximize coverage of the upland area. This alternative conflicts with existing shoreline management permit conditions for site development which require an uncapped buffer zone along the shoreline.

This alternative assumes that, over the course of phased development, impervious cover will be constructed across the landfilled portion of the 45-acre site up to the perimeter established by the groundwater barrier wall. Approximately 30 acres of impervious structure would be in the form of parking areas and buildings and the balance of property, extending out to the shoreline, would be cleared of all existing trees and vegetation, graded, and resurfaced with a landscaped impermeable cover. The new structures and cover would be engineered to serve as an impervious cap and prevent human contact with the demolition debris and to intercept rainfall infiltration that might otherwise mobilize COCs into the groundwater table or surface waters. The impermeable cap could increase the risk of methane buildup, exacerbate the oxygen reducing conditions in groundwater under the site, and increase stormwater runoff.

5. SITE CLEANUP LEVELS AND POINTS OF COMPLIANCE

Establishing cleanup standards involves the specification of cleanup levels (concentrations protective of human health and the environment) and points of compliance (the location on the site where cleanup levels must be attained). The cleanup levels and points of compliance for the COCs at the site are identified in the following paragraphs. The applicable cleanup levels and COC concentrations are shown on Tables 5-1 through 5-6.

5.1. Groundwater Cleanup Levels

As discussed in the RI/FS, the proposed groundwater cleanup levels are based on protecting beneficial uses of adjacent surface water. MTCA allows groundwater cleanup

levels based on protecting beneficial uses of adjacent surface water where, as here, the groundwater at the site is hydraulically connected to the adjacent lake and river waters, the surface water is not a suitable domestic water supply source, groundwater flows into surface waters do not exceed applicable surface water cleanup levels, institutional controls will prevent the use of contaminated ground water prior to entry into surface water, and it is unlikely that hazardous substances will be transported from the contaminated ground water to groundwater that is a current or potential future source of drinking water. WAC 173-340-720. MTCA regulation WAC 173-340-700(4)(d) provides that where natural background concentrations are greater than the cleanup level established by Methods A, B, or C, the cleanup level is set at the natural background concentration. The cleanup levels for groundwater are shown on Table 5-1.

5.1.1 TPH Groundwater Cleanup Levels

The proposed groundwater cleanup level for TPH (ORPH and DRPH) is based on MTCA Method A for groundwater. The MTCA Method A groundwater cleanup level is used because there is no applicable surface water cleanup level under MTCA Methods A, B, or C and there is no MTCA Method B groundwater cleanup level. Specifically, the *Water Quality Standards for the State of Washington* (WAC 173-201A) do not set cleanup limits for petroleum hydrocarbons and total petroleum hydrocarbons are not listed in the Method B CLARC II tables (February 1996). Based on MTCA Method A, the groundwater cleanup level for diesel and heavy oil range TPH is 1,000 µg/L. The TPH cleanup level is currently met at the conditional point of compliance based upon samples collected from the downgradient perimeter monitoring wells and analyzed using Ecology's proposed silica gel cleanup method. See Table 5-4.

5.1.2 Arsenic Groundwater Cleanup Levels

The proposed groundwater cleanup level for arsenic is based on the natural background concentration of arsenic. Application of the human health surface water quality criteria for protection of beneficial uses of adjacent surface water establishes a cleanup level for arsenic of 0.018 µg/l based on consumption of organisms that live in the water. However, where the MTCA method establishes a concentration that is below natural background concentrations, the cleanup level is adjusted to equal the natural background concentration. WAC 173-340-700(4)(d). Based on natural background concentrations for arsenic of 5 µg/l in groundwater in the state, the groundwater cleanup level for arsenic at the site is 5 µg/l. With the exception of a single anomalous exceedence in well AW-10, groundwater samples from downgradient perimeter wells tested in 1996 were all below natural background concentrations. Further, follow-up groundwater samples collected in 2001 from all of the existing downgradient perimeter wells are all below natural background concentrations. Therefore, the arsenic cleanup level is currently met at the conditional point of compliance. See Table 5-4

5.1.3 Lead Groundwater Cleanup Levels

The groundwater cleanup level for lead is based on protecting beneficial uses of adjacent surface water. The Water Quality Standards for Surface Waters of the State of Washington provide the relevant groundwater cleanup levels. The chronic aquatic life surface water lead standard is a dissolved standard based on a hardness dependent formula, rather than a single concentration. The formula is:

Lead Cleanup Level = (1.46203 - [(ln hardness)(0.145712)])(e(1.273[ln(hardness)]-4.705))

Based on the most conservative hardness measurement from the existing downgradient perimeter monitoring wells (524 mg/l CaCO3 equivalents), the current cleanup level is 14.4 µg/L. All of the site groundwater wells data, including all of the existing downgradient perimeter monitoring wells, are below the formula lead cleanup level. Therefore, the lead cleanup level is currently met at the conditional point of compliance. See Table 5-4.

5.1.4 Barium Groundwater Cleanup Levels

The groundwater cleanup level for barium is based on protecting beneficial use of adjacent surface water. Application of the surface water cleanup level from EPA's National Recommended Water Quality Criteria establishes a cleanup level for barium of 1,000 µg/L. Groundwater barium samples from downgradient perimeter wells tested in 1996 were all below the cleanup level, except a single anomalous exceedence in well AW-11. Follow-up groundwater samples collected from well AW-11 and from all other existing downgradient perimeter wells in 2001 are all below the cleanup level. Therefore, the barium cleanup level is currently met at the conditional point of compliance. See Table 5-4.

5.2. Soil Cleanup Levels

Organic and inorganic COC cleanup levels for soil are based on MTCA Method A and Method B residential soil values. The cleanup levels for soil are shown on Table 5-2. Based on MTCA Method A, the applicable residential cleanup levels for arsenic, lead and TPH (ORPH and DRPH) are 20.0, 250, and 200 mg/kg, respectively. Where no Method A cleanup level exists for a soil COC, applicable residential cleanup levels are based on the most stringent MTCA Method B soil values. Under MTCA Method B criteria, the most stringent soil cleanup levels are equal to 100 times the surface water standards, resulting in a barium cleanup level of 100 mg/kg and in a selenium cleanup level of 0.5 mg/kg. TPH soil concentrations exceed the cleanup standard throughout the landfilled areas of the site. See Table 5-5. Barium, selenium and lead soil concentrations exceed

cleanup levels at various locations throughout the site. See Table 5-5. However, existing groundwater concentrations meet the cleanup levels at the conditional point of compliance. Therefore, the existing soil concentrations at the site are protective of groundwater. There are no exceedences of the soil arsenic cleanup levels.

5.3. Points of Compliance

5.3.1 Groundwater Point of Compliance

In accordance with MTCA, compliance with the cleanup levels for TPH, lead, and arsenic in groundwater will be determined at a conditional point of compliance. Although typically MTCA requires that a point of compliance be established "throughout the site," conditional points of compliance are allowed at sites where hazardous substances remain onsite as part of the cleanup action or where the affected groundwater flows into nearby surface water. WAC 173-340-720(6)(c) and (d). In cases where the conditions listed in WAC 173-340-720(6)(d) are met, MTCA allows a conditional point of compliance "within the surface water as close as technically possible to the point or points where ground water flows into the surface water." WAC 173-340-720(6)(d).

Achieving groundwater cleanup levels throughout the site is not a reasonable expectation here because hazardous substances will be contained on site. Also, the groundwater flows to nearby surface water. Therefore, based on WAC 173-340-720(6)(c) and (d), Ecology has approved a conditional point of compliance for TPH, lead and arsenic at the shoreline of the site. Groundwater COC concentrations will be monitored at the existing downgradient perimeter monitoring wells AW-6, AW-10, AW-11, and AW-12 or similar replacements. These four shoreline wells are situated within the property boundary and within 100 feet of the existing lake and river shorelines. An estimate of attenuation between the monitoring wells and the shoreline may be considered, as provided in the Compliance Monitoring Plan to be submitted and approved by Ecology, in evaluating compliance with the TPH and lead cleanup levels because the cleanup levels for these COCs are based on the protection of adjacent surface water. Attenuation will not be considered for arsenic because the cleanup level is based on groundwater background concentrations. If future sampling data from the shoreline wells exceed cleanup standards, appropriate follow-up sampling will occur to confirm the data before further action is taken. All of the sampling will be performed in accordance with provisions of the MTCA regulations and the Compliance Monitoring Plans required to be submitted and approved by Ecology after entry of the Consent Decree.

5.3.2 Soil Point of Compliance.

In general, the point of compliance for soil cleanup standards is established in the soils throughout the site in accordance with WAC 173-340-740(6). However, WAC 173-340-740(6)(d) provides that in cases where containment is a component of the cleanup action,

"the cleanup action may be determined to comply with cleanup standards" where the compliance monitoring program ensures the long-term integrity of the containment system and related containment measures are implemented in accordance with WAC 173-340-360(8). All of the alternatives evaluated in the Remedial Investigation and Feasibility Study (RI/FS) and discussed in this Cleanup Action Plan, including the selected cleanup alternative, provide for the implementation of institutional controls and monitoring to achieve the Remedial Action Objectives (RAOs) for contaminated soil that will remain at the site. Also, the proposed containment and compliance program for this site, as discussed in detail in Section 11.0, satisfies the conditions in WAC 173-340-360(8). Therefore, in accordance with WAC 173-340-740(6)(d), the cleanup action at the site will comply with soil cleanup standards.

5.4. Industrial Cleanup Standards

If redevelopment does not occur and the site remains industrial, cleanup standards are based on continued industrial use of the site. Typically, industrial cleanup levels are equal to or less stringent than the cleanup levels for residential use. The applicable groundwater cleanup levels for continued industrial use are based on protection of surface water. The groundwater cleanup levels are 1,000 ug/l for TPH, 14.4 ug/l for lead, 1,000 ug/l for barium, and 5 ug/l for arsenic (based on natural background). These groundwater cleanup levels are the same as the cleanup levels for residential use. See Sections 5.1.1, 5.1.2, 5.1.3 and 5.1.4 above. The cleanup levels for groundwater are shown on Table 5-1.

For soil COCs, the proposed industrial soil cleanup levels for continued industrial use are based on the MTCA Method A Industrial Soil Table and MTCA Method C calculations. The applicable soil cleanup levels for continued industrial use are 200 mg/kg for TPH (diesel and heavy oil), 200 mg/kg for arsenic, and 1,000 mg/kg for lead based on the Method A cleanup levels for industrial soils. The applicable soil cleanup levels for continued industrial use are 100 mg/kg for barium and 0.5 mg/kg for selenium based on MTCA Method C (100 x the applicable groundwater cleanup level). These soil cleanup levels are equal to or less stringent than the soil cleanup levels for residential use. See Section 5.2. The industrial cleanup levels for soil are shown on Table 5-3.

The groundwater and soil points of compliance are the same as identified in Section 5.3.1 and Section 5.3.2 respectively.

With respect to groundwater, the industrial groundwater cleanup levels for the COCs are currently met at the conditional point of compliance. See discussion in Section 5.1 above and Table 5-4. As for soils, landfilled debris that exceed the soil cleanup levels for TPH, barium, lead and selenium will be left in place beneath the existing soil cover. See, Table 5-6. Institutional controls and a monitoring program appropriate for continued industrial use, as described in Section 7, will be implemented to achieve the RAO of preventing human contact with landfilled media.

6. SCHEDULE FOR IMPLEMENTATION, RESTORATION TIMELINE

Following submittal of the draft RI/FS, CAP, and Consent Decree documents for the 30-day public comment period, and issuance of a Final CAP and entry of the Consent Decree, the implementation time frame for the first phase would consist primarily of engineering design. A copy of the timeline is included as Attachment A. If development occurs, the cleanup action would be implemented in phases over seven to 15 years in conjunction with the proposed development. The following elements of the cleanup can be commenced shortly after issuance of the Final CAP:

- Preparation and filing of deed notices;
- Preparation of a health and safety plan in accordance with WAC 173-340-810;
- Preparation of a sampling and analysis plan in accordance with WAC 173-340-820 for groundwater compliance monitoring; and
- Preparation and submittal of Draft and Final Engineering Design Reports, including the Landfill Gas Design Report.

Once permits for the development are obtained, the following remedial tasks would begin in conjunction with City of Kenmore development time lines, and be completed over the course of development:

- Phased construction of the development, which will be engineered as a cap over the landfilled media.
- Access controls and implementation of erosion control BMPs for site areas that will not be developed in the first phase;
- Consolidation of roofing debris away from the southern shoreline to the site interior;
- Phased construction of the landfill gas management system, which will be incorporated in the building and pavement development footprint to control landfill gas beneath the development cap.

Phase specific Compliance Monitoring Plans will be prepared and submitted to Ecology for review and approval for each phase of the redevelopment. See Attachment A, Timeline. Ecology will also review the cleanup action, in accordance with WAC 173-340-420, no less frequently than every five years to assure that human health and the environment are being protected. Bimonthly progress reports on the status of the cleanup action will be submitted to Ecology. Semi-annual groundwater monitoring data will be submitted to Ecology for on-going review, and meetings may be scheduled at least every two years to discuss the status of the cleanup action and compliance monitoring program.

7. INSTITUTIONAL CONTROLS AND MONITORING

Several institutional controls (measures undertaken to limit or prohibit activities that may interfere with the integrity of a cleanup action or result in exposure to hazardous substances at the site) and monitoring programs will be implemented in conjunction with the site cleanup. These controls and monitoring programs include:

- Notice on the property deed to notify future owners of the presence of COCs under the property.

- A deed restriction with conditions to prohibit extraction and use of groundwater at the site, maintain the integrity of the cap; and require adherence to measures for protection of construction workers who may come into contact with landfilled media.

- Access controls to prohibit incompatible uses of areas under construction and awaiting development. Site access controls will include fencing of and signage at all areas under active construction. In addition, upon initiation of actual residential site use, the remaining industrial areas (areas upland of the fire lane that are neither in residential use nor under construction) will be fenced until the soil cover and erosion controls provided for in this Cleanup Action Plan are installed in such areas.

- Erosion controls for areas under construction and awaiting development.

- Health and safety monitoring during construction activities.

- Groundwater (and surface water if necessary) performance and compliance monitoring during and after construction as provided for in a Compliance Monitoring Plan deliverable subject to Ecology approval in accordance with the attached timeline. The Compliance Monitoring Plan will include verification sampling and consultation with Ecology as contingency steps in the case of non-compliance. All submittals pursuant to the Plan will include water levels, field parameters, and analytical parameters.

- Department of Ecology periodic review, in accordance with WAC 173-340-420.

- Periodic cap inspections and maintenance.

If site redevelopment does not occur, the following institutional controls and monitoring will be implemented:

- Notice on the property deed to notify future owners of the presence of COCs under the property.

- A deed restriction appropriate for continued industrial use with conditions to prevent extraction and use of groundwater at the site and prohibit soil excavation without proper health and safety procedures.

- Access controls to prohibit incompatible site uses. Fencing and prominent signage at site access points will constitute access control if redevelopment does not proceed.

- Erosion controls as appropriate for continued industrial use.

- Groundwater (and surface water if necessary) performance and compliance monitoring appropriate for continued industrial use as provided for in a Compliance Monitoring Plan deliverable subject to Ecology approval in accordance with the attached timeline. The Compliance Monitoring Plan will include verification sampling and consultation with Ecology as contingency steps in the case of non-compliance. All submittals pursuant to the Plan will include water levels, field parameters, and analytical parameters.

8. JUSTIFICATION

The selected alternative will attain the remedial action objectives (RAOs) over the long-term. The RAOs established in the draft RI/FS for the site are 1) prevention of human contact with landfilled media, and 2) reducing potential migration of COCs to surrounding surface waters. Groundwater COCs currently meet the cleanup levels for the site at the conditional point of compliance, therefore, the remainder of this Section focuses on the goal of preventing human contact with the landfilled media.

In the RI/FS, each alternative was evaluated by the following criteria: short-term effectiveness, long-term effectiveness, permanent reduction of mobility, ability to implement, and cost. The selected alternative will meet the short-term effectiveness goal through the implementation of health and safety procedures to protect workers during site construction. Long-term effectiveness will be achieved by the completion of the cap and the implementation of the groundwater compliance monitoring program. The selected alternative will reduce contaminant mobility, but not toxicity or volume. The cleanup action is readily implementable as part of the site redevelopment over an estimated time period of seven to 15 years. The cost of the remedial action is considered practicable relative to the risks reduced, when implemented in conjunction with planned redevelopment.

Institutional controls will be implemented at the outset that prohibit extraction and use of groundwater at the site and that provide access and erosion controls. Worker safety and health plans containing measures to protect workers during construction will also be implemented after review and approval by Ecology. See, Timeline, Attachment A. Periodic cap inspections and maintenance will occur in accordance with Operation and Maintenance Plans prepared and approved for each phase of the development.

Groundwater performance monitoring will take place to verify effectiveness of remediation efforts through each phase of planned development in accordance with Compliance Monitoring Plans to be submitted to and approved by Ecology. Due to the length of time anticipated to develop and cap the site in phases, protection, performance, and conformational monitoring schedules will proceed concurrently as development progresses. Meetings will be scheduled with Ecology at least every two years to review groundwater monitoring data, and review the goals and appropriateness of continued monitoring for each phase. Ecology will review the cleanup action, in accordance with WAC 173-340-420, no less frequently than every five years to assure that human health and the environment are being protected.

9. APPLICABLE STATE AND FEDERAL LAWS

Under MTCA, remedial actions must comply with the substantive requirements of applicable state and local laws and all requirements of applicable federal law. The applicable state and federal laws for the proposed cleanup action are set out in detail in the Applicable State and Federal Laws Table attached to this Cleanup Action Plan as Attachment B. Notification will be provided to Ecology as to any additional substantive requirements of state and local laws that are determined to apply.

10. COMPLIANCE WITH THRESHOLD AND OTHER REQUIREMENTS

The proposed cleanup action plan will comply with MTCA threshold and other requirements for protecting human health and the environment by preventing human contact with the landfilled media and by reducing the potential risk of contaminant migration in groundwater beneath the site.

10.1. MTCA Threshold Requirements

All cleanup actions conducted under MTCA must protect human health and the environment, comply with cleanup standards, comply with applicable state and federal laws, and provide for compliance monitoring. These "threshold requirements" are defined in WAC 173-340-360 (2). The remedial action will comply with these threshold requirements by preventing human contact with landfilled materials; reducing the potential risk of contaminant migration in groundwater beneath the site; complying with all applicable state and federal requirements listed in Section 9.0; and providing groundwater (and surface water if needed) compliance monitoring to verify that cleanup standards continue to be met at the conditional point of compliance. In addition, the engineered cap will not interfere with the southern or western shoreline habitat areas. The engineered cap will also be designed to incorporate landfill gas management, reduce stormwater flows associated with developed surfaces, and avoid exacerbating existing reducing conditions.

TPH concentrations currently exceed the soil cleanup standard at three locations, and lead and arsenic concentrations exceed the soil cleanup standard throughout the site. However, existing groundwater concentrations meet the groundwater cleanup standards at the conditional point of compliance. Therefore, the existing soil concentrations at the site are protective of groundwater and surface water for either proposed residential or continued industrial uses.

Temporary erosion and sedimentation control (TESC) measures and BMPs will be implemented during construction, on active and inactive phases of the development, to protect surface water quality in compliance with substantive requirements under the Clean Water Act and Water Pollution Control Act. Phasing is discussed further in Section 10.3.

The cleanup action provides for compliance and performance monitoring to verify that groundwater continues to meet cleanup standards, as described in Section 11.2.

10.2. MTCA Other Requirements

Other requirements are defined in WAC 173-340-360 (3) and include application of reasonable restoration timeframes, consideration of public comments, and use of permanent solutions to the maximum extent practicable. The selected alternative satisfies each of these requirements. First, the restoration time frame for the site will reasonably achieve the remedial action objectives within the time frame for the applicable property use. If the change in land use to mixed residential/commercial goes forward for any part of the site, an engineered cap and associated institutional controls will be in place prior to residential use of such areas. If the site remains industrial, institutional controls and monitoring appropriate for ongoing industrial uses will be implemented as soon as practical after entry of the consent decree. Second, public concerns will be addressed through the Public Participation Plan prepared concurrently for, and attached to, the project Consent Decree.

As part of the public participation process, a thirty day comment period is scheduled to begin on June 25, 2001 and run until July 24, 2001. An open house and public hearing is scheduled for July 11, 2001.

In addition, the selection of a partial engineered cap as the proposed cleanup action maximizes practicable use of permanent solutions. MTCA regulations provide that cleanup actions should use permanent solutions to the maximum extent practicable in order to minimize the amount of untreated hazardous substances remaining at a site. WAC 173-340-360(3)(a), (4)(a). The regulations also recognize that permanent solutions are not practicable for all sites. WAC 173-340-360(4)(d). The criteria for evaluating practicability include: overall protectiveness of human health and the environment; long term effectiveness; short-term effectiveness; permanent reduction of toxicity, mobility

and volume of the hazardous substance; ability to be implemented; cleanup costs; and the degree to which community concerns are addressed.

Alternative 3, the selected alternative, is permanent to the maximum extent practicable for the site and consistent with routine landfill cleanup actions. Installation of an engineered cap will prevent human contact with landfill demolition debris under the cap and reduce the potential risk of contaminant migration in groundwater beneath the site. Over the short term, health and safety procedures will protect workers that would be exposed to landfilled media during site construction activities. Over the long term, this alternative will reduce mobility of contaminants and effectively achieve the remedial action objectives. Moreover, the cost of this alternative is considered practicable relative to the risks reduced when implemented in conjunction with planned redevelopment. If site development does not occur under this alternative and the property remains in industrial use, the applicable deed notices, access restrictions, erosion controls and groundwater monitoring provided in this Cleanup Action Plan are permanent to the maximum extent practicable for the site and consistent with routine demolition debris landfill cleanup actions for industrial properties. If the site remains in industrial use, institutional controls and groundwater monitoring appropriate for such industrial use will achieve the Remedial Action Objective of limiting human contact with landfill demolition debris that will remain on site.

Remedies that might provide more permanent solutions than alternative 3 are not feasible at the site. The landfilled areas are characterized by low levels of contamination in landfill media dispersed over significant portions of the site. Due to the large area (approximately 35 acres) and significant depth (average 14 feet) of impacted landfilled media (approximately 24,393,600 cubic feet) and the varying groundwater levels due to lake fluctuations, excavation of soil would be difficult, prohibitively expensive, and could not be accomplished without impairing existing shoreline, wetland, and aquatic habitats. Removal, treatment, and subsequent replacement of affected soil would also impact surface water quality, require relocation of existing utilities, and impair adjacent facility operations. Finally, due to the low volatility of the contaminants at the site, the high groundwater recharge capacity of the adjacent surface water bodies, and the absence of free product, *in situ* treatment technologies are not considered feasible.

A detailed evaluation of all of the alternatives with respect to the practicability criteria is provided in the RI/FS. A more detailed discussion of the alternative selection process is presented in Section 8.0.

10.3. Compliance During Project Phasing and Continued Industrial Use

If redevelopment proceeds, construction of the engineered cap will be phased with development over a period of seven to 15 years. During this time interval, the majority of the site will either be undergoing construction or remain industrial. These areas are

shown on Figure 3 as Phases 1-6. Compliance with the RAOs will be met with provisions to protect site workers and the general public during and after the onset of site redevelopment.

Health and safety provisions to protect site workers will be implemented as part of a Worker Safety and Health Plan (per WAC 173-340-810) after review and approval of the Plan by Ecology. These provisions would also apply to site workers performing cap inspection, maintenance or repair duties. Areas under construction will be fenced for access control. These provisions will be implemented prior to the time of initial site clearing, and continue as phased development and cap construction proceed. Phasing of temporary erosion and sedimentation control measures, as they pertain to the RAOs, will involve implementation of measures at the outset of the project on active and inactive phases of development. The temporary erosion and sedimentation control measures may include hydro-seeding of inactive phase areas, maintenance of siltation fencing, and/or construction of temporary, construction-phase retention facilities. Phasing of temporary erosion and sedimentation control measures and the measures to be implemented are discussed further in Section 11.1.3. During the time period after commencement of on site residential use and prior to installation of a soil cover, industrial use areas upland of the firelane will be fenced to control incompatible uses.

If redevelopment is initiated but is not completed to allow for commercial/residential use of the entire site, institutional controls and groundwater monitoring appropriate for continued industrial use, as described in Section 7.0 of this plan, will be implemented for the portions of the site that remain industrial. If redevelopment does not proceed and the entire site remains industrial, institutional controls and groundwater monitoring appropriate for continued industrial use, as described in Section 7.0 of this plan, will be implemented for the entire site.

11. CONTAINMENT AND COMPLIANCE PROGRAM

The containment and compliance program will apply to the landfilled area as generally shown on figure 4. In addition to the site containment and compliance program, a Worker Safety and Health Plan (per WAC 173-340-810) with measures to protect the health and safety of workers during construction activities will be prepared in accordance with the Cleanup Action Plan Timeline and subject to Ecology review and approval.

11.1. Containment

The purpose of containment will be to prevent human contact with the landfilled debris and to reduce the potential risk of contaminant migration in groundwater beneath the site. The site containment program will consist of, or be integrated with, the following elements:

- Relocation of surficial roofing debris away from the southern shoreline to the site interior.
- Site grading.
- Surface water runoff management.
- An engineered cap covering approximately 68 percent of the site area, as generally shown on Figure 4. Construction of the engineered cap will be phased with redevelopment.
- Management of landfill gases that may accumulate beneath the engineered cap.
- Utility installations.
- Rehabilitation of the existing channel bulkhead.
- Construction of storm water treatment swales and grading outside the engineered cap.

Each of these elements is discussed below.

11.1.1 Relocation of Roofing Debris

Surface deposits of roofing debris will be relocated from the southern shoreline area and relocated to the lower elevations of the site interior for placement beneath the engineered cap during site grading.

11.1.2 Site Grading

Combinations of cuts and fills will occur as part of the cleanup and development. In addition, construction of planned stormwater pond/swales and utility trenches will involve excavations into the landfilled debris. Excavations will likely encounter two to three feet of existing soil cover over the landfilled media, which consists predominantly of demolition debris with concrete and asphalt rubble, and some soil. Excavated media will be relocated for placement beneath the engineered cap or to designated fill areas outside the engineered cap. Contaminated media will not be used as fill in areas outside the engineered cap without Ecology approval.

Relocation of landfilled media for placement under the engineered cap will take place, to the extent practicable, during the preliminary grading phase, prior to pile installations. Construction of the engineered cap is described in Section 11.1.4. Surface completion of stormwater pond /swales and other areas outside the development footprint is described in Section 11.1.8.

An array of four shoreline monitoring wells will constitute the conditional point of compliance. Site development or re-grading activities may necessitate replacement, or vertical extension, of the some wells. Modifications to the compliance wells would be resurveyed.

All site grading activities will comply with the substantive requirements of applicable state and local laws and with all requirements of applicable federal laws. The requirements of federal, state, and local laws applicable to the cleanup are described in Section 9.0. Notification will be provided to Ecology as to any additional substantive requirements that are determined to apply.

11.1.3 Surface Water Runoff Management

Temporary erosion and sedimentation control measures and BMPs will be implemented at the outset of the project on active and inactive phases of development in accordance with federal, state and municipal regulations at the onset of construction to protect surface water quality. Appropriate temporary erosion and sedimentation control measures may include hydro-seeding of inactive phase areas, maintenance of siltation fencing, and/or construction of temporary, construction-phase retention facilities. The existing stormwater collection and discharge system will be replaced and be diverted to temporary facilities during the construction phase.

Once each phase is constructed, rainfall that lands on or flows onto the developed surfaces (parking lots, buildings) will be intercepted by the stormwater collection and treatment systems before discharge to the Sammamish River or Lake Washington.

Storm retention/detention facilities will be lined with an impermeable membrane to prevent infiltration to the landfilled media. Preparation will include excavation and removal or cover of angular debris that could compromise the integrity of the membrane. All storm water management activities occurring on, or for control of runoff from, the engineered cap will be carried out in compliance with the substantive requirements of applicable laws. Discharge of collected storm runoff from the engineered cap will comply with the substantive municipal requirements contained in the 1998 King County Surface Water Management manual and any updates and revisions thereto applicable at the time of design plan approval. If contaminated sediments are discovered in the existing storm-water collection system, the sediments will also be managed in accordance with the substantive requirements of applicable laws.

Contingency procedures and design features to address and control spills and accidental discharges will be included in the Engineering Design Report and Operations and Maintenance Plan deliverables subject to Ecology review and approval and in the Contingency Plan submitted pursuant to the Shoreline Substantial Development Permit (File No. L96SH107).

11.1.4 Engineered Cap

The majority of the engineered cap will consist of new, concrete or asphalt structures supported upon structural piling. The landfilled area outside the building footprints that is not covered with concrete or asphalt paving (the "soil cover area") will have a soil cover overlain with landscaping. For purposes of this cleanup action, "soil cover" means at least two feet of soil or equivalent media. Consistent with WAC 173-304-461 specifications for closure of demolition waste landfills, the site was previously closed with a cover of at least one foot of soil. Although not required, up to one foot of soil or equivalent media will be added on top of the existing cover in the soil cover area to bring the total cover up to at least two feet in thickness. Soil for the cover may come from areas on-site where the existing cover currently exceeds two feet. The additional soil (or equivalent media) above the existing cover will provide an extra measure of protection at the site consistent with the overall goal of protection of human health and the environment. A schematic of the soil cover (non-structural landfill cap) is shown in Detail B to figure 2. The structures, paved areas, and soil cover will prevent human contact with the demolition debris and reduce the risk of contaminant migration in groundwater beneath the site but without increasing the risk of landfill gas buildup or exacerbating the oxygen reducing conditions in the groundwater at the site.

Redevelopment and cap construction will occur in several phases, beginning with the eastern portion of the subject property. The presently planned general phasing pattern is indicated on Figure 3.

Within the building footprint, pile installations for the new structures, and for the Lakepointe Way N.E. flyover, will use cranes to embed piling into dense sand and gravel soils found at depth beneath the site. Various types of driven piling suitable for use at the subject site are recommended in AGRA"s *Preliminary Geotechnical Engineering Report* dated 8 November 1996. Appropriate pile types include cast-in-place, driven grout, precast concrete, steel pipe, or steel H-piles. These pile types generally will not raise landfilled debris to the surface or generate excessive amounts of waste concrete during installation. In the event that piles are augered in place rather than driven, small quantities of landfilled debris brought to the surface, and any excess concrete or liquids, will be contained as described in Section 11.1.2. The lowest level of the pile supported structures will be situated at Elevation 25 feet and be utilized as parking space. The parking floor elevation will be established to achieve a balanced cut and fill and to accommodate a landfill gas management system, to the extent such a system is necessary. Figure 2 depicts conceptual profiles for structural (pile-supported) areas.

Outside of the building footprint, the engineered cap will extend out to a fire lane easement in the form of a soil cover. After installation, the cover will be overlain with topsoil to support appropriate vegetation, or concrete or asphalt to provide further protection from surface disturbance. Where used, appropriate landscape plantings will be

selected and installed in a manner consistent with maintaining the integrity of the engineered cap. Figure 2 depicts conceptual profiles for non-structural areas.

Operation and Maintenance Plan provisions, subject to review and approval by Ecology, and deed restrictions on the property will assure that the cap is protected during construction and occupation of the site. In addition, periodic inspections will be performed to evaluate the condition and performance of the engineered cap. Formal inspections of the entire site will be performed twice a year throughout construction of the engineered cap and redevelopment, and annually thereafter. Cap repairs will also be subject to reinspection. The scope of inspections will include, but not be limited to, cracks, deflections, seepage, drainage issues, landfill gas emissions, the effects of pile driving and construction activities, and movement of heavy equipment. Detailed provisions for periodic inspections will be included in the Operation and Maintenance plan deliverable that is subject to review and approval by Ecology.

11.1.5 Landfill Gas Management

Landfill gas mitigation will be addressed in the engineering design stage. A Landfill Gas Design Report will be a deliverable submitted during the design stage and subject to Ecology review and approval. The Landfill Gas Design Report will discuss gas characterization, distribution, constituents, probe installation, passive and active management options, and applicable requirements in Chapter 173-304 WAC. Landfill gas generated by decomposition of the landfilled media and of the underlying native peat soils will be managed to prevent unsafe or excessive accumulation underneath the development and engineered cap. Control and treatment of landfill gas accumulations, as appropriate, will be accomplished in accordance with the applicable substantive provisions of King County Solid Waste Regulations, Chapter 10.76.020 and Chapter 173-304 WAC.

11.1.6 Utility Installations

Utility installations will be buried underground or suspended through the lower building levels within utilidors. Watertight seals will be used where utilities pass into a utilidor from outside the building footprint. Flexible connections will be used to accommodate differential settlements where utilities extend beyond the pile-supported areas of the engineered cap. Fill materials excavated during utility installations will be placed under the cap in accordance with Site Grading, Section 11.1.2. Buried utility systems within the landfilled area that are not pile-supported will use flexible couplings to accommodate gradual shifting or settling of soil over time. No special environmental engineering requirements are anticipated for underground utilities installed north of the landfilled area.

11.1.7 Bulkhead Rehabilitation

The existing bulkhead facing the Kenmore Navigation Channel will be rehabilitated by placing a new sheet pile bulkhead immediately landward of the existing bulkhead or by placing a new sheet pile bulkhead immediately waterward of the existing bulkhead. The new sheet pile bulkhead will be engineered so tie-backs are not required, thereby allowing any contaminated material present behind the existing bulkhead to remain undisturbed. This will require the use of interlocking sheet pile section, or "Z-piling" with a deep section and may move the front face of the bulkhead a maximum of three feet waterward. Along some portions of the existing bulkhead voids are presumed to be present and will be filled with either granular fill or fill material excavated from other areas on site. Contaminated media excavated from other areas of the site will not be used as fill material for bulkhead rehabilitation unless approved by Ecology. The backside of the new sheet pile bulkhead will be lined with a membrane to create an impermeable barrier between the lake and the fill material. The final design of the bulkhead will be an element of the Engineering Design Report that is subject to review and approval by Ecology as a deliverable required under the Cleanup Action Plan Timeline.

All bulkhead rehabilitation activities will comply with the substantive requirements of applicable state and local laws and with all requirements of applicable federal laws, including any applicable Army Corps of Engineer permitting requirements. The federal, state, and local laws applicable to the cleanup are described in Section 9.0. Notification will be provided to Ecology as to any additional substantive requirements that are determined to apply.

11.1.8 Stormwater and Utility Construction

Construction of the site stormwater system will manage rain runoff from the building footprint area, including parking lots and roof areas. The stormwater collection system will discharge to vaults/pond/swales and/or to storm outfalls that discharge runoff to the Sammamish River. An impermeable layer will be installed beneath the vault/pond/swale areas.

Grading associated with vaults/ponds/swales construction and utility trenching will include both cuts and fills. In areas where grading is planned, existing vegetation will be grubbed out and the land surface will be reshaped. Where fill placement is called for in the landscaping plan, landfilled demolition debris relocated from adjacent cuts may provide lightweight fill material, provided that it is surfaced with cap material. Following grading activities, the graded area will be capped to prevent human contact with landfill debris. The area will be sloped to discourage ponding of rain runoff in topographic depressions.

All planned stormwater vaults/ponds/swales and utility trenches will comply with the substantive requirements of all applicable laws. The substantive requirements of federal, state, and local laws applicable to the cleanup are described in Section 9.0.

11.1.9 Shoreline Habitat Enhancement and Preservation

Shoreline habitat enhancement and preservation will take place between the proposed fire lane and the shoreline. Enhancement will occur in areas to be reconfigured, as well as in areas with new stormwater vaults/ponds/swales or utility trenches. Public access would be allowed in the enhanced areas. Areas of existing shoreline habitat will also be preserved. In the preservation areas, features that manage human access such as interpretive trails and viewing platforms will be provided. Viewing platforms will be constructed to allow views of the southern shoreline. Within both enhancement and preservation areas, riparian/slope plantings are planned along the shoreline. Riparian plantings will be accomplished by hand labor, with minimal disturbance to the existing soil profile. Throughout these areas, existing healthy and safe trees will be preserved where feasible and appropriate; diseased and unsafe trees will be removed under the direction of a qualified arborist.

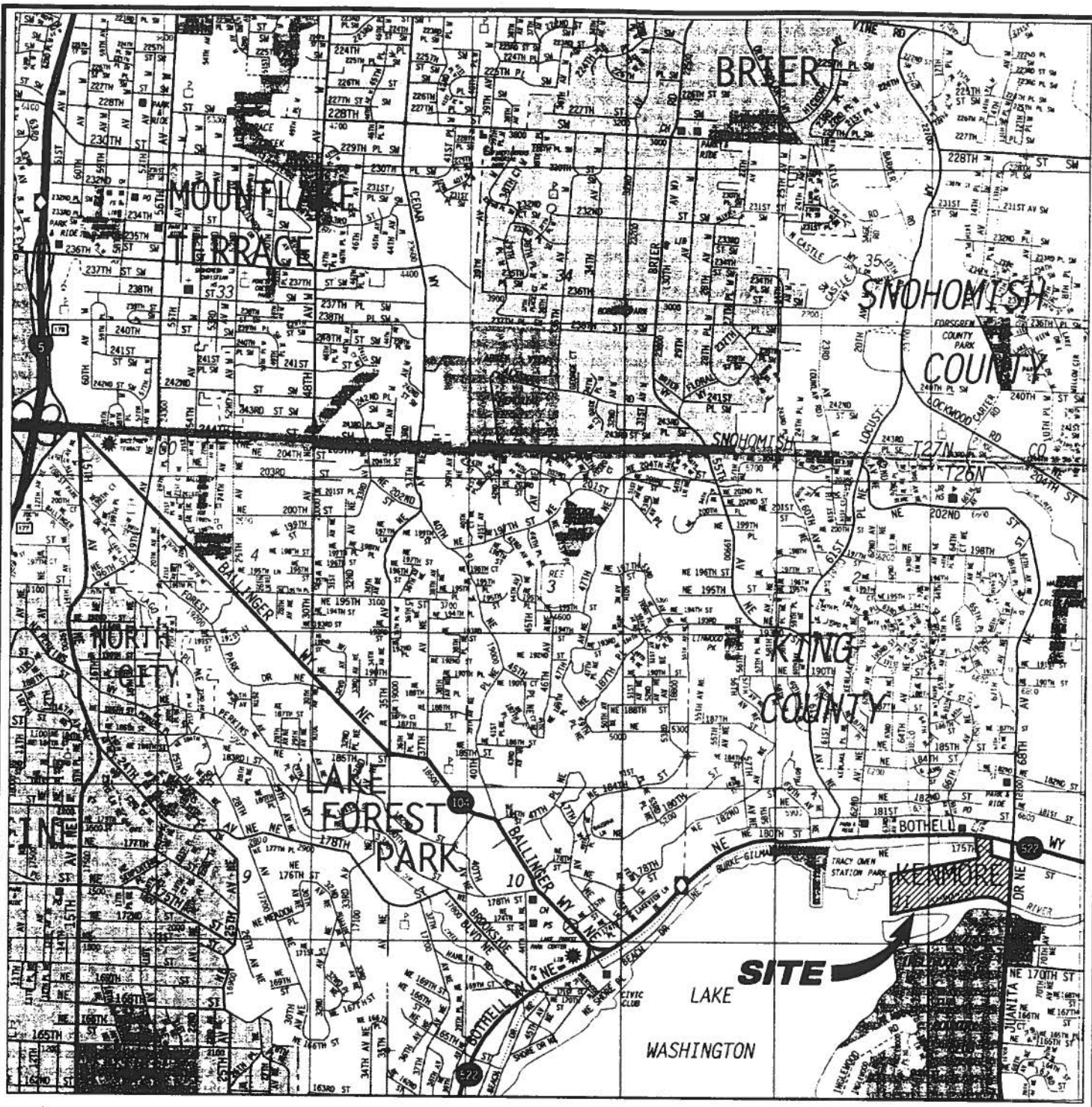
All planned habitat enhancement activities will comply with the substantive requirements of all applicable laws. The substantive requirements of federal, state, and local laws applicable to the cleanup are described in Section 9.0.

11.2. Compliance

The selected cleanup action will meet the remedial action objectives. As described in Section 2.0, an estimated 800,000 cubic yards of landfilled media comprised primarily of wood, concrete and asphalt rubble, and soil, will remain on site following construction of the engineered cap. The COCs identified in the RI/FS are TPH, arsenic and lead, and proposed cleanup standards for the COCs are presented in Sections 5.1 and 5.2 of this Plan.

In the soil or landfilled media, TPH concentrations currently exceed cleanup levels at three locations and arsenic and lead concentrations in the soil exceed cleanup levels throughout the landfilled areas of the site. Human contact with the soil COCs, which will remain at the site as part of the proposed cleanup action, will be prevented by the construction of the engineered cap and by institutional controls.

Groundwater COC concentrations currently meet cleanup standards at the conditional point of compliance as detailed in Sections 5.1 and 5.4 of this Plan. Groundwater compliance monitoring will verify that standards continue to be met. The point of compliance wells listed in Section 5.3 will be included in the monitoring program. A Compliance Monitoring Plan will be prepared for review and approval by Ecology after entry of the Consent Decree.



JOB NO.: 7-91M-10459-D-CAP | DWG DATE: 04-10-2001 | SCALE: N.T.S. | DESIGN BY: DHG | FILE NAME: LOCATION-CAP.DWG

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LOCATION MAP

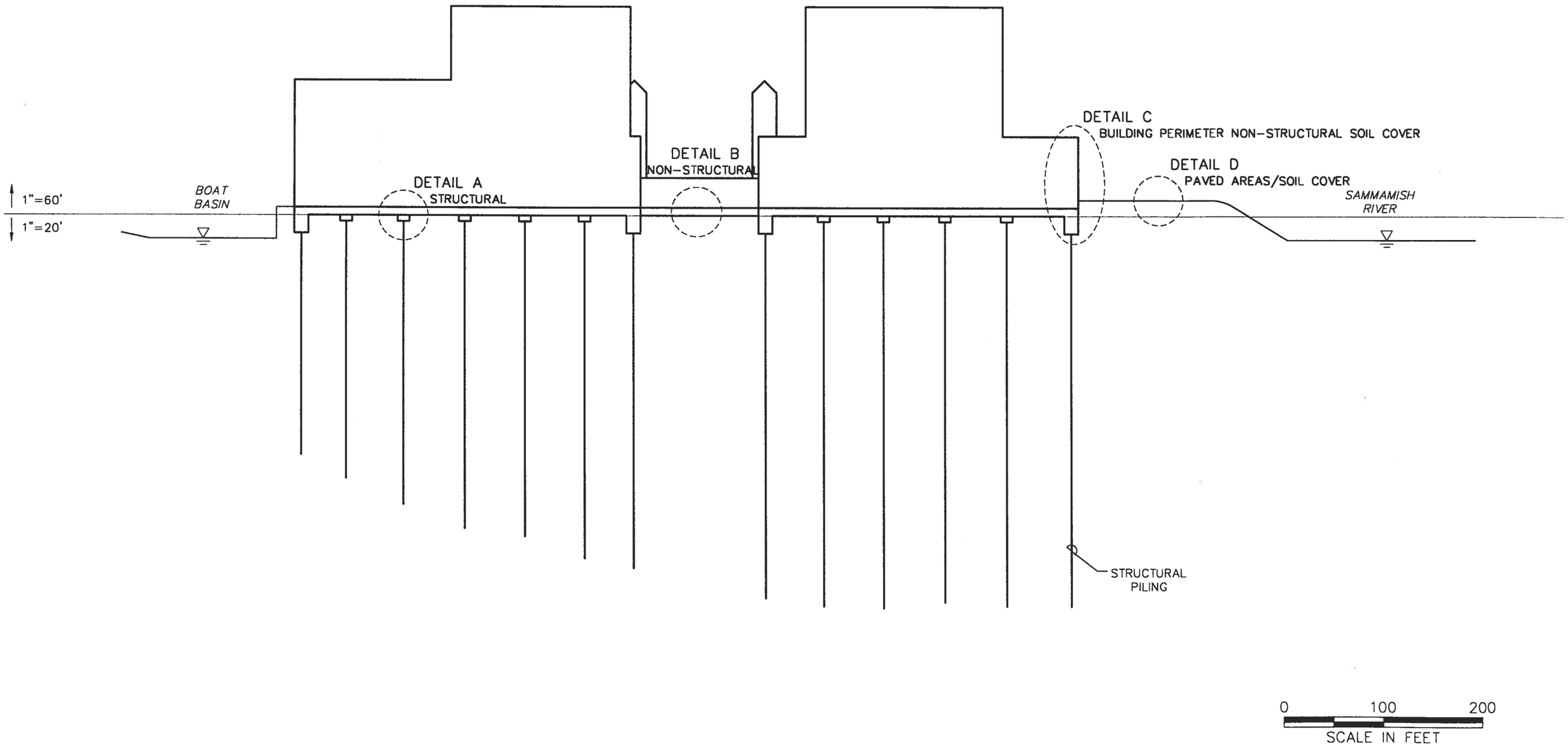
KENMORE INDUSTRIAL PARK

KING COUNTY, WASHINGTON

FIGURE 1

NW

SE



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SCALE IN FEET

SOURCE: SECTION 5, SHEET A3.2, LAKEPOINTE CDSP PLAN SET.

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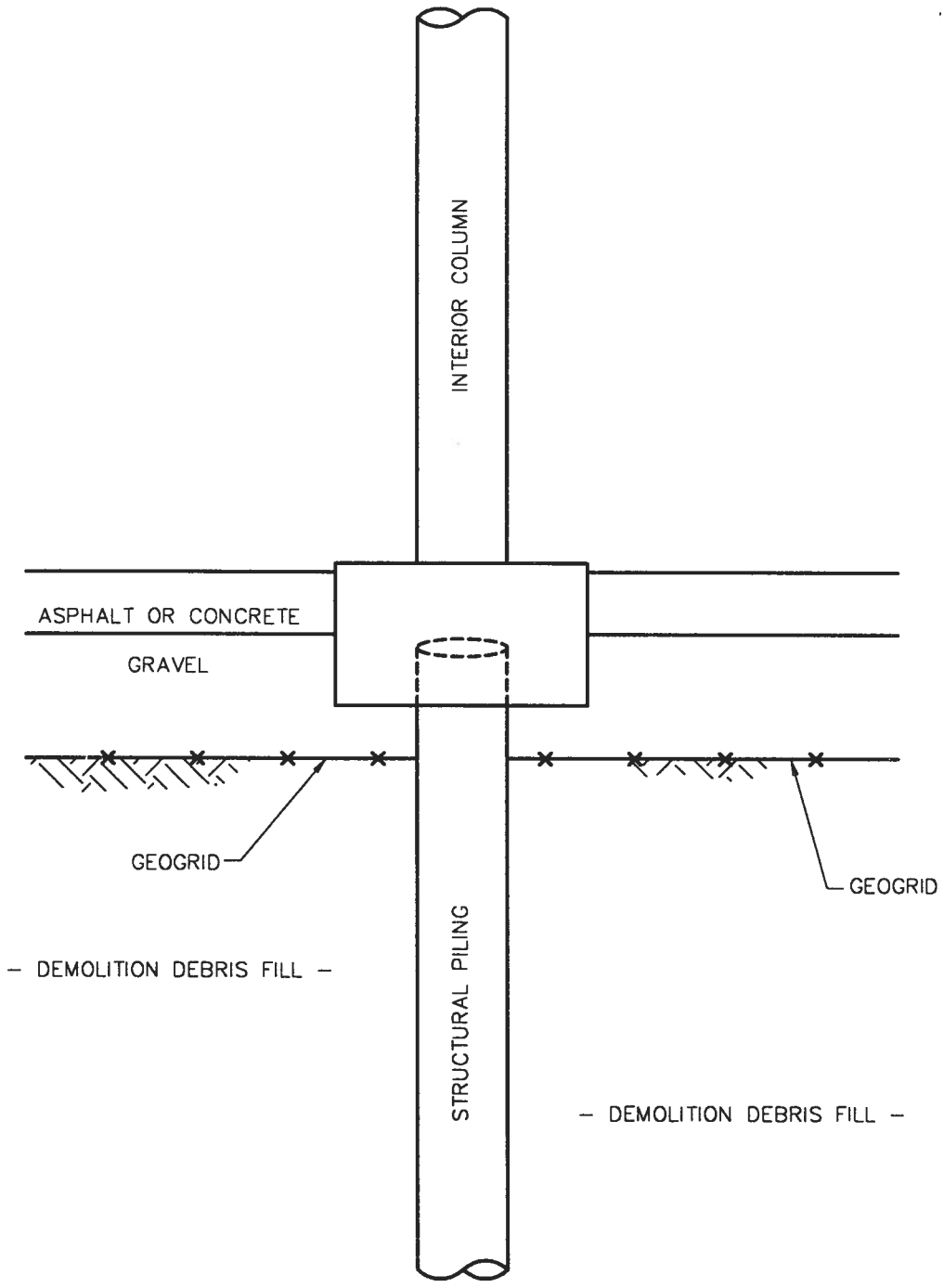
SCHEMATIC CROSS SECTION

KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

FIGURE 2



JOB NO.: 0-91M-10459-D-CAP | DWG DATE: 04-10-2001 | SCALE: N.T.S. | DESIGN BY: DHG | FILE NAME: DETAIL A-CAP.DWG

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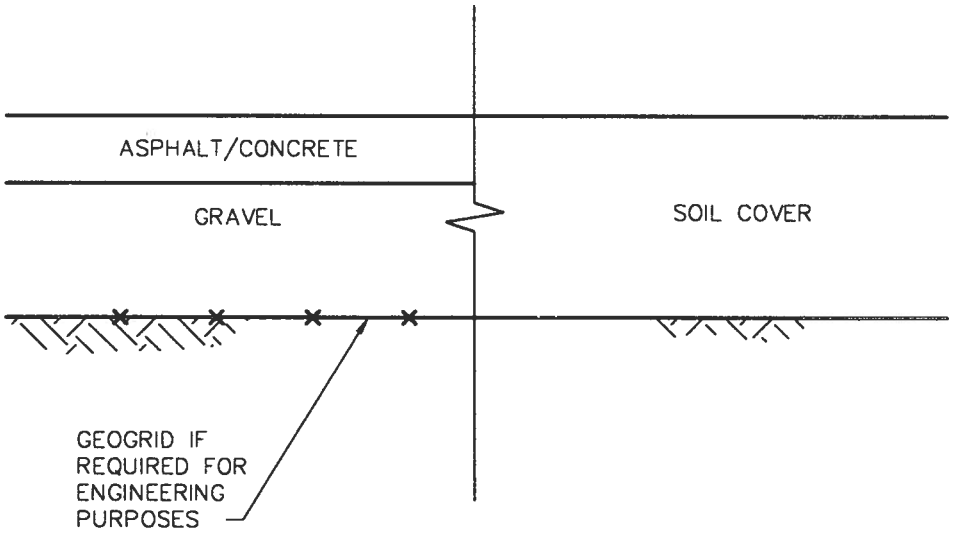
DETAIL A/FIGURE 2

STRUCTURAL PROFILE
KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON



– DEMOLITION DEBRIS FILL –

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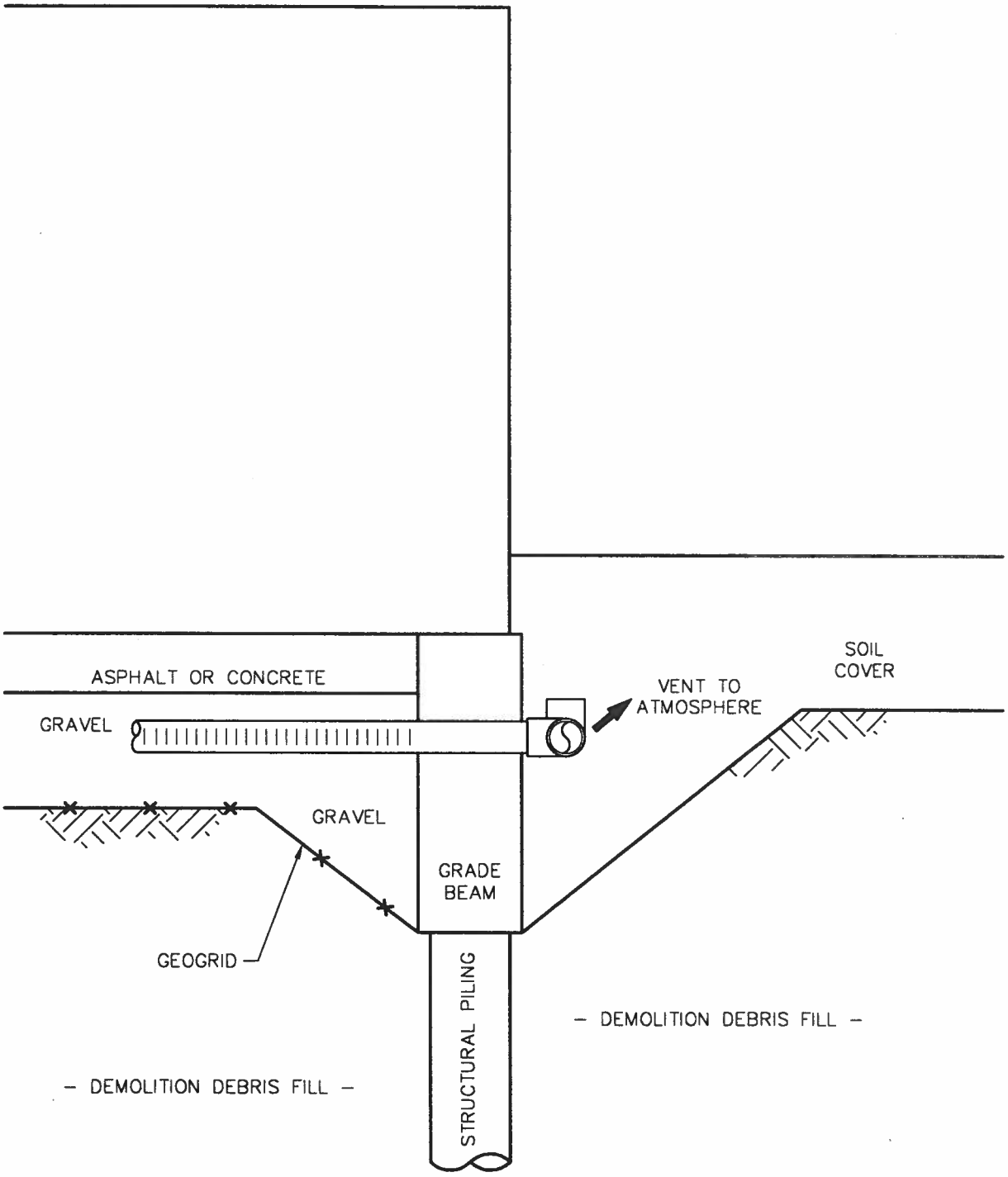
DETAIL B/FIGURE 2

NON–STRUCTURAL PROFILE

KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

JOB NO.: 0-91M-10459-D-CAP | DWG DATE: 04-10-2001 | SCALE: N.T.S. | DESIGN BY: DHG | FILE NAME: DETAIL B-CAP.DWG



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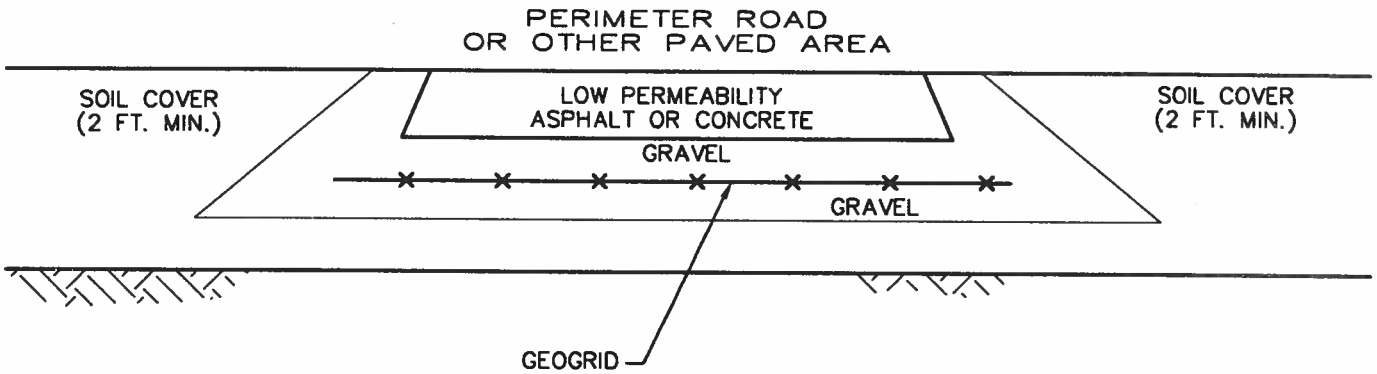
Kirkland, WA, U.S.A. 98034-6918

DETAIL C/FIGURE 2

BUILDING PERIMETER PROFILE
KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

JOB NO.: 0-91M-10459-D-CAP | DWG DATE: 04-10-2001 | SCALE: N.T.S. | DESIGN BY: DHG | FILE NAME: DETAIL C-CAP.DWG



– DEMOLITION DEBRIS FILL –

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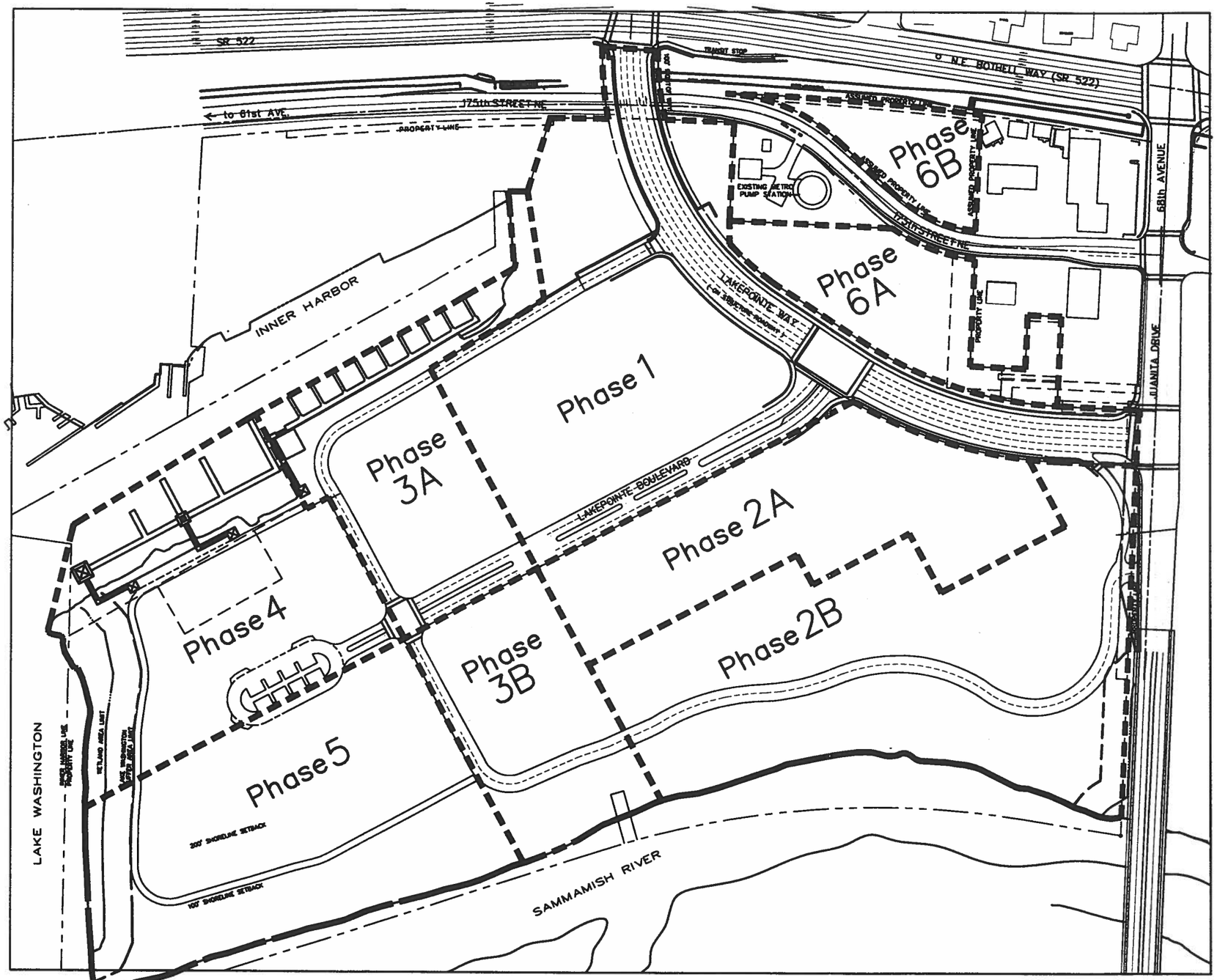
DETAIL D/FIGURE 2

PAVED AREAS/SOIL COVER
KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

JOB NO.: 0-91M-10459-D-CAP | DWG DATE: 04-10-2001 | SCALE: N.T.S. | DESIGN BY: DHG | FILE NAME: DETAIL D-CAP.DWG



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SOURCE: DRAWING BASED ON A PLAN BY ABUGOV-KASPER

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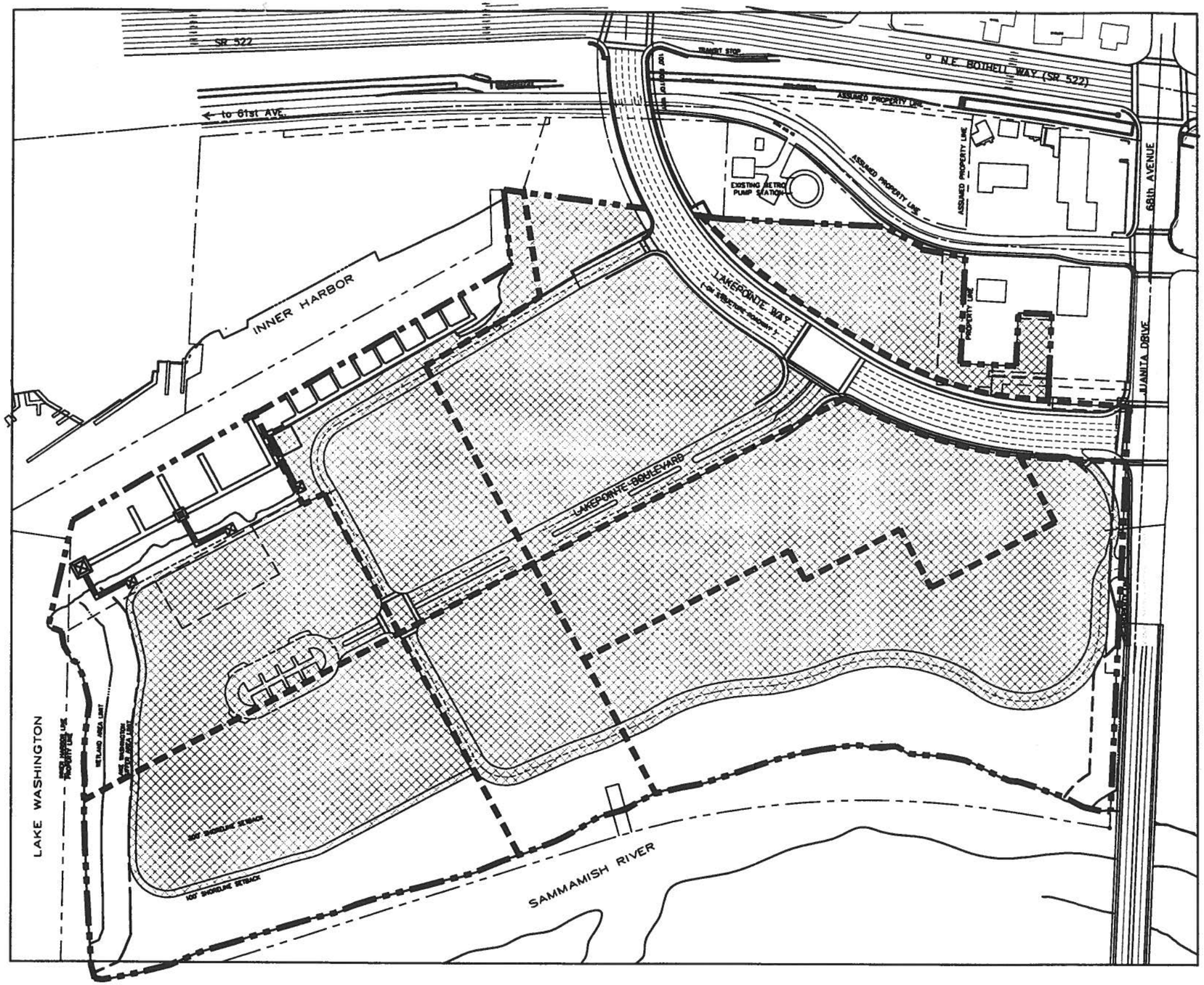
CONCEPTUAL PHASING PLAN

KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

FIGURE 3



LEGEND

APPROXIMATE EXTENT OF ENGINEERED CAP

SITE BOUDARY

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SCALE IN FEET

SOURCE: DRAWING BASED ON A PLAN BY ABUGOV–KASPER

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COVERAGE OF ENGINEERED CAP

KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

FIGURE 4

ATTACHMENT A

TIMELINE

Kenmore Industrial Park
Kenmore, Washington

ACTIVITY			CALENDAR DAYS
A	**Entry of Consent Decree**		1 day
	1	DRAFT Remedial Engineering Design Report	180 days
	2	Ecology Review & Issue Remedial Engineering Design Report	60 days
	3	DRAFT Health & Safety Plan	20 days
	4	Ecology Review & Issue Health & Safety Plan	30 days
B	**Phase 1**		
	1	Development Permits Received for Phase 1	1 day
	2	Bid Process	60 days
	3	Select Contractor	15 days
	4	Cleanup Preparation	
		a Fence Construction Areas and Phases 2-5	15 days
		b Demolish Existing Structures	20 days
		c Erosion Control Phases 2-5	15 days
	5	Preliminary Grading	
		a TESC Measures and Access	20 days
		b Relocate Roofing Debris	30 days
		c Lakepointe Drive	180 days
	6	Cap Construction	
		a Install Piling	120 days
		b Cap Construction	60 days
		c Building Construction	300 days
	7	Finish Grading	
		a Complete Utility and Vent Connections	60 days
		b Landscape	40 days
	8	Plan Preparation	
		a DRAFT Compliance Monitoring Plan	20 days
		b DRAFT Operations and Maintenance Plan	20 days
		c Ecology Review & Issue Final Plans	20 days
	9	Certificate of Completion – Phase 1	30 days

TIMELINE

Kenmore Industrial Park
Kenmore, Washington

ACTIVITY			CALENDAR DAYS
C	**Next & Subsequent Phases**		
	1	Development Permits Received for Relevant Phase	1 day
	2	Bid Process	60 days
	3	Select Contractor	15 days
	4	Preliminary Grading	
		a Reference to Separate Construction from TESC Area	15 days
		b TESC Measures and Access	10 days
	5	Cap Construction	
		a Install Piling	60 days
		b Cap Construction	60 days
		c Building Construction	270 days
	6	Finish Grading	
		a Complete Utility and Vent Connections	30 days
		b Shoreline Enhancement (if applicable)	60 days
		c Landscaping	30 days
	7	Plan Preparation	
		a DRAFT Compliance Monitoring Plan	20 days
		b DRAFT Operations and Maintenance Plan	10 days
		c Ecology Review & Issue Final Plans	10 days
	8	Certificate of Completion – Current Phase	30 days

ATTACHMENT B

APPLICABLE STATE AND FEDERAL LAWS TABLE

STATUTE, REGULATION, OR ORDINANCE	REQUIREMENT	COMMENTS
Federal Clean Water Act, 33 USC 1344, 33 CFR 325-330	Section 404 (Dredge and Fill) permit or Nationwide permit issued by Army Corps of Engineers for dredge or fill activities in navigable waters (including wetland areas).	Potentially applicable to bulkhead rehabilitation; and activity in/near site wetlands
Federal Clean Water Act, 33 USC 1341	State Water Quality Certification issued by State Department of Ecology for activities subject to Section 404 permit.	Potentially applicable if Section 404 (dredge and fill) permit required
Federal Rivers and Harbors Act, 33 USC 403	Section 10 Permit issued by Army Corps of Engineers for activities that obstruct navigational waterways.	Potentially applicable to bulkhead rehabilitation
Federal Endangered Species Act (ESA) 16 USC 1531 *et. seq.*	Consultation with NMFS required where there is a federal nexus and potential impact on endangered or threatened species.	Potentially applicable to bulkhead rehabilitation
Federal Occupational Safety and Health Act (OSHA), 29 CFR 1910.120	Site worker health and safety requirements.	Potentially applicable to remedial action construction activities.
State Water Pollution Control Act, RCW 90.48, NPDES Permit Program, Ch. 173-220 WAC (implementing Federal Clean Water Act, 33 USC 1342)	National Pollutant Discharge Elimination System (NPDES) permit issued by the Department of Ecology for point source discharges to surface waters. [1]	Substantive requirements potentially applicable to point source discharges to adjacent surface waters
State Water Pollution Control Act, RCW 90.48, State General Permit Program, Ch. 173-226 WAC (implementing Federal Clean Water Act, 33 USC 1342)	Baseline General Stormwater Permit issued by Ecology for construction activities impacting more than 5 acres. [1]	Substantive requirements potentially applicable to remedial action construction activities.

APPLICABLE STATE AND FEDERAL LAWS TABLE (CONT.)

STATUTE, REGULATION, OR ORDINANCE	REQUIREMENT	COMMENTS
State Water Pollution Control Act, RCW 90.48, WAC 173-201A	Compliance with state surface water quality standards issued by the Department of Ecology.[1]	Substantive requirements potentially applicable for Lake Washington/Sammamish River classifications.
State Hydraulics Act, RCW 75.20, Ch. 220-110 WAC	Hydraulic Project Approval from the State Department of Fish and Wildlife for activities that affect the natural flow or bed of any water body.[1]	Substantive requirements potentially applicable to bulkhead rehabilitation, temporary bypass culverts, outfall structures, and stormwater pond facilities.
State Noise Control Act, RCW 70.107, Ch. 173-60 WAC	Establishes noise levels.	Potentially applicable to remedial action construction activities.
Washington Clean Air Act, RCW 70.94 RCW, WAC 173-400 through 492 (implementing the Federal Clean Air Act, 42 USC 7401 et.seq.) Puget Sound Clean Air Authority (PSCAA) Regulation I	Requirements applicable for control of fugitive dust emissions, Regulation I, Article 9.	Substantive requirements potentially applicable to construction of engineered cap.
State Environmental Policy Act (SEPA), 43.21 RCW, Ch. 197-11 WAC	Project environmental review.	Potentially applicable to the remedial action. *Note: A SEPA checklist has been submitted to Ecology for the remedial action*
State Shoreline Management Act, RCW 90.58; King County Code, Title 25 (as adopted by the City of Kenmore)	City of Kenmore shoreline management provisions for activities within 200 feet of State shorelines.	Potentially applicable to remedial actions within shoreline areas. *Note: King County issued a Shoreline Substantial Development Permit (File No. L96SH107) for the site in August 1998.*[2]

APPLICABLE STATE AND FEDERAL LAWS TABLE (CONT.)

STATUTE, REGULATION, OR ORDINANCE	REQUIREMENT	COMMENTS
Washington Minimum Functional Standards for Solid Waste Handling, RCW 70.95, Ch. 173-304 WAC	Closure requirements for demolition waste landfills.	The standards of WAC 173-304-405 through 173-304-490 do not apply to this site because it was closed prior to the date of the regulations in accordance with WAC 173-304-400. However, the demolition waste landfilling facility closure requirements in WAC 173-304-461 are relevant and appropriate requirements.
Washington Industrial Safety and Health Act (WISHA), Ch. 296-62 WAC	Site worker health and safety requirements.	Potentially applicable to remedial action construction activities.
King County Board of Health Code, Regulation 10.76.020	Construction standards for methane control.	Substantive requirements potentially applicable to methane control elements of remedial action.
City of Kenmore Provisions[3]	Local land use and development requirements.[1]	Substantive requirements potentially applicable to land use and construction elements of remedial action. *Note: King County approved a Master Site Plan and issued a Commercial Site Development Permit (File No. B96CS005) for the site in August 1998.*[2]

Notes:

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 that are known to be potentially applicable and for which Pioneer Towing is exempt from the procedural requirements pursuant to RCW 70.105D.090(1) are set out in detail in Exhibit G to the Consent Decree.

2. The Commercial Site Development Permit (CSDP) and Shoreline Substantial Development Permit (SSDP) issued for the redevelopment may address and/or stand in lieu of certain listed requirements. However, the substantive requirements of the King County Code as adopted by the City of Kenmore supercede

specific conditions in these permits. Therefore, implementation of the Cleanup Action Plan in conformance with applicable substantive code standards may not comply with all of the conditions identified in the CSDP and SSDP.

3. The City of Kenmore has adopted King County's Code provisions subject to certain modifications. The City plans to codify its own development provisions some time in 2001.

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TABLES

TABLE 5-1 CLEANUP LEVELS FOR GROUNDWATER, KENMORE INDUSTRIAL PARK		
Contaminant	**Cleanup Level (Φg/L)**	**Standard/Criteria**
TPH (ORPH and DRPH)	1,000	MTCA Method A (based on protection of groundwater because no applicable surface water cleanup level exists under MTCA Methods A, B, or, C, and there is no MTCA Method B groundwater cleanup level)
Arsenic	5	MTCA Method A (based on natural background concentrations for the State of Washington)
Lead (dissolved)	14.4	MTCA Method A and B (based on hardness dependent formula in WAC 173-201A-040. Calculation was based on lowest observed groundwater hardness of 524 mg. eq./L)
Barium	1,000	MTCA Method A and B (based on EPA National Recommended Water Quality Criteria)

TABLE 5-2 CLEANUP LEVELS FOR SOIL		
Contaminant	**Cleanup Level (mg/kg)**	**Standard/Criteria**
TPH (ORPH and DRPH)	200.0	Method A Residential
Arsenic	20.0	Method A Residential
Barium	100	Method B Residential
Lead	250	Method A Residential
Selenium	0.5	Method B Residential

TABLE 5-3 CLEANUP LEVELS FOR SOIL FOR CONTINUED INDUSTRIAL USE		
Contaminant	**Cleanup Level (mg/kg)**	**Standard/Criteria**
TPH (ORPH and DRPH)	200.0	Method A Industrial
Arsenic	200.0	Method A Industrial
Barium	100	Method C Industrial
Lead	1000	Method A Industrial
Selenium	0.5	Method C Industrial

TABLE 5-4 COMPARISON OF CURRENT COC CONCENTRATIONS TO GROUNDWATER CLEANUP LEVELS FOR PROTECTION OF SURFACE WATER AT CONDITIONAL POINT OF COMPLIANCE, KENMORE INDUSTRIAL PARK			
Contaminant	**2001 Measured Groundwater Concentration Range at Shoreline Compliance Wells (Φg/L)**	**Cleanup Level (Φg/L)**	**Exceedance of Cleanup Levels at the Conditional Point of Compliance**
TPH (ORPH and DRPH)	<250 to <750	1,000	None
Arsenic	1.02 to 4.75	5	None[1]
Barium	68.9 to 889	1,000	None[2]
Lead	<1 to 13	14.4	None

Notes: [1]A single anomalous exceedance of 12 Φg/L occurred in 1996 in the no longer operable well AW-10.
[2]A single anomalous exceedance of 1,090 Φg/L occurred in 1996 in the well AW-11.

TABLE 5-5 COMPARISON OF COC CONCENTRATIONS TO RESIDENTIAL SOIL MEDIA CCLs, KENMORE INDUSTRIAL PARK			
Contaminant	**Measured Soil Concentration Range (mg/kg)**	**Cleanup Level (mg/kg)**	**Exceedance Of CCL**
TPH (ORPH and DRPH)	15 to 4,800	200	Throughout
Arsenic	<1.2 to 7.7	20	None
Barium	22 to 441	100	3 exceedances
Lead	<10 to 1,510	250	3 exceedances
Selenium	<0.5 to 0.6	0.5	2 exceedances

TABLE 5-6 COMPARISON OF COC CONCENTRATIONS TO INDUSTRIAL SOIL MEDIA CCLs, KENMORE INDUSTRIAL PARK			
Contaminant	**Measured Soil Concentration Range (mg/kg)**	**Cleanup Level (mg/kg)**	**Exceedance Of CCL**
TPH (ORPH and DRPH)	15 to 4,800	200	Throughout
Arsenic	<1.2 to 7.7	200	None
Barium	22 to 441	100	3 exceedances
Lead	<10 to 1,510	1,000	1 exceedance
Selenium	<0.5 to 0.6	0.5	2 exceedances

EXHIBIT C

Schedule

TIMELINE

Kenmore Industrial Park
Kenmore, Washington

ACTIVITY			CALENDAR DAYS
A	**Entry of Consent Decree**		1 day
	1	DRAFT Remedial Engineering Design Report	180 days
	2	Ecology Review & Issue Remedial Engineering Design Report	60 days
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	5	Preliminary Grading	
		a TESC Measures and Access	20 days
		b Relocate Roofing Debris	30 days
		c Lakepointe Drive	180 days
	6	Cap Construction	
		a Install Piling	120 days
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		c Building Construction	300 days
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TIMELINE

Kenmore Industrial Park
Kenmore, Washington

ACTIVITY			CALENDAR DAYS
C	**Next & Subsequent Phases**		
	1	Development Permits Received for Relevant Phase	1 day
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		c Building Construction	270 days
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		a Complete Utility and Vent Connections	30 days
		b Shoreline Enhancement (if applicable)	60 days
		c Landscaping	30 days
	7	Plan Preparation	
		a DRAFT Compliance Monitoring Plan	20 days
		b DRAFT Operations and Maintenance Plan	10 days
		c Ecology Review & Issue Final Plans	10 days
	8	Certificate of Completion – Current Phase	30 days

EXHIBIT D

Public Participation Plan

DRAFT PUBLIC PARTICIPATION PLAN

KENMORE INDUSTRIAL PARK
KENMORE, WASHINGTON

JUNE 2001

Prepared by
Washington State Department of Ecology,
with input from Kenmore Industrial Park

TABLE OF CONTENTS

LIST OF FIGURES

INTRODUCTION

The purpose of this Public Participation Plan is to assist in promoting public understanding and participation in the Kenmore Industrial Park cleanup. Cleanups conducted under the Washington State Model Toxics Control Act (MTCA) and the regulations that guide site cleanup (Chapter 173-340-WAC), require public notice and encourage public comment and participation. This Public Participation Plan outlines a variety of tools and activities to encourage public involvement in the Kenmore Industrial Park cleanup. While certain aspects of the Public Participation Plan are prescribed by regulation, the intent is to customize the approach to meet the specific community information needs.

This Public Participation Plan complies with MTCA and the MTCA regulations. The following sections provide a brief description of the site background and community profile and outline the public involvement tools and activities for the Kenmore Industrial Park.

This plan covers activities at the site for the State Remedial Investigation/Feasibility Study (RI/FS), Cleanup Action Plan, Consent Decree and State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) for the cleanup. SEPA compliance for the redevelopment is covered by the Northshore Community Plan Environmental Impact Statement (EIS), adopted in 1993, and the Lakepointe Mixed Use Master Plan Supplemental EIS, dated July 14, 1998. Pioneer Towing Company, Inc. (Pioneer Towing) and the Washington State Department of Ecology (Ecology) are committed to providing public participation opportunities prior to and during the cleanup of this site. This Plan is intended to promote public understanding of Pioneer Towing's and Ecology's responsibilities, planning activities, and remedial activities at the site. It also provides an opportunity to receive information from the public on a comprehensive cleanup plan to protect human health and the environment. Figure 1 shows the cleanup process and public participation activities, as well as opportunities for public comment.

SITE BACKGROUND

SITE LOCATION AND DESCRIPTION

Kenmore Industrial Park is located southwest of the intersection of Bothell Way NE and 68th Avenue NE in Kenmore, King County, Washington, along the 6500 to 6800 blocks of NE 175th Street (Figure 2). The site comprises approximately 45 acres. The site is located adjacent to and north of the mouth of the Sammamish River and the southwestern portion of the property forms a peninsula that extends into Lake Washington. The site is relatively flat and bordered by road and shoreline embankments.

The site is currently used as an industrial park and is occupied predominantly by a sand and gravel stockpile yard and several smaller storage and light industrial operations. The current owner of the site is Pioneer Towing.

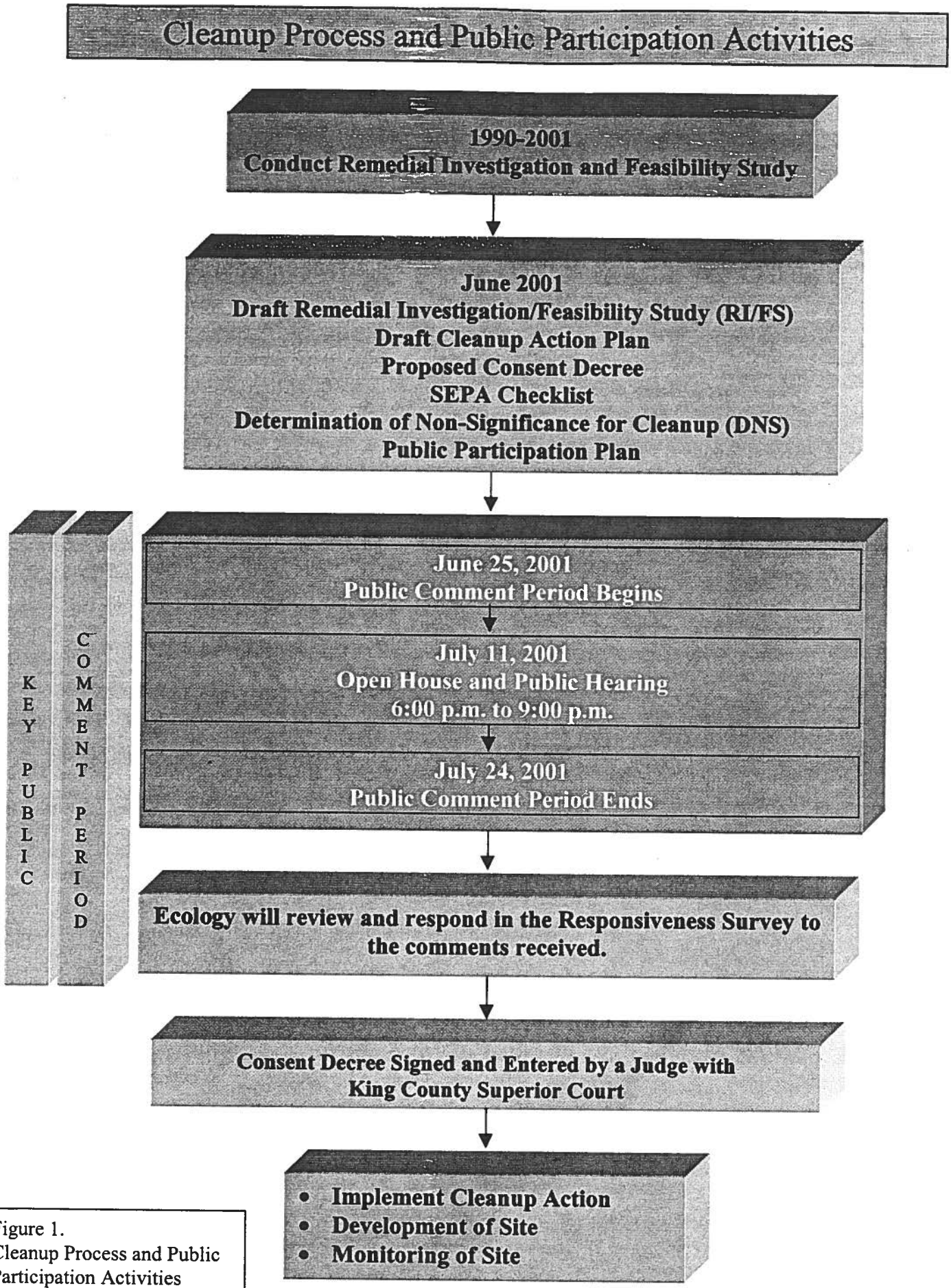

Figure 1.
Cleanup Process and Public Participation Activities

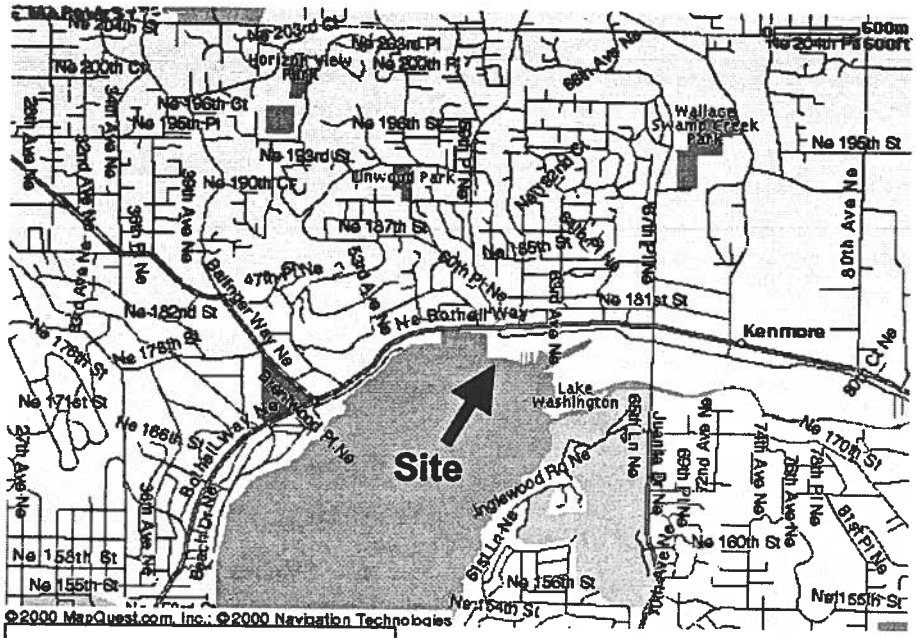

Figure 2. Site Location Map

SITE HISTORY AND HISTORICAL OPERATIONS

At the turn of the 20th century, the southern and western portions of the site comprised a shallow, submerged delta. In 1916, the United States Army Corps of Engineers lowered the lake level. As development progressed at the site, the southern and western portions were subject to reclamation. By 1956, significant filling activities occurred at the north margin of the property. During that time, various fill materials were placed at the site, resulting in a landfilled peninsula elevated above the former deltaic environment. By 1969, the entire property appears to have been filled to its current elevation. Fill records indicate that construction debris were disposed at the site. The fill consisted predominantly of demolition debris, with smaller amounts of concrete and asphalt rubble, and a minor soil matrix. The origin of the fill is reported to be housing demolition debris related to construction of the Interstate I-5. The landfill was eventually graded, covered with soil, and used as an industrial park.

A number of businesses historically operated at the site. Historic operations have included assorted small storage and manufacturing industries, sand and gravel staging and support facilities, and associated offices. In a fenced compound in the north-central portion of the property, a concrete truck fleet was fueled and maintained. Fuels were stored in above ground storage tanks inside the fenced compound. On the western portion of the site, a pond was maintained where excess concrete and concrete truck washwater was collected.

COMMUNITY PROFILE

KENMORE COMMUNITY DESCRIPTION

The site is located in the City of Kenmore. Kenmore, incorporated in August 1998, has a population of about 17,000 and covers an approximately 6-square-mile area within King County, Washington. Upon incorporation, Kenmore became responsible for the review and approval of all building and land use permits within its boundaries. The City Council has given priority to local control of planning and land use decision-making and began accepting new land use permits at Kenmore City Hall in the winter of 1998.

Kenmore has adopted King County development regulations and zoning codes, with minor exceptions, in an effort to provide continuity to the community; however, these regulations may change over time. Similarly, Kenmore negotiated an interlocal agreement with King County Department of Development and Environmental Services in an effort to assure a smooth transition in administration from King County to the City of Kenmore.

Kenmore recently drafted a vision statement to express its community goals and purposes. The preliminary vision statement provides a sense of the Kenmore community as it exists today and how it will likely exist in the future:

> With integrity as its cornerstone, Kenmore is a city that will meet its obligations by providing:
> - Public safety
> - Effective and efficient services
> - A community-generated plan for the future
> - Forums for citizen participation and involvement
> - Fair-friendly service responsive to the diverse needs of the citizens
> - Representation of Kenmore's interests in local and regional partnerships

> ... leaving a sustainable legacy.[1]

[1] City of Kenmore, http://www.cityofkenmore.com/, June 12, 2001.

KEY COMMUNITY CONCERNS

Overall, the community is supportive of the property being cleaned up and redeveloped. Community input into the proposed redevelopment and cleanup has come primarily through the efforts of the Lakepointe Citizens' Advisory Task Force. The Lakepointe Citizens' Advisory Task Force functioned for over three years and in the course of its work consulted on issues related to site cleanup and development of the project's Master Plan, Commercial Site Development Permit Application, and Shoreline Substantial Development Permit Application. The work of the Task Force involved continuing, substantive input from the very beginning of the cleanup process by a highly diverse group of local residents and representatives from the many community interests drawn from those geographic areas potentially effected by the cleanup and redevelopment. Ecology was active in the public participation process by presenting information, providing materials, and answering questions regarding the process and procedures applicable to the site cleanup. The Task Force meetings were open to the public and broadly advertised. Public comment was solicited at the beginning of each meeting, and public questions and comments were encouraged during most meetings. Although some concerns have been raised about traffic congestion associated with the redevelopment, in the course of a close collaboration with the development team, King County, and other interested groups, a broad consensus among the members developed a broad outline of the project as reflected in the Master Plan and the various permit applications. The consensus included confidence that the project would be built on the site in a manner protective of human health and the environment.

SITE CLEANUP AND REDEVELOPMENT

The cleanup action will be fully integrated with and will occur at the same time as the proposed redevelopment of the site. The objectives of the cleanup action are to prevent human contact with contaminants in the landfilled demolition debris and to prevent the migration of contaminants above levels of concern to surrounding surface waters. Contaminants that pose concern at the site include certain metals (lead, arsenic, barium, and selenium) and certain petroleum hydrocarbons.

CLEANUP ACTION PLAN

The proposed cleanup action includes: placement of soil cover, construction of site structures that form an engineered cap over a portion of the upland area of the property, long-term monitoring of groundwater, and implementation of measures to limit and/or prohibit activities that may interfere with the integrity of the cleanup or result in exposure to contaminants at the site. The proposed Cleanup Action Plan will be implemented in phases in conjunction with redevelopment and include the following tasks:

- Soil cover;
- Design of the redevelopment structures that will form an engineered cap over portions of the upland area of the property;
- Construction of the redevelopment structures that form the engineered cap;

- Implementation of physical measures in areas not yet redeveloped and in areas not currently under construction to limit access and potential exposure to landfilled debris at the site;
- Implementation of site modifications outside the engineered cap that reflect habitat preservation and enhancement goals;
- Implementation of worker health and safety plans and required property notices; and
- Monitoring of groundwater.

If the site remains in industrial use, deed notices, access controls, erosion controls, and groundwater monitoring appropriate for continued industrial uses will constitute the proposed cleanup action.

SITE REDEVELOPMENT

Site redevelopment will occur in conjunction with, and form an integral part of, the cleanup action. The proposed redevelopment will provide mixed commercial and residential uses, and may include phased development of residential units, professional office space, retail and commercial space, a marina with recreational boat slips, parking stalls, and construction of a new public street connecting NE Bothell Way and 68th Avenue NE. Open space on the site will include natural open space, public park areas, pedestrian walkways and trails, and possibly a public amphitheater. The open space areas on the site will also provide public access and viewpoints to Lake Washington and the Sammamish River.

ESTIMATED CLEANUP SCHEDULE

The schedule for cleanup will run concurrently with and be based on the schedule for site redevelopment. An estimated timeline for phases of the site cleanup and development is set out in the Cleanup Action Plan.

This estimated timeline might be modified during the course of redevelopment.

PUBLIC PARTICIPATION ACTIVITIES AND RESPONSIBILITIES

The purpose of this Public Participation Plan is to promote public understanding and participation in the Model Toxics Control Act (MTCA) cleanup planned for this site. This section of the Plan addresses how Ecology and Pioneer Towing will share information and receive public comments and community input on the site cleanup. Ecology, working with Pioneer Towing, retains lead responsibility for these activities.

PUBLIC INVOLVEMENT TOOLS

Ecology uses a variety of tools that are aimed at facilitating public participation in the planning and cleanup of MTCA sites. The following is a list of these tools, their purposes, and when and how they will be used during this site cleanup.

Formal Public Comment Period

For the Kenmore Industrial Park a thirty-day comment period will be held from June 25 to July 24, 2001. During this time, the community will have the opportunity to provide written comments on drafts of the Remedial Investigation/Feasibility Study (RI/FS), Consent Decree, Cleanup Action Plan, SEPA checklist and DNS, and this Public Participation Plan.

Public Hearing

In addition, a public hearing will be held at the Northshore Utility District Building, 6830 NE 185th Street, Kenmore, on the evening of July 11, 2001, from 7:00 – 9:00 PM, with an open house from 6:00 – 7:00 PM. At this hearing, Ecology and Pioneer Towing will communicate with the public directly, discuss the proposed cleanup actions, respond to questions and concerns about the proposed cleanup actions, and accept formal verbal comments.

Responsiveness Summary

After the public comment period, Ecology will review and respond to any comments received, both verbal and written, in a responsiveness summary. Ecology will consider changes or revisions based on input from the public. If significant changes are recommended, then a second comment period will be held. If no significant changes are recommended, then the Consent Decree will be finalized and recorded in Washington State Superior Court and preparation of the Cleanup Engineering Design report will begin. A copy of the responsiveness summary will be sent to all people who submitted comments, and it also will be made available at the Information Repositories listed below with the other site documents.

Information Repositories

During the comment period, the site documents will be available for review at information repositories. These documents will remain at the repositories for the entire duration of the cleanup. Ecology also can make copies of documents for a fee.

For the Kenmore Industrial Park cleanup, the information repositories are:

Kenmore Public Library 18138 73rd NE Kenmore, WA (425) 486-8747 Monday and Wednesday 11:00 AM – 9:00 PM Thursday, Friday, and Saturday 11:00 AM – 5:00 PM	Lake Forest Park Public Library Lake Forest Park Towne Centre 17171 Bothell Way NE Seattle, WA (206) 362-8860 Monday – Friday 11:00 AM – 9:00 PM Saturday 11:00 AM – 6:00 PM	Washington State Department of Ecology Northwest Regional Office 3190 160th Avenue SE Bellevue, WA 98008 Call Sally Perkins for an appointment: Phone: (425) 649-7190 Fax: (425) 649-4450 E-mail: perk461@ecy.wa.gov Monday – Thursday 8:00 AM – 12:00 PM and 1:00 – 4:00 PM

Site information will also be posted on the Ecology web site at:
http://www.ecy.wa.gov/programs/tcp/cleanup.html

Documents available for public review at these repositories will include drafts of the RI/FS, Consent Decree, Cleanup Action Plan, SEPA checklist, DNS, and this Public Participation Plan.

Site Register

One of the primary communication tools of Ecology's Toxics Cleanup Program is the Site Register. All public meetings and comment periods as well as many other activities are published in this bimonthly report. The public comment period for the site will be announced in the Site Register on June 26, 2001. To receive the Site Register, contact Sherrie Minnick at (360) 407-7200 or shan461@ecy.wa.gov.

Mailing List

Ecology, with Pioneer Towing, will jointly compile a mailing list for the site. The list will include individuals, groups, public agencies, elected officials, and private businesses and industries that request site-related mailings, potentially affected parties, as well as other known interested parties. The list will be maintained at Ecology's Northwest Regional Office and will be updated as needed.

Fact Sheet

A fact sheet is a site-specific newsletter-like publication that is mailed to potentially affected parties, as well as interested persons, businesses and government agencies in and around affected communities. The fact sheet is used to inform them of public comment periods and important site activities. A fact sheet may also be used to informally update the community regarding progress of the site cleanup.

For this site, a fact sheet was prepared and mailed out to announce the formal comment period, public hearing and availability of site documents to be reviewed. Future fact sheets will be prepared as appropriate to periodically update the community on the progress of the site cleanup.

Display Ad

The paid display ad for the site to announce the comment period and public hearing will be placed in the *Seattle Times*, the *Northlake News*, and the *Northshore Citizen*.

PLAN UPDATE

This Public Participation Plan may be updated as the project proceeds. If an update is necessary the revised plan will be submitted to the public for comment.

PUBLIC POINTS OF CONTACT

Ching-Pi Wang, Site Manager
Washington State Department of Ecology
3190 160th Avenue SE
Bellevue, WA 98008
(425) 649-7134
cwan461@ecy.wa.gov

Rebekah Padgett
Public Involvement
Washington State Department of Ecology
3190 160th Avenue SE
Bellevue, WA 98008
(425) 649-7257
rpad461@ecy.wa.gov

Gary Sergeant
Pioneer Towing Company, Inc.
P.O. Box 82298
Kenmore, WA 98028
(425) 486-2756

GLOSSARY

Cleanup: Actions taken to deal with a release, or threatened release of hazardous substances that could affect public health and/or the environment. The term "cleanup" is often used broadly to describe various response actions or phases of remedial responses such as the remedial investigation/feasibility study.

Cleanup Action Plan (CAP): A document that explains which cleanup alternative(s) will be used at sites for the cleanup. The Cleanup Action Plan is based on information and technical analysis generated during the remedial investigation/feasibility study and consideration of public comments and community concerns.

Comment Period: A time period during which the public can review and comment on various documents and Ecology or EPA actions. For example, a comment period is provided to allow community members to review and comment on proposed cleanup action alternatives and proposed plans. Also, a comment period is held to allow community members to review and comment on draft feasibility studies.

Consent Decree: A formal legal document, approved and issued by a court which formalizes an agreement reached between the state (and EPA if involved) and the potentially liable person(s) (PLPs) on what will take place during the Remedial Investigation/Feasibility Study and/or cleanup action. A Consent Decree is similar to an Agreed Order except that a Consent Decree goes through the courts. Consent Decrees are subject to public comment. If a decree is substantially changed, an additional comment period is provided.

Feasibility Study (FS): See Remedial Investigation/Feasibility Study.

Groundwater: Water found beneath the earth's surface that fills pores between materials such as sand, soil, or gravel. In some aquifers, ground water occurs in sufficient quantities that it can be used for drinking water, irrigation and other purposes.

Information Repository: A file containing current information, technical reports, and reference documents available for public review. The information repository is usually located in a public building that is convenient for local residents such as a public school, city hall, or library.

Model Toxics Control Act (MTCA): Legislation passed by the State of Washington in 1988. Its purpose is to identify, investigate, and clean up facilities where hazardous substances have been released. It defines the role of Ecology and encourages public involvement in the decision making process. MTCA regulations became effective March 1, 1989 and are administered by the Washington State Department of Ecology.

Public Participation Plan: A plan prepared to encourage coordinated and effective public involvement designed to the public's needs at a particular site.

Remedial Investigation/Feasibility Study: Two distinct but related studies. They are usually performed at the same time, and together referred to as the "RI/FS." They are intended to:

- Gather the data necessary to determine the type and extent of contamination;
- Establish criteria for cleaning up the site;
- Identify and screen cleanup alternatives for remedial action; and
- Analyze in detail the technology and costs of the alternatives.

Responsiveness Summary: A summary of oral and/or written public comments received by Ecology during a comment period on key documents, and Ecology's responses to those comments. The responsiveness summary is especially valuable during the Cleanup Action Plan phase at a site when it highlights community concerns.

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EXHIBIT E

Site Legal Description

SITE LEGAL DESCRIPTION

The Site is Parcels A, B, and D as described below:

Parcel A:
That portion of government Lots 1 and 2 in Section 11, Township 26 North, Range 4 East W.M., and of second class shore lands adjoining lying southerly of a 40 foot county road as conveyed by deeds recorded under recording Nos. 2964553 and 3904751 which adjoins the southerly line of the Northern Pacific Railway right-of-way and lying northerly of a line as described in deed dated October 26, 1959, filed December 17, 1959, under recording No. 5113469, and lying easterly and southerly of the following described line:
Beginning at the intersection of the southerly line of said 40 foot county road with a line drawn parallel to and 207.00 feet east of the line between said government Lots 1 and 2 (said distance being measured at right angles to said line);
Thence south 01E35'06" west, along said parallel line, 307.69 feet; thence south 59E50'29" west 968.85 feet to the northeasterly angle point on the inner harbor line of Lake Washington as shown on sheet No. 2 of plat of Lake Washington shore lands of September 19, 1921 (the courses in the above description being referred to the meridian used in said shore land plat);
Except the east 30 feet thereof deeded to King County for 68th Avenue N.E.;
And except that portion thereof lying north and east of a line described as follows:
Beginning at the intersection of the southerly line of said 40 foot county road with the west line of the Juanita Highway (68th Avenue N.E.);
Thence south, along said highway line, 608.75 feet to the southeast corner of a tract described under recording No. 7902271005;
Thence west, at right angles to said highway, 349.41 feet to the southwest corner of said tract;
Thence north, parallel to said highway, 192.77 feet, more or less, to a point 400 feet south of said 40 foot road known at point "A" of said tract;
Thence westerly 58.17 feet, more or less, to a point 305 feet west of the west line of said highway;
Thence north 192.91 feet, more or less, to the south margin of N.E. 175th Street as conveyed to King County by instrument recorded under recording No. 5429742;
Thence northwesterly along said south margin on a curve to the right having a radius of 111.48 feet, the radial center of which bears north of 05E41'49" east, through a central angle of 29E17'40" an arc distance of 159.26 feet to the southeast corner of that tract of land conveyed to the municipality of Metropolitan Seattle by instrument recorded under recording No. 5671305;
Thence north 87E28'06" west along the south line of said tract 290.00 feet to the southeast corner of said Metro tract;
Thence north 02E33'43" east along (the west line of said Metro tract 175.25 feet to a point on the southerly margin of said 40 foot road and the end of said line;
And except any portion thereof lying northerly of the southerly margin of N.E. 175th Street as conveyed to King County by deed recorded under recording No. 5429742;
And except that portion conveyed to Custom Industries by deeds recorded under recording Nos. 7609200436 and 7707140957, described as follows:
That portion of said government Lot 1:
Beginning at the intersection of the westerly margin of 68th Avenue N.E., with the southerly margin of the Northern Pacific Railroad right-of-way;

Thence south 02E33'43" west along said westerly margin 470.00 feet to the true point of beginning of said exception;
Thence continuing south 02E33'43" west 143.69 feet;
Thence north 87E26'17" west at right angles to said margin 235.00 feet;
Thence north 02E33'43" east 157.00 feet;
Thence north 87E26'17" west 70.00 feet to a point hereinafter referred to as point "A";
Thence north 02E33'43" east 40.0 feet;
Thence south 87E26'17" east 100.00 feet;
Thence north 02E33'43" east 96.69 feet;
Thence south 87E26'17" east 60.00 feet;
Thence south 02E33'43" west 150.00 feet;
Thence south 87E26'17" east 145 feet, more or less, to the true point of beginning of said exception; Situate in the County of King, State of Washington.

Parcel B:

That portion of government Lots 1 and 2 in Section 11, Township 26 North, Range 4 East W.M. and second class shore lands, as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon, described as follows:
Beginning at the intersection of the east line of the west 1,030 feet of said government Lot 2 with the south line of a 40 foot road adjoining the Northern Pacific Railway right-of-way on the south as conveyed by deeds recorded under recording No. 2964553 and 3904751;
Thence easterly along said road line to an intersection with a line parallel to and 480 feet (measured at right angles to the line between said government Lots 1 and 2) east of the line of the west 1,030 feet of said government Lot 2;
Thence south along said parallel line 300 feet;
Thence approximately south 59E00'00" west 980 feet, more or less, to an angle point on the inner harbor line of Lake Washington;
Thence north 83E00'00" west along said harbor line of Lake Washington, 160 feet, more or less, to an intersection with the center line of dredged channel leading from Lake Washington into said government Lot 2;
Thence northeasterly along said center line of said channel to an intersection with said east line of west 1,030 feet of said government Lot 2, produced;
Thence north to the point of beginning;
And that portion of the east 100 feet of the west 980 feet of government Lot 2 in said Section 11, and the second glass shore lands as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon bounded on the north by the south line of 40 foot road adjacent to and south of the Northern Pacific Railroad right-of-way crossing said government Lot; and bounded on the south by the north line of dredged channel leading from Lake Washington into said government Lot 2;
And that portion of the bed of said dredged channel between the center line thereof and the north line thereof and between the side lines of said east 100 feet as above described;
Except therefrom the following described portion:
Beginning at a point on the west line of said east 100 feet of the west 980 feet of government Lot 2, 385 feet south of the northwest corner thereof;
Thence easterly, 25 feet;

Thence southerly 50 feet;
Thence westerly 28 feet;
Thence northerly 65 feet to the point of beginning;
And that portion of the east 50 feet of the west 1,030 feet of government Lot 2 in said Section 11 and the second class shore lands as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon, bounded on the north by the south line of 40 foot road adjacent to and south of the Northern Pacific Railroad right-of-way crossing said government Lot and bounded on the south by the north line of dredged channel leading from Lake Washington into said government Lot 2;
And that portion of the bed of said dredged channel between the center line thereof and the north line thereof, and between the side lines of said east 50 feet as above described;
Except _____ [**INSERT METES AND BOUNDS OF THE PORTION OF PARCEL B TO BE EXCEPTED**];
Situate in the county of King, state of Washington,

Parcel D:
That portion of the northwest ¼ of Section 11, Township 26 North, Range 4 East W.M., described as follows:
Beginning at a tack in lead monument at the intersection of the centerline of N.E. 175th Street and 68th Avenue N.E., said point being on the east line of the northeast ¼ of said Section 11 which is south 02E33'43" west 1797.24 feet from the northeast corner thereof;
Thence continuing along said east line and road centerline south 02E33'43" west 119.82 feet;
Thence north 87E26'17" west 30.00 feet to a point of the westerly margin of said 68th Avenue N.E. which is 320 feet southerly, as measured along said margin, from its intersection with the southerly margin of the Northern Pacific Railroad right-of-way;
Thence continuing north 87E26'17" west 145.00 feet to the true point of beginning;
Thence south 02E33'43" west 150.00 feet;
Thence south 87E26'17" east 145.00 feet to the westerly margin of said 68th Avenue N.E.;
Thence south 02E33'43" west along said margin 138.75 feet;
Thence north 87E35'56" west 248.41 feet;
Thence north 03E01'58" east 192.77 feet to a point hereinafter referred to as point "A";
Thence south 87E26'17" east 41.83 feet;
Thence north 02E33'43" east 96.69 feet;
Thence south 87E26'17" east 60.00 feet to the true point of beginning;
Situate in the county of King, state of Washington.

EXHIBIT F

Restrictive Covenant

RESTRICTIVE COVENANT

KENMORE INDUSTRIAL PARK
N.E. BOTHELL WAY AND JUANITA DRIVE N.E.
KENMORE, WASHINGTON

This Restrictive Covenant is made pursuant to RCW 70.105D.030(l)(f) and (g) and WAC 173-340-440 by the Pioneer Towing Company Inc.

A remedial action (hereafter "Remedial Action") is to be conducted on the property that is the subject of this Restrictive Covenant. The Remedial Action includes cleanup actions appropriate for mixed residential/commercial use of the property (hereafter the "Residential/Commercial Remedial Action") and/or cleanup actions appropriate for continued industrial use of the property (hereafter the "Continued Industrial Use Remedial Action"). The Residential/Commercial Remedial Action and the alternative Continued Industrial Use Remedial Action are both described in (1) the Cleanup Action Plan for Kenmore Industrial Park ("CAP"), dated ____ 2001 and (2) Consent Decree No. _____, entered as of _____. The CAP and the Consent Decree are on file at Ecology's Northwest Regional Office located at 3190 160th Avenue S.E. Bellevue, Washington.

This Restrictive Covenant is required because residual concentrations of lead, arsenic, barium, selenium, and petroleum hydrocarbons remain in soil and/or groundwater below the subsurface of the property in concentrations that exceed Washington Department of Ecology ("Ecology") residential cleanup standards. This Restrictive Covenant is also required because a conditional point of compliance has been established for groundwater.

The undersigned, Pioneer Towing Company, Inc. ("Owner"), is the fee owner of real property (hereafter "Property") in the County of King, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described in Attachment A of this Restrictive Covenant and made a part hereof by reference.

The following covenants, conditions, and restrictions apply to the use of the Property. They are intended to run with the land, and be binding on the Owner and its successors and assigns.

Section 1. **Activity Prohibitions**. The Owner shall prohibit activities on the Property that (a) interfere with either the Remedial Action or other measures to assure the integrity of the cleanup action and continued protection of human health and the environment or (b) may result in the release of a hazardous substance which was contained as a part of the cleanup. Pursuant to this requirement, the Owner of the Property shall not take any action that will reduce the integrity of the soil cover or the impervious surface cap without Ecology approval; provided, however, that the completion of maintenance or construction activities at the Property that will include the replacement of portions of the soil cover or impervious surface cap located at the Property, including the construction of foundations and other structure and the installation or maintenance of dry utility, gas, stormwater, water and sewer lines, shall not constitute activities that will

reduce the integrity of the soil cover or impervious surface cap at the Property if performed in accordance with the Ecology approved Health and Safety Plan, Operations and Maintenance Plan, and Engineering Design Report, including the Landfill Gas Design Report, required by the Consent Decree.

Section 2. **Restriction on Use of Groundwater at the Property.** No groundwater may be taken for any use from the Property that is inconsistent with the Remedial Action unless approved by Ecology.

Section 3. **Conveyance Requirement.** No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Property shall be consummated without provision for continued operation and maintenance of any containment system, treatment system, or monitoring system and for continued compliance with this restrictive covenant. Owner shall notify Ecology at least thirty (30) days prior to any transfer of a fee interest in the Property, excluding any transfers of a fee interest in a condominium unit, a lease or rental of an apartment unit, or a commercial lease of less than 50,000 square feet.

Section 4. **Lease Restriction**. The Owner shall restrict leases to uses and activities consistent with this restrictive covenant and notify lessees of the restrictions on the use of the Property.

Section 5. **Inconsistent Use Requirement**. The Owner shall notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve of an inconsistent use only after public notice and opportunity for comment; however, Ecology's approval shall not be unreasonably withheld.

Section 6. **Access**. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times, and after advance notice from Ecology, for the purposes of inspecting records related to the Remedial Action, reviewing the progress of remedial actions conducted at the Property, conducting tests and collecting samples, and verifying data submitted to Ecology. However, Ecology need only provide advance notice if feasible.

Section 7. **Allowed Residential and Commercial Uses**. The Residential/Commercial Use Remedial Action contemplates and is to be carried out in conjunction with and as part of redevelopment of the Property as a mixed use property. Following implementation of the Residential/Commercial Use Remedial Action for each phase, residential and commercial uses of that portion of the Property consistent with the terms of this Restrictive Covenant shall be permitted. If the Continued Industrial Use Remedial Action alternative is implemented for all or a portion of the Property, only industrial property uses and support facilities (e.g., facilities such as offices or restaurants that are commercial in nature but are primarily devoted to administrative functions necessary for the industrial use and/or are primarily intended to serve the industrial facility employees and not the general public) as described under WAC 173-340-200 and WAC 173-340-745(b)(i), and/or property uses approved by Ecology, shall be permitted for those portions of the Property where the Continued Industrial Use Remedial Action alternative is implemented.

Section 8. **Reservation of Rights**. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or any portion of the Property or be of any further force or effect. Such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs; however, Ecology's concurrence shall not be unreasonably withheld.

PIONEER TOWING COMPANY, INC.

By _____
Its _____
Dated this ___ day of _____, 2000

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ___ day of _____, 200_, before me personally appeared _____, to me known to be the _____ of _____, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that was authorized to execute the said instrument, and that the seal affixed, if any, is the corporate seal of said corporation.

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

_____
(Signature)

_____
(Please print name legibly)

NOTARY PUBLIC in and for the State of Washington, residing at

_____.
My commission expires: _____.

RECEIPT OF THIS RESTRICTIVE COVENANT IS HEREBY ACKNOWLEDGED.

Executed this _____ day of _____, 1997.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

By _____

(Printed name) _____

Title _____

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Attachment A
Property Legal Description

SITE LEGAL DESCRIPTION

The Site is Parcels A, B, and D as described below:

Parcel A:
That portion of government Lots 1 and 2 in Section 11, Township 26 North, Range 4 East W.M., and of second class shore lands adjoining lying southerly of a 40 foot county road as conveyed by deeds recorded under recording Nos. 2964553 and 3904751 which adjoins the southerly line of the Northern Pacific Railway right-of-way and lying northerly of a line as described in deed dated October 26, 1959, filed December 17, 1959, under recording No. 5113469, and lying easterly and southerly of the following described line:
Beginning at the intersection of the southerly line of said 40 foot county road with a line drawn parallel to and 207.00 feet east of the line between said government Lots 1 and 2 (said distance being measured at right angles to said line);
Thence south 01E35'06" west, along said parallel line, 307.69 feet; thence south 59E50'29" west 968.85 feet to the northeasterly angle point on the inner harbor line of Lake Washington as shown on sheet No. 2 of plat of Lake Washington shore lands of September 19, 1921 (the courses in the above description being referred to the meridian used in said shore land plat);
Except the east 30 feet thereof deeded to King County for 68th Avenue N.E.;
And except that portion thereof lying north and east of a line described as follows:
Beginning at the intersection of the southerly line of said 40 foot county road with the west line of the Juanita Highway (68th Avenue N.E.);
Thence south, along said highway line, 608.75 feet to the southeast corner of a tract described under recording No. 7902271005;
Thence west, at right angles to said highway, 349.41 feet to the southwest corner of said tract;
Thence north, parallel to said highway, 192.77 feet, more or less, to a point 400 feet south of said 40 foot road known at point "A" of said tract;
Thence westerly 58.17 feet, more or less, to a point 305 feet west of the west line of said highway;
Thence north 192.91 feet, more or less, to the south margin of N.E. 175th Street as conveyed to King County by instrument recorded under recording No. 5429742;
Thence northwesterly along said south margin on a curve to the right having a radius of 111.48 feet, the radial center of which bears north of 05E41'49" east, through a central angle of 29E17'40" an arc distance of 159.26 feet to the southeast corner of that tract of land conveyed to the municipality of Metropolitan Seattle by instrument recorded under recording No. 5671305;
Thence north 87E28'06" west along the south line of said tract 290.00 feet to the southeast corner of said Metro tract;
Thence north 02E33'43" east along (the west line of said Metro tract 175.25 feet to a point on the southerly margin of said 40 foot road and the end of said line;
And except any portion thereof lying northerly of the southerly margin of N.E. 175th Street as conveyed to King County by deed recorded under recording No. 5429742;
And except that portion conveyed to Custom Industries by deeds recorded under recording Nos. 7609200436 and 7707140957, described as follows:
That portion of said government Lot 1:
Beginning at the intersection of the westerly margin of 68th Avenue N.E., with the southerly margin of the Northern Pacific Railroad right-of-way;

Thence south 02E33'43" west along said westerly margin 470.00 feet to the true point of beginning of said exception;
Thence continuing south 02E33'43" west 143.69 feet;
Thence north 87E26'17" west at right angles to said margin 235.00 feet;
Thence north 02E33'43" east 157.00 feet;
Thence north 87E26'17" west 70.00 feet to a point hereinafter referred to as point "A";
Thence north 02E33'43" east 40.0 feet;
Thence south 87E26'17" east 100.00 feet;
Thence north 02E33'43" east 96.69 feet;
Thence south 87E26'17" east 60.00 feet;
Thence south 02E33'43" west 150.00 feet;
Thence south 87E26'17" east 145 feet, more or less, to the true point of beginning of said exception; Situate in the County of King, State of Washington.

Parcel B:

That portion of government Lots 1 and 2 in Section 11, Township 26 North, Range 4 East W.M. and second class shore lands, as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon, described as follows:
Beginning at the intersection of the east line of the west 1,030 feet of said government Lot 2 with the south line of a 40 foot road adjoining the Northern Pacific Railway right-of-way on the south as conveyed by deeds recorded under recording No. 2964553 and 3904751;
Thence easterly along said road line to an intersection with a line parallel to and 480 feet (measured at right angles to the line between said government Lots 1 and 2) east of the line of the west 1,030 feet of said government Lot 2;
Thence south along said parallel line 300 feet;
Thence approximately south 59E00'00" west 980 feet, more or less, to an angle point on the inner harbor line of Lake Washington;
Thence north 83E00'00" west along said harbor line of Lake Washington, 160 feet, more or less, to an intersection with the center line of dredged channel leading from Lake Washington into said government Lot 2;
Thence northeasterly along said center line of said channel to an intersection with said east line of west 1,030 feet of said government Lot 2, produced;
Thence north to the point of beginning;
And that portion of the east 100 feet of the west 980 feet of government Lot 2 in said Section 11, and the second glass shore lands as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon bounded on the north by the south line of 40 foot road adjacent to and south of the Northern Pacific Railroad right-of-way crossing said government Lot; and bounded on the south by the north line of dredged channel leading from Lake Washington into said government Lot 2;
And that portion of the bed of said dredged channel between the center line thereof and the north line thereof and between the side lines of said east 100 feet as above described;
Except therefrom the following described portion:
Beginning at a point on the west line of said east 100 feet of the west 980 feet of government Lot 2, 385 feet south of the northwest corner thereof;
Thence easterly, 25 feet;

Thence southerly 50 feet;
Thence westerly 28 feet;
Thence northerly 65 feet to the point of beginning;
And that portion of the east 50 feet of the west 1,030 feet of government Lot 2 in said Section 11 and the second class shore lands as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon, bounded on the north by the south line of 40 foot road adjacent to and south of the Northern Pacific Railroad right-of-way crossing said government Lot and bounded on the south by the north line of dredged channel leading from Lake Washington into said government Lot 2;
And that portion of the bed of said dredged channel between the center line thereof and the north line thereof, and between the side lines of said east 50 feet as above described;
Except _____ [**INSERT METES AND BOUNDS OF THE PORTION OF PARCEL B TO BE EXCEPTED**];
Situate in the county of King, state of Washington,

Parcel D:
That portion of the northwest ¼ of Section 11, Township 26 North, Range 4 East W.M., described as follows:
Beginning at a tack in lead monument at the intersection of the centerline of N.E. 175th Street and 68th Avenue N.E., said point being on the east line of the northeast ¼ of said Section 11 which is south 02E33'43" west 1797.24 feet from the northeast corner thereof;
Thence continuing along said east line and road centerline south 02E33'43" west 119.82 feet;
Thence north 87E26'17" west 30.00 feet to a point of the westerly margin of said 68th Avenue N.E. which is 320 feet southerly, as measured along said margin, from its intersection with the southerly margin of the Northern Pacific Railroad right-of-way;
Thence continuing north 87E26'17" west 145.00 feet to the true point of beginning;
Thence south 02E33'43" west 150.00 feet;
Thence south 87E26'17" east 145.00 feet to the westerly margin of said 68th Avenue N.E.;
Thence south 02E33'43" west along said margin 138.75 feet;
Thence north 87E35'56" west 248.41 feet;
Thence north 03E01'58" east 192.77 feet to a point hereinafter referred to as point "A";
Thence south 87E26'17" east 41.83 feet;
Thence north 02E33'43" east 96.69 feet;
Thence south 87E26'17" east 60.00 feet to the true point of beginning;
Situate in the county of King, state of Washington.

EXHIBIT G

Substantive Requirements For Exempt Permits And Approvals

SUBSTANTIVE REQUIREMENTS FOR EXEMPT LAWS AND LOCAL PERMITS TABLE (Cont.)

STATUTE, REGULATION, OR ORDINANCE	STATE OR LOCAL GOVERNMENTAL AUTHORITY	SUBSTANTIVE REQUIREMENTS INCLUDE:
City of Kenmore Building Permits	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 16.04 (building and fencing permits)
City of Kenmore Road Standards Variance	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 14.42 (road standards and variances)
City of Kenmore Right-of-Way Use Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 14.28 (right of way use permits)
City of Kenmore Fire System Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 17 (fire systems)
City of Kenmore Noise Variance	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore relating to noise levels and times for construction as found in: • KCC Title 12
City of Kenmore Boundary Line Adjustment, Short Plat, and Binding Site Plan	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 19A
City of Kenmore Utilities in Right-of-Way Construction Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 14.44

SUBSTANTIVE REQUIREMENTS FOR EXEMPT LAWS AND LOCAL PERMITS TABLE (Cont.)

STATUTE, REGULATION, OR ORDINANCE	STATE OR LOCAL GOVERNMENTAL AUTHORITY	SUBSTANTIVE REQUIREMENTS INCLUDE:
City of Kenmore Side Sewer Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 13.04
City of Kenmore Sewer Disposal System Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 13.08
King County Board of Health Code Methane Control Plan Approval	King County Department of Health	Applicable and/or potentially applicable substantive requirements of King County Board of Health Code as found in: • King County Board of Health Code 10.76.020 (construction standards for methane control)

Notes:

1. The City of Kenmore has adopted King County Code (KCC) provisions subject to certain modifications. The City plans to codify its own development provisions some time in 2001.

2. The Commercial Site Development Permit (CSDP) and Shoreline Substantial Development Permit (SSDP) issued for the site redevelopment may address and/or stand in lieu of listed permit/approval requirements. However, the substantive requirements of the King County Code as adopted by the City of Kenmore supercede specific conditions in these permits. Therefore, implementation of the Cleanup Action Plan in conformance with the applicable substantive code standards may not comply with all of the conditions identified in the CSDP and/or SSDP.

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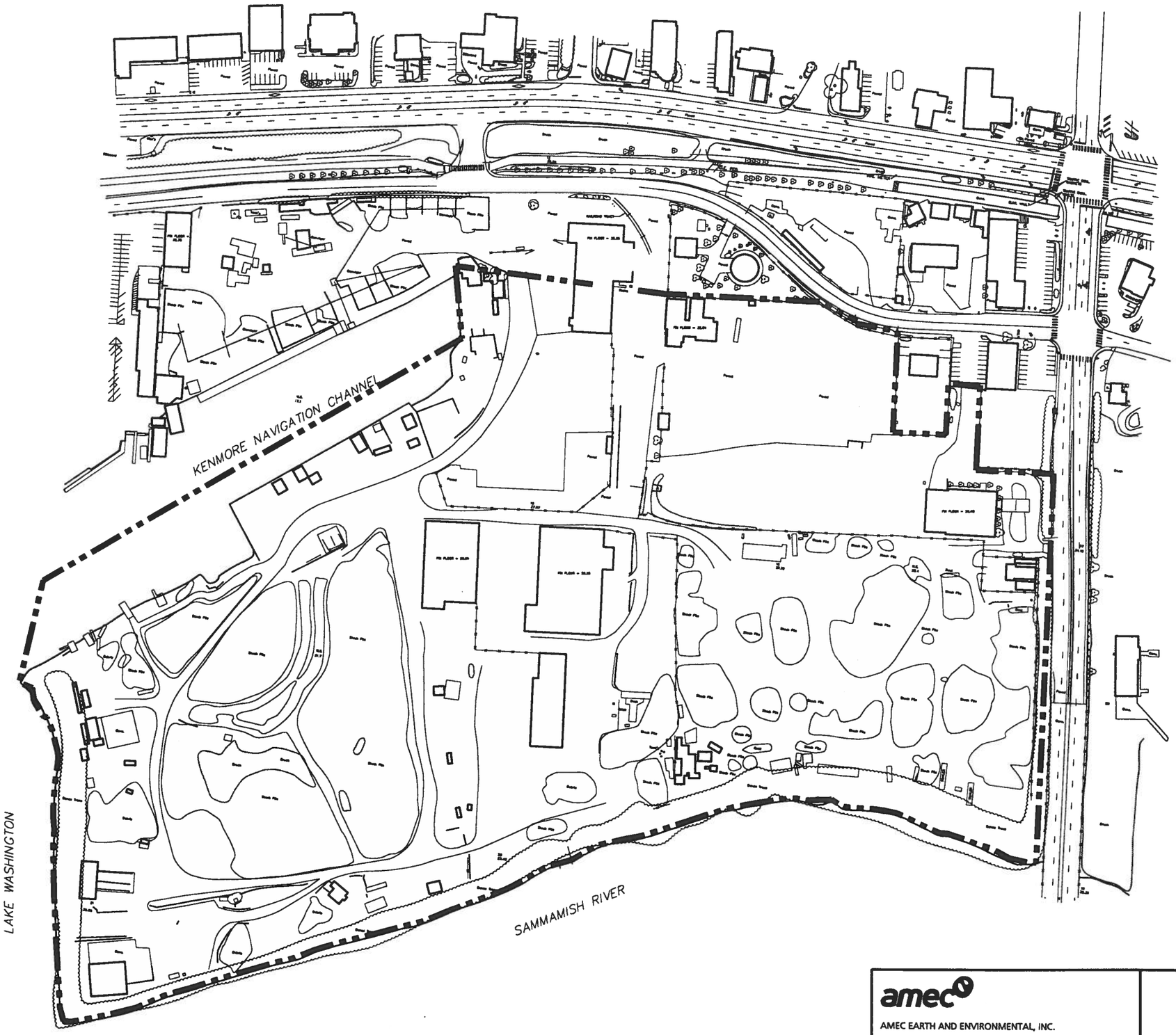

LEGEND

SITE BOUDARY

0 200 400

SCALE IN FEET

amec

AMEC EARTH AND ENVIRONMENTAL, INC.
11335 N.E. 122nd Way, Suite 100
Kirkland, WA, U.S.A. 98034-6918

SITE MAP

KENMORE INDUSTRIAL PARK

KING COUNTY, WASHINGTON

FIGURE

4

EXHIBIT B

Cleanup Action Plan

DRAFT

CLEANUP ACTION PLAN
KENMORE INDUSTRIAL PARK
N.E. BOTHELL WAY AND JUANITA DRIVE N.E.
KENMORE, WASHINGTON

June 2001

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DRAFT CLEANUP ACTION PLAN
KENMORE INDUSTRIAL PARK
N.E. BOTHELL WAY & 68TH AVENUE N.E.
KENMORE, WASHINGTON

1. INTRODUCTION

This Cleanup Action Plan (CAP) for the Kenmore Industrial Park was prepared in accordance with Washington Administrative Code (WAC) 173-340-360 and WAC 173-340-400 Model Toxics Control Act (MTCA) requirements for draft cleanup action plans.

2. SUMMARY

The site is located north of and adjacent to the mouth of the Sammamish River on an approximately 45-acre property. The property was used in the past as a demolition landfill between the late 1950s and early 1960s. An estimated 800,000 cubic yards of demolition debris underlie the southern two-thirds of the site. The demolition debris area is covered by an estimated 200,000 cubic yards (over 1 foot) of mineral soil cover. The property is currently industrial, but is slated for mixed-use redevelopment, including residential use.

The cleanup action will be implemented in conjunction with proposed redevelopment. The objectives of the cleanup action as described in the RI/FS are to prevent human contact with Contaminants of Concern (COCs) in the landfilled demolition debris and to reduce rainfall infiltration that might otherwise mobilize COCs above levels of concern to surrounding surface waters. The proposed cleanup action includes construction of an engineered cap on a portion of the upland area of the property, implementation of institutional controls, and performance of long-term groundwater monitoring at the points of compliance. The following presents a summary of the key elements of the Cleanup Action:

- Construction of an engineered cap will be phased with planned redevelopment such that the proposed new structures for the development will be designed as an engineered cap. The area between the proposed building footprint and the perimeter fire lane will also be covered with an engineered cap.

- Design and implementation of site modifications outside the engineered cap, between the proposed fire lane and the shoreline, will balance preservation and enhancement goals for natural habitat, public access, and stormwater swale functions.

- Surface deposits of roofing debris will be moved from the southern shoreline to the site interior and capped.

- Landfill gas and natural methane gas management will be implemented in conjunction with cap construction.

- The following institutional controls will be implemented in conjunction with site cleanup: filing a notice on the property deed to notify future owners of the presence of COCs under the property; recording of a restrictive covenant to limit inconsistent site uses, ensure that remedial measures are maintained, and prevent use of groundwater at the site; and preparation of a health and safety plan to address protective requirements for workers. Areas under construction and awaiting redevelopment will have access and erosion controls.

- Health and safety monitoring will be performed during construction activities.

- Groundwater performance and compliance monitoring will be performed during and after construction to verify that contaminants of concern meet cleanup standards at the conditional point of compliance.

If redevelopment is initiated, but is not completed to allow for commercial/residential use of the entire site, appropriate access restrictions and erosion controls will be implemented for the portions of the site that remain industrial. If the entire site remains industrial, deed notices, access restrictions, erosion controls and groundwater monitoring appropriate for continued industrial use and provided for in this Plan will be implemented as the cleanup action.

3. LOCATION AND FACILITY BACKGROUND

Kenmore Industrial Park is located southwest of the intersection of Bothell Way N.E. and 68th Avenue N.E. in Kenmore, King County, Washington, along the 6500 to 6800 blocks of N.E. 175th Street. The site comprises approximately 45 acres and its location is indicated on Figure 1, the Location Map. The southwestern portion of this property forms a peninsula that extends into Lake Washington. The site is currently utilized as an industrial park predominantly occupied by a sand and gravel stockpile yard, and several smaller storage and light industrial operations. The current owner is Pioneer Towing Company, Inc.

4. SUMMARY OF CLEANUP ALTERNATIVES

Based upon the RI, the following contaminants of concern (COC) were selected for evaluation in the FS: diesel- and oil-range petroleum hydrocarbons (DRPH, ORPH), arsenic, barium, lead and selenium in soil, and DRPH, ORPH, arsenic, barium, and lead in groundwater. These substances are randomly distributed within soils in the landfilled portion of the site. The affected media are soil, groundwater and surface water.

Five process options were developed in the FS: no action, institutional controls, groundwater monitoring, containment by engineered containment cap, and containment by permeable groundwater barrier. Various combinations of these process options were evaluated and developed into four viable cleanup action alternatives:

Alternative 1 - No Action
Alternative 2 - Institutional Controls and Monitoring
Alternative 3 - Engineered Low Permeability Cap across a Portion of the Site
Alternative 4 - Engineered Impermeable Cap with Permeable Groundwater Barrier

All these alternatives, except no action, include institutional controls and compliance monitoring.

In accordance with MTCA, each alternative was reviewed with respect to the following: protection of human health and the environment, compliance with cleanup standards, compliance with applicable state and federal laws, provision for compliance monitoring, short-term effectiveness, long-term effectiveness, permanent reduction of toxicity, mobility, and volume, ability to implement, cost, and provision for a reasonable restoration schedule.

Alternative 3 was selected in the FS process because it is protective of human health and the environment; is readily implementable in conjunction with property development; has a relatively low cost; will not exacerbate oxygen reducing conditions in groundwater at the site; is compatible with landfill gas management and surface water management; is compatible with proposed site redevelopment plans; and poses minimal impact to shoreline habitats.

4.1. Alternative 1 - No Remedial Action

Under the No Action alternative, site development would proceed without any required remedial action. Landfill gas mitigation and consolidation of roofing debris would occur as part of the development. A partial cap would also be constructed, but it would not be engineered to maximize its effectiveness.

4.2. Alternative 2 - Institutional Controls and Monitoring

Under this alternative, site development would proceed without any required remedial action. Landfill gas management and consolidation of roofing debris would occur as part of the development. A partial cap would also be constructed, but it would not be engineered to maximize its effectiveness. Notices would be attached to the existing deeds to prevent future owners from unknowingly intruding on potential subsurface contamination. Groundwater monitoring would be performed, in accordance with a Compliance Monitoring Plan approved by Ecology, to confirm long-term compliance.

4.3. Alternative 3 - Containment by an Engineered Cap on a Portion of the Site

Under Alternative 3 site development would occur in conjunction with installation of an engineered cap over a portion of the site to prevent human contact with the demolition debris and reduce the potential risk of contaminant migration in groundwater beneath the site. This alternative would include management of any landfill gases generated within the demolition debris layer below the cap and consolidation of roofing debris under the cap.

The engineered cap would extend to the proposed fire lane and generally be set back an average of 100 feet behind the shoreline along the river and the lake. The engineered cap would avoid impacting existing wetland, riparian and aquatic habitats around the southern and western site margin. The engineered cap would be extended in areas around the site margin where stormwater ponds/swales are constructed. Potential contact with the demolition debris by humans and the environment might result if excavation occurred in habitat areas designated for protection. Institutional controls would be implemented to limit human interference within those habitats and to require protection of workers performing any excavation activities. Notices and restrictions would be attached to the existing deeds to prevent future owners from unknowingly intruding on subsurface debris. Groundwater monitoring would be performed in accordance with a Compliance Monitoring Plan approved by Ecology.

This alternative assumes that proposed land use redevelopment would ultimately create an estimated 35 acres of engineered cap. The majority of the engineered cap will consist of new, concrete or asphalt structures supported upon structural piling. The landfilled area outside the building footprints that is not covered with concrete or asphalt paving (the "soil cover area") will have a soil cover overlain with landscaping. For purposes of this alternative, "soil cover" means at least 2 feet of soil or equivalent media. Consistent with WAC 173-304-461 specifications for closure of demolition waste landfills, the site was previously closed with a cover of at least 1 foot of soil. Although not required, up to one additional foot of soil or equivalent media will be added on top of the existing cover in the soil cover area where needed to bring the total cover to at least 2 feet in thickness. Soil for the cover may come from areas on-site where the existing cover currently exceeds 2 feet. The additional soil (or equivalent media) above the existing cover will provide an extra measure of protection at the site consistent with the overall goal of protection of human health and the environment. The structures, paved areas, and soil cover will prevent human contact with the demolition debris and reduce the risk of contaminant migration in groundwater beneath the site but without increasing the risk of landfill gas buildup or exacerbating the oxygen reducing conditions in groundwater under the site. A schematic of the non-structural landfill cap is shown in Detail B to figure 2. The area that would be capped under Alternative 3 is presented in Figure 4.

4.4. Alternative 4 - Engineered Impermeable Cap and Permeable Groundwater Barrier

Alternative 4 would include an engineered impermeable cap that encompassed the entire upland portion of the site. In addition, a groundwater barrier would be constructed around the site perimeter, extending out as close to the shoreline as feasible, to slow the rate of exchange between groundwater and adjacent surface water. The barrier would be permeable, to prevent the groundwater table from rising underneath the upland area.

Alternative 4 would cap the entire upland portion of the property. However, installation of the barrier would displace existing wetland, riparian and aquatic habitats in the vicinity of the southern and western site margins. Installation of the impermeable cap would potentially increase methane risk, exacerbate oxygen reducing conditions that could mobilize COCs in groundwater, and increase stormwater runoff. Expansion of the cap to the shoreline would also displace existing habitat areas in an effort to maximize coverage of the upland area. This alternative conflicts with existing shoreline management permit conditions for site development which require an uncapped buffer zone along the shoreline.

This alternative assumes that, over the course of phased development, impervious cover will be constructed across the landfilled portion of the 45-acre site up to the perimeter established by the groundwater barrier wall. Approximately 30 acres of impervious structure would be in the form of parking areas and buildings and the balance of property, extending out to the shoreline, would be cleared of all existing trees and vegetation, graded, and resurfaced with a landscaped impermeable cover. The new structures and cover would be engineered to serve as an impervious cap and prevent human contact with the demolition debris and to intercept rainfall infiltration that might otherwise mobilize COCs into the groundwater table or surface waters. The impermeable cap could increase the risk of methane buildup, exacerbate the oxygen reducing conditions in groundwater under the site, and increase stormwater runoff.

5. SITE CLEANUP LEVELS AND POINTS OF COMPLIANCE

Establishing cleanup standards involves the specification of cleanup levels (concentrations protective of human health and the environment) and points of compliance (the location on the site where cleanup levels must be attained). The cleanup levels and points of compliance for the COCs at the site are identified in the following paragraphs. The applicable cleanup levels and COC concentrations are shown on Tables 5-1 through 5-6.

5.1. Groundwater Cleanup Levels

As discussed in the RI/FS, the proposed groundwater cleanup levels are based on protecting beneficial uses of adjacent surface water. MTCA allows groundwater cleanup

levels based on protecting beneficial uses of adjacent surface water where, as here, the groundwater at the site is hydraulically connected to the adjacent lake and river waters, the surface water is not a suitable domestic water supply source, groundwater flows into surface waters do not exceed applicable surface water cleanup levels, institutional controls will prevent the use of contaminated ground water prior to entry into surface water, and it is unlikely that hazardous substances will be transported from the contaminated ground water to groundwater that is a current or potential future source of drinking water. WAC 173-340-720. MTCA regulation WAC 173-340-700(4)(d) provides that where natural background concentrations are greater than the cleanup level established by Methods A, B, or C, the cleanup level is set at the natural background concentration. The cleanup levels for groundwater are shown on Table 5-1.

5.1.1 TPH Groundwater Cleanup Levels

The proposed groundwater cleanup level for TPH (ORPH and DRPH) is based on MTCA Method A for groundwater. The MTCA Method A groundwater cleanup level is used because there is no applicable surface water cleanup level under MTCA Methods A, B, or C and there is no MTCA Method B groundwater cleanup level. Specifically, the *Water Quality Standards for the State of Washington* (WAC 173-201A) do not set cleanup limits for petroleum hydrocarbons and total petroleum hydrocarbons are not listed in the Method B CLARC II tables (February 1996). Based on MTCA Method A, the groundwater cleanup level for diesel and heavy oil range TPH is 1,000 µg/L. The TPH cleanup level is currently met at the conditional point of compliance based upon samples collected from the downgradient perimeter monitoring wells and analyzed using Ecology's proposed silica gel cleanup method. See Table 5-4.

5.1.2 Arsenic Groundwater Cleanup Levels

The proposed groundwater cleanup level for arsenic is based on the natural background concentration of arsenic. Application of the human health surface water quality criteria for protection of beneficial uses of adjacent surface water establishes a cleanup level for arsenic of 0.018 µg/l based on consumption of organisms that live in the water. However, where the MTCA method establishes a concentration that is below natural background concentrations, the cleanup level is adjusted to equal the natural background concentration. WAC 173-340-700(4)(d). Based on natural background concentrations for arsenic of 5 µg/l in groundwater in the state, the groundwater cleanup level for arsenic at the site is 5 µg/l. With the exception of a single anomalous exceedence in well AW-10, groundwater samples from downgradient perimeter wells tested in 1996 were all below natural background concentrations. Further, follow-up groundwater samples collected in 2001 from all of the existing downgradient perimeter wells are all below natural background concentrations. Therefore, the arsenic cleanup level is currently met at the conditional point of compliance. See Table 5-4

5.1.3 Lead Groundwater Cleanup Levels

The groundwater cleanup level for lead is based on protecting beneficial uses of adjacent surface water. The Water Quality Standards for Surface Waters of the State of Washington provide the relevant groundwater cleanup levels. The chronic aquatic life surface water lead standard is a dissolved standard based on a hardness dependent formula, rather than a single concentration. The formula is:

Lead Cleanup Level = (1.46203 - [(ln hardness)(0.145712)])(e(1.273[ln(hardness)]-4.705))

Based on the most conservative hardness measurement from the existing downgradient perimeter monitoring wells (524 mg/l CaCO3 equivalents), the current cleanup level is 14.4 µg/L. All of the site groundwater wells data, including all of the existing downgradient perimeter monitoring wells, are below the formula lead cleanup level. Therefore, the lead cleanup level is currently met at the conditional point of compliance. See Table 5-4.

5.1.4 Barium Groundwater Cleanup Levels

The groundwater cleanup level for barium is based on protecting beneficial use of adjacent surface water. Application of the surface water cleanup level from EPA's National Recommended Water Quality Criteria establishes a cleanup level for barium of 1,000 µg/L. Groundwater barium samples from downgradient perimeter wells tested in 1996 were all below the cleanup level, except a single anomalous exceedence in well AW-11. Follow-up groundwater samples collected from well AW-11 and from all other existing downgradient perimeter wells in 2001 are all below the cleanup level. Therefore, the barium cleanup level is currently met at the conditional point of compliance. See Table 5-4.

5.2. Soil Cleanup Levels

Organic and inorganic COC cleanup levels for soil are based on MTCA Method A and Method B residential soil values. The cleanup levels for soil are shown on Table 5-2. Based on MTCA Method A, the applicable residential cleanup levels for arsenic, lead and TPH (ORPH and DRPH) are 20.0, 250, and 200 mg/kg, respectively. Where no Method A cleanup level exists for a soil COC, applicable residential cleanup levels are based on the most stringent MTCA Method B soil values. Under MTCA Method B criteria, the most stringent soil cleanup levels are equal to 100 times the surface water standards, resulting in a barium cleanup level of 100 mg/kg and in a selenium cleanup level of 0.5 mg/kg. TPH soil concentrations exceed the cleanup standard throughout the landfilled areas of the site. See Table 5-5. Barium, selenium and lead soil concentrations exceed

cleanup levels at various locations throughout the site. See Table 5-5. However, existing groundwater concentrations meet the cleanup levels at the conditional point of compliance. Therefore, the existing soil concentrations at the site are protective of groundwater. There are no exceedences of the soil arsenic cleanup levels.

5.3. Points of Compliance

5.3.1 Groundwater Point of Compliance

In accordance with MTCA, compliance with the cleanup levels for TPH, lead, and arsenic in groundwater will be determined at a conditional point of compliance. Although typically MTCA requires that a point of compliance be established "throughout the site," conditional points of compliance are allowed at sites where hazardous substances remain onsite as part of the cleanup action or where the affected groundwater flows into nearby surface water. WAC 173-340-720(6)(c) and (d). In cases where the conditions listed in WAC 173-340-720(6)(d) are met, MTCA allows a conditional point of compliance "within the surface water as close as technically possible to the point or points where ground water flows into the surface water." WAC 173-340-720(6)(d).

Achieving groundwater cleanup levels throughout the site is not a reasonable expectation here because hazardous substances will be contained on site. Also, the groundwater flows to nearby surface water. Therefore, based on WAC 173-340-720(6)(c) and (d), Ecology has approved a conditional point of compliance for TPH, lead and arsenic at the shoreline of the site. Groundwater COC concentrations will be monitored at the existing downgradient perimeter monitoring wells AW-6, AW-10, AW-11, and AW-12 or similar replacements. These four shoreline wells are situated within the property boundary and within 100 feet of the existing lake and river shorelines. An estimate of attenuation between the monitoring wells and the shoreline may be considered, as provided in the Compliance Monitoring Plan to be submitted and approved by Ecology, in evaluating compliance with the TPH and lead cleanup levels because the cleanup levels for these COCs are based on the protection of adjacent surface water. Attenuation will not be considered for arsenic because the cleanup level is based on groundwater background concentrations. If future sampling data from the shoreline wells exceed cleanup standards, appropriate follow-up sampling will occur to confirm the data before further action is taken. All of the sampling will be performed in accordance with provisions of the MTCA regulations and the Compliance Monitoring Plans required to be submitted and approved by Ecology after entry of the Consent Decree.

5.3.2 Soil Point of Compliance.

In general, the point of compliance for soil cleanup standards is established in the soils throughout the site in accordance with WAC 173-340-740(6). However, WAC 173-340-740(6)(d) provides that in cases where containment is a component of the cleanup action,

"the cleanup action may be determined to comply with cleanup standards" where the compliance monitoring program ensures the long-term integrity of the containment system and related containment measures are implemented in accordance with WAC 173-340-360(8). All of the alternatives evaluated in the Remedial Investigation and Feasibility Study (RI/FS) and discussed in this Cleanup Action Plan, including the selected cleanup alternative, provide for the implementation of institutional controls and monitoring to achieve the Remedial Action Objectives (RAOs) for contaminated soil that will remain at the site. Also, the proposed containment and compliance program for this site, as discussed in detail in Section 11.0, satisfies the conditions in WAC 173-340-360(8). Therefore, in accordance with WAC 173-340-740(6)(d), the cleanup action at the site will comply with soil cleanup standards.

5.4. Industrial Cleanup Standards

If redevelopment does not occur and the site remains industrial, cleanup standards are based on continued industrial use of the site. Typically, industrial cleanup levels are equal to or less stringent than the cleanup levels for residential use. The applicable groundwater cleanup levels for continued industrial use are based on protection of surface water. The groundwater cleanup levels are 1,000 ug/l for TPH, 14.4 ug/l for lead, 1,000 ug/l for barium, and 5 ug/l for arsenic (based on natural background). These groundwater cleanup levels are the same as the cleanup levels for residential use. See Sections 5.1.1, 5.1.2, 5.1.3 and 5.1.4 above. The cleanup levels for groundwater are shown on Table 5-1.

For soil COCs, the proposed industrial soil cleanup levels for continued industrial use are based on the MTCA Method A Industrial Soil Table and MTCA Method C calculations. The applicable soil cleanup levels for continued industrial use are 200 mg/kg for TPH (diesel and heavy oil), 200 mg/kg for arsenic, and 1,000 mg/kg for lead based on the Method A cleanup levels for industrial soils. The applicable soil cleanup levels for continued industrial use are 100 mg/kg for barium and 0.5 mg/kg for selenium based on MTCA Method C (100 x the applicable groundwater cleanup level). These soil cleanup levels are equal to or less stringent than the soil cleanup levels for residential use. See Section 5.2. The industrial cleanup levels for soil are shown on Table 5-3.

The groundwater and soil points of compliance are the same as identified in Section 5.3.1 and Section 5.3.2 respectively.

With respect to groundwater, the industrial groundwater cleanup levels for the COCs are currently met at the conditional point of compliance. See discussion in Section 5.1 above and Table 5-4. As for soils, landfilled debris that exceed the soil cleanup levels for TPH, barium, lead and selenium will be left in place beneath the existing soil cover. See, Table 5-6. Institutional controls and a monitoring program appropriate for continued industrial use, as described in Section 7, will be implemented to achieve the RAO of preventing human contact with landfilled media.

6. SCHEDULE FOR IMPLEMENTATION, RESTORATION TIMELINE

Following submittal of the draft RI/FS, CAP, and Consent Decree documents for the 30-day public comment period, and issuance of a Final CAP and entry of the Consent Decree, the implementation time frame for the first phase would consist primarily of engineering design. A copy of the timeline is included as Attachment A. If development occurs, the cleanup action would be implemented in phases over seven to 15 years in conjunction with the proposed development. The following elements of the cleanup can be commenced shortly after issuance of the Final CAP:

- Preparation and filing of deed notices;
- Preparation of a health and safety plan in accordance with WAC 173-340-810;
- Preparation of a sampling and analysis plan in accordance with WAC 173-340-820 for groundwater compliance monitoring; and
- Preparation and submittal of Draft and Final Engineering Design Reports, including the Landfill Gas Design Report.

Once permits for the development are obtained, the following remedial tasks would begin in conjunction with City of Kenmore development time lines, and be completed over the course of development:

- Phased construction of the development, which will be engineered as a cap over the landfilled media.
- Access controls and implementation of erosion control BMPs for site areas that will not be developed in the first phase;
- Consolidation of roofing debris away from the southern shoreline to the site interior;
- Phased construction of the landfill gas management system, which will be incorporated in the building and pavement development footprint to control landfill gas beneath the development cap.

Phase specific Compliance Monitoring Plans will be prepared and submitted to Ecology for review and approval for each phase of the redevelopment. See Attachment A, Timeline. Ecology will also review the cleanup action, in accordance with WAC 173-340-420, no less frequently than every five years to assure that human health and the environment are being protected. Bimonthly progress reports on the status of the cleanup action will be submitted to Ecology. Semi-annual groundwater monitoring data will be submitted to Ecology for on-going review, and meetings may be scheduled at least every two years to discuss the status of the cleanup action and compliance monitoring program.

7. INSTITUTIONAL CONTROLS AND MONITORING

Several institutional controls (measures undertaken to limit or prohibit activities that may interfere with the integrity of a cleanup action or result in exposure to hazardous substances at the site) and monitoring programs will be implemented in conjunction with the site cleanup. These controls and monitoring programs include:

- Notice on the property deed to notify future owners of the presence of COCs under the property.

- A deed restriction with conditions to prohibit extraction and use of groundwater at the site, maintain the integrity of the cap; and require adherence to measures for protection of construction workers who may come into contact with landfilled media.

- Access controls to prohibit incompatible uses of areas under construction and awaiting development. Site access controls will include fencing of and signage at all areas under active construction. In addition, upon initiation of actual residential site use, the remaining industrial areas (areas upland of the fire lane that are neither in residential use nor under construction) will be fenced until the soil cover and erosion controls provided for in this Cleanup Action Plan are installed in such areas.

- Erosion controls for areas under construction and awaiting development.

- Health and safety monitoring during construction activities.

- Groundwater (and surface water if necessary) performance and compliance monitoring during and after construction as provided for in a Compliance Monitoring Plan deliverable subject to Ecology approval in accordance with the attached timeline. The Compliance Monitoring Plan will include verification sampling and consultation with Ecology as contingency steps in the case of non-compliance. All submittals pursuant to the Plan will include water levels, field parameters, and analytical parameters.

- Department of Ecology periodic review, in accordance with WAC 173-340-420.

- Periodic cap inspections and maintenance.

If site redevelopment does not occur, the following institutional controls and monitoring will be implemented:

- Notice on the property deed to notify future owners of the presence of COCs under the property.

- A deed restriction appropriate for continued industrial use with conditions to prevent extraction and use of groundwater at the site and prohibit soil excavation without proper health and safety procedures.

- Access controls to prohibit incompatible site uses. Fencing and prominent signage at site access points will constitute access control if redevelopment does not proceed.

- Erosion controls as appropriate for continued industrial use.

- Groundwater (and surface water if necessary) performance and compliance monitoring appropriate for continued industrial use as provided for in a Compliance Monitoring Plan deliverable subject to Ecology approval in accordance with the attached timeline. The Compliance Monitoring Plan will include verification sampling and consultation with Ecology as contingency steps in the case of non-compliance. All submittals pursuant to the Plan will include water levels, field parameters, and analytical parameters.

8. JUSTIFICATION

The selected alternative will attain the remedial action objectives (RAOs) over the long-term. The RAOs established in the draft RI/FS for the site are 1) prevention of human contact with landfilled media, and 2) reducing potential migration of COCs to surrounding surface waters. Groundwater COCs currently meet the cleanup levels for the site at the conditional point of compliance, therefore, the remainder of this Section focuses on the goal of preventing human contact with the landfilled media.

In the RI/FS, each alternative was evaluated by the following criteria: short-term effectiveness, long-term effectiveness, permanent reduction of mobility, ability to implement, and cost. The selected alternative will meet the short-term effectiveness goal through the implementation of health and safety procedures to protect workers during site construction. Long-term effectiveness will be achieved by the completion of the cap and the implementation of the groundwater compliance monitoring program. The selected alternative will reduce contaminant mobility, but not toxicity or volume. The cleanup action is readily implementable as part of the site redevelopment over an estimated time period of seven to 15 years. The cost of the remedial action is considered practicable relative to the risks reduced, when implemented in conjunction with planned redevelopment.

Institutional controls will be implemented at the outset that prohibit extraction and use of groundwater at the site and that provide access and erosion controls. Worker safety and health plans containing measures to protect workers during construction will also be implemented after review and approval by Ecology. See, Timeline, Attachment A. Periodic cap inspections and maintenance will occur in accordance with Operation and Maintenance Plans prepared and approved for each phase of the development.

Groundwater performance monitoring will take place to verify effectiveness of remediation efforts through each phase of planned development in accordance with Compliance Monitoring Plans to be submitted to and approved by Ecology. Due to the length of time anticipated to develop and cap the site in phases, protection, performance, and conformational monitoring schedules will proceed concurrently as development progresses. Meetings will be scheduled with Ecology at least every two years to review groundwater monitoring data, and review the goals and appropriateness of continued monitoring for each phase. Ecology will review the cleanup action, in accordance with WAC 173-340-420, no less frequently than every five years to assure that human health and the environment are being protected.

9. APPLICABLE STATE AND FEDERAL LAWS

Under MTCA, remedial actions must comply with the substantive requirements of applicable state and local laws and all requirements of applicable federal law. The applicable state and federal laws for the proposed cleanup action are set out in detail in the Applicable State and Federal Laws Table attached to this Cleanup Action Plan as Attachment B. Notification will be provided to Ecology as to any additional substantive requirements of state and local laws that are determined to apply.

10. COMPLIANCE WITH THRESHOLD AND OTHER REQUIREMENTS

The proposed cleanup action plan will comply with MTCA threshold and other requirements for protecting human health and the environment by preventing human contact with the landfilled media and by reducing the potential risk of contaminant migration in groundwater beneath the site.

10.1. MTCA Threshold Requirements

All cleanup actions conducted under MTCA must protect human health and the environment, comply with cleanup standards, comply with applicable state and federal laws, and provide for compliance monitoring. These "threshold requirements" are defined in WAC 173-340-360 (2). The remedial action will comply with these threshold requirements by preventing human contact with landfilled materials; reducing the potential risk of contaminant migration in groundwater beneath the site; complying with all applicable state and federal requirements listed in Section 9.0; and providing groundwater (and surface water if needed) compliance monitoring to verify that cleanup standards continue to be met at the conditional point of compliance. In addition, the engineered cap will not interfere with the southern or western shoreline habitat areas. The engineered cap will also be designed to incorporate landfill gas management, reduce stormwater flows associated with developed surfaces, and avoid exacerbating existing reducing conditions.

TPH concentrations currently exceed the soil cleanup standard at three locations, and lead and arsenic concentrations exceed the soil cleanup standard throughout the site. However, existing groundwater concentrations meet the groundwater cleanup standards at the conditional point of compliance. Therefore, the existing soil concentrations at the site are protective of groundwater and surface water for either proposed residential or continued industrial uses.

Temporary erosion and sedimentation control (TESC) measures and BMPs will be implemented during construction, on active and inactive phases of the development, to protect surface water quality in compliance with substantive requirements under the Clean Water Act and Water Pollution Control Act. Phasing is discussed further in Section 10.3.

The cleanup action provides for compliance and performance monitoring to verify that groundwater continues to meet cleanup standards, as described in Section 11.2.

10.2. MTCA Other Requirements

Other requirements are defined in WAC 173-340-360 (3) and include application of reasonable restoration timeframes, consideration of public comments, and use of permanent solutions to the maximum extent practicable. The selected alternative satisfies each of these requirements. First, the restoration time frame for the site will reasonably achieve the remedial action objectives within the time frame for the applicable property use. If the change in land use to mixed residential/commercial goes forward for any part of the site, an engineered cap and associated institutional controls will be in place prior to residential use of such areas. If the site remains industrial, institutional controls and monitoring appropriate for ongoing industrial uses will be implemented as soon as practical after entry of the consent decree. Second, public concerns will be addressed through the Public Participation Plan prepared concurrently for, and attached to, the project Consent Decree.

As part of the public participation process, a thirty day comment period is scheduled to begin on June 25, 2001 and run until July 24, 2001. An open house and public hearing is scheduled for July 11, 2001.

In addition, the selection of a partial engineered cap as the proposed cleanup action maximizes practicable use of permanent solutions. MTCA regulations provide that cleanup actions should use permanent solutions to the maximum extent practicable in order to minimize the amount of untreated hazardous substances remaining at a site. WAC 173-340-360(3)(a), (4)(a). The regulations also recognize that permanent solutions are not practicable for all sites. WAC 173-340-360(4)(d). The criteria for evaluating practicability include: overall protectiveness of human health and the environment; long term effectiveness; short-term effectiveness; permanent reduction of toxicity, mobility

and volume of the hazardous substance; ability to be implemented; cleanup costs; and the degree to which community concerns are addressed.

Alternative 3, the selected alternative, is permanent to the maximum extent practicable for the site and consistent with routine landfill cleanup actions. Installation of an engineered cap will prevent human contact with landfill demolition debris under the cap and reduce the potential risk of contaminant migration in groundwater beneath the site. Over the short term, health and safety procedures will protect workers that would be exposed to landfilled media during site construction activities. Over the long term, this alternative will reduce mobility of contaminants and effectively achieve the remedial action objectives. Moreover, the cost of this alternative is considered practicable relative to the risks reduced when implemented in conjunction with planned redevelopment. If site development does not occur under this alternative and the property remains in industrial use, the applicable deed notices, access restrictions, erosion controls and groundwater monitoring provided in this Cleanup Action Plan are permanent to the maximum extent practicable for the site and consistent with routine demolition debris landfill cleanup actions for industrial properties. If the site remains in industrial use, institutional controls and groundwater monitoring appropriate for such industrial use will achieve the Remedial Action Objective of limiting human contact with landfill demolition debris that will remain on site.

Remedies that might provide more permanent solutions than alternative 3 are not feasible at the site. The landfilled areas are characterized by low levels of contamination in landfill media dispersed over significant portions of the site. Due to the large area (approximately 35 acres) and significant depth (average 14 feet) of impacted landfilled media (approximately 24,393,600 cubic feet) and the varying groundwater levels due to lake fluctuations, excavation of soil would be difficult, prohibitively expensive, and could not be accomplished without impairing existing shoreline, wetland, and aquatic habitats. Removal, treatment, and subsequent replacement of affected soil would also impact surface water quality, require relocation of existing utilities, and impair adjacent facility operations. Finally, due to the low volatility of the contaminants at the site, the high groundwater recharge capacity of the adjacent surface water bodies, and the absence of free product, *in situ* treatment technologies are not considered feasible.

A detailed evaluation of all of the alternatives with respect to the practicability criteria is provided in the RI/FS. A more detailed discussion of the alternative selection process is presented in Section 8.0.

10.3. Compliance During Project Phasing and Continued Industrial Use

If redevelopment proceeds, construction of the engineered cap will be phased with development over a period of seven to 15 years. During this time interval, the majority of the site will either be undergoing construction or remain industrial. These areas are

shown on Figure 3 as Phases 1-6. Compliance with the RAOs will be met with provisions to protect site workers and the general public during and after the onset of site redevelopment.

Health and safety provisions to protect site workers will be implemented as part of a Worker Safety and Health Plan (per WAC 173-340-810) after review and approval of the Plan by Ecology. These provisions would also apply to site workers performing cap inspection, maintenance or repair duties. Areas under construction will be fenced for access control. These provisions will be implemented prior to the time of initial site clearing, and continue as phased development and cap construction proceed. Phasing of temporary erosion and sedimentation control measures, as they pertain to the RAOs, will involve implementation of measures at the outset of the project on active and inactive phases of development. The temporary erosion and sedimentation control measures may include hydro-seeding of inactive phase areas, maintenance of siltation fencing, and/or construction of temporary, construction-phase retention facilities. Phasing of temporary erosion and sedimentation control measures and the measures to be implemented are discussed further in Section 11.1.3. During the time period after commencement of on site residential use and prior to installation of a soil cover, industrial use areas upland of the firelane will be fenced to control incompatible uses.

If redevelopment is initiated but is not completed to allow for commercial/residential use of the entire site, institutional controls and groundwater monitoring appropriate for continued industrial use, as described in Section 7.0 of this plan, will be implemented for the portions of the site that remain industrial. If redevelopment does not proceed and the entire site remains industrial, institutional controls and groundwater monitoring appropriate for continued industrial use, as described in Section 7.0 of this plan, will be implemented for the entire site.

11. CONTAINMENT AND COMPLIANCE PROGRAM

The containment and compliance program will apply to the landfilled area as generally shown on figure 4. In addition to the site containment and compliance program, a Worker Safety and Health Plan (per WAC 173-340-810) with measures to protect the health and safety of workers during construction activities will be prepared in accordance with the Cleanup Action Plan Timeline and subject to Ecology review and approval.

11.1. Containment

The purpose of containment will be to prevent human contact with the landfilled debris and to reduce the potential risk of contaminant migration in groundwater beneath the site. The site containment program will consist of, or be integrated with, the following elements:

- Relocation of surficial roofing debris away from the southern shoreline to the site interior.
- Site grading.
- Surface water runoff management.
- An engineered cap covering approximately 68 percent of the site area, as generally shown on Figure 4. Construction of the engineered cap will be phased with redevelopment.
- Management of landfill gases that may accumulate beneath the engineered cap.
- Utility installations.
- Rehabilitation of the existing channel bulkhead.
- Construction of storm water treatment swales and grading outside the engineered cap.

Each of these elements is discussed below.

11.1.1 Relocation of Roofing Debris

Surface deposits of roofing debris will be relocated from the southern shoreline area and relocated to the lower elevations of the site interior for placement beneath the engineered cap during site grading.

11.1.2 Site Grading

Combinations of cuts and fills will occur as part of the cleanup and development. In addition, construction of planned stormwater pond/swales and utility trenches will involve excavations into the landfilled debris. Excavations will likely encounter two to three feet of existing soil cover over the landfilled media, which consists predominantly of demolition debris with concrete and asphalt rubble, and some soil. Excavated media will be relocated for placement beneath the engineered cap or to designated fill areas outside the engineered cap. Contaminated media will not be used as fill in areas outside the engineered cap without Ecology approval.

Relocation of landfilled media for placement under the engineered cap will take place, to the extent practicable, during the preliminary grading phase, prior to pile installations. Construction of the engineered cap is described in Section 11.1.4. Surface completion of stormwater pond /swales and other areas outside the development footprint is described in Section 11.1.8.

An array of four shoreline monitoring wells will constitute the conditional point of compliance. Site development or re-grading activities may necessitate replacement, or vertical extension, of the some wells. Modifications to the compliance wells would be resurveyed.

All site grading activities will comply with the substantive requirements of applicable state and local laws and with all requirements of applicable federal laws. The requirements of federal, state, and local laws applicable to the cleanup are described in Section 9.0. Notification will be provided to Ecology as to any additional substantive requirements that are determined to apply.

11.1.3 Surface Water Runoff Management

Temporary erosion and sedimentation control measures and BMPs will be implemented at the outset of the project on active and inactive phases of development in accordance with federal, state and municipal regulations at the onset of construction to protect surface water quality. Appropriate temporary erosion and sedimentation control measures may include hydro-seeding of inactive phase areas, maintenance of siltation fencing, and/or construction of temporary, construction-phase retention facilities. The existing stormwater collection and discharge system will be replaced and be diverted to temporary facilities during the construction phase.

Once each phase is constructed, rainfall that lands on or flows onto the developed surfaces (parking lots, buildings) will be intercepted by the stormwater collection and treatment systems before discharge to the Sammamish River or Lake Washington.

Storm retention/detention facilities will be lined with an impermeable membrane to prevent infiltration to the landfilled media. Preparation will include excavation and removal or cover of angular debris that could compromise the integrity of the membrane. All storm water management activities occurring on, or for control of runoff from, the engineered cap will be carried out in compliance with the substantive requirements of applicable laws. Discharge of collected storm runoff from the engineered cap will comply with the substantive municipal requirements contained in the 1998 King County Surface Water Management manual and any updates and revisions thereto applicable at the time of design plan approval. If contaminated sediments are discovered in the existing storm-water collection system, the sediments will also be managed in accordance with the substantive requirements of applicable laws.

Contingency procedures and design features to address and control spills and accidental discharges will be included in the Engineering Design Report and Operations and Maintenance Plan deliverables subject to Ecology review and approval and in the Contingency Plan submitted pursuant to the Shoreline Substantial Development Permit (File No. L96SH107).

11.1.4 Engineered Cap

The majority of the engineered cap will consist of new, concrete or asphalt structures supported upon structural piling. The landfilled area outside the building footprints that is not covered with concrete or asphalt paving (the "soil cover area") will have a soil cover overlain with landscaping. For purposes of this cleanup action, "soil cover" means at least two feet of soil or equivalent media. Consistent with WAC 173-304-461 specifications for closure of demolition waste landfills, the site was previously closed with a cover of at least one foot of soil. Although not required, up to one foot of soil or equivalent media will be added on top of the existing cover in the soil cover area to bring the total cover up to at least two feet in thickness. Soil for the cover may come from areas on-site where the existing cover currently exceeds two feet. The additional soil (or equivalent media) above the existing cover will provide an extra measure of protection at the site consistent with the overall goal of protection of human health and the environment. A schematic of the soil cover (non-structural landfill cap) is shown in Detail B to figure 2. The structures, paved areas, and soil cover will prevent human contact with the demolition debris and reduce the risk of contaminant migration in groundwater beneath the site but without increasing the risk of landfill gas buildup or exacerbating the oxygen reducing conditions in the groundwater at the site.

Redevelopment and cap construction will occur in several phases, beginning with the eastern portion of the subject property. The presently planned general phasing pattern is indicated on Figure 3.

Within the building footprint, pile installations for the new structures, and for the Lakepointe Way N.E. flyover, will use cranes to embed piling into dense sand and gravel soils found at depth beneath the site. Various types of driven piling suitable for use at the subject site are recommended in AGRA"s *Preliminary Geotechnical Engineering Report* dated 8 November 1996. Appropriate pile types include cast-in-place, driven grout, precast concrete, steel pipe, or steel H-piles. These pile types generally will not raise landfilled debris to the surface or generate excessive amounts of waste concrete during installation. In the event that piles are augered in place rather than driven, small quantities of landfilled debris brought to the surface, and any excess concrete or liquids, will be contained as described in Section 11.1.2. The lowest level of the pile supported structures will be situated at Elevation 25 feet and be utilized as parking space. The parking floor elevation will be established to achieve a balanced cut and fill and to accommodate a landfill gas management system, to the extent such a system is necessary. Figure 2 depicts conceptual profiles for structural (pile-supported) areas.

Outside of the building footprint, the engineered cap will extend out to a fire lane easement in the form of a soil cover. After installation, the cover will be overlain with topsoil to support appropriate vegetation, or concrete or asphalt to provide further protection from surface disturbance. Where used, appropriate landscape plantings will be

selected and installed in a manner consistent with maintaining the integrity of the engineered cap. Figure 2 depicts conceptual profiles for non-structural areas.

Operation and Maintenance Plan provisions, subject to review and approval by Ecology, and deed restrictions on the property will assure that the cap is protected during construction and occupation of the site. In addition, periodic inspections will be performed to evaluate the condition and performance of the engineered cap. Formal inspections of the entire site will be performed twice a year throughout construction of the engineered cap and redevelopment, and annually thereafter. Cap repairs will also be subject to reinspection. The scope of inspections will include, but not be limited to, cracks, deflections, seepage, drainage issues, landfill gas emissions, the effects of pile driving and construction activities, and movement of heavy equipment. Detailed provisions for periodic inspections will be included in the Operation and Maintenance plan deliverable that is subject to review and approval by Ecology.

11.1.5 Landfill Gas Management

Landfill gas mitigation will be addressed in the engineering design stage. A Landfill Gas Design Report will be a deliverable submitted during the design stage and subject to Ecology review and approval. The Landfill Gas Design Report will discuss gas characterization, distribution, constituents, probe installation, passive and active management options, and applicable requirements in Chapter 173-304 WAC. Landfill gas generated by decomposition of the landfilled media and of the underlying native peat soils will be managed to prevent unsafe or excessive accumulation underneath the development and engineered cap. Control and treatment of landfill gas accumulations, as appropriate, will be accomplished in accordance with the applicable substantive provisions of King County Solid Waste Regulations, Chapter 10.76.020 and Chapter 173-304 WAC.

11.1.6 Utility Installations

Utility installations will be buried underground or suspended through the lower building levels within utilidors. Watertight seals will be used where utilities pass into a utilidor from outside the building footprint. Flexible connections will be used to accommodate differential settlements where utilities extend beyond the pile-supported areas of the engineered cap. Fill materials excavated during utility installations will be placed under the cap in accordance with Site Grading, Section 11.1.2. Buried utility systems within the landfilled area that are not pile-supported will use flexible couplings to accommodate gradual shifting or settling of soil over time. No special environmental engineering requirements are anticipated for underground utilities installed north of the landfilled area.

11.1.7 Bulkhead Rehabilitation

The existing bulkhead facing the Kenmore Navigation Channel will be rehabilitated by placing a new sheet pile bulkhead immediately landward of the existing bulkhead or by placing a new sheet pile bulkhead immediately waterward of the existing bulkhead. The new sheet pile bulkhead will be engineered so tie-backs are not required, thereby allowing any contaminated material present behind the existing bulkhead to remain undisturbed. This will require the use of interlocking sheet pile section, or "Z-piling" with a deep section and may move the front face of the bulkhead a maximum of three feet waterward. Along some portions of the existing bulkhead voids are presumed to be present and will be filled with either granular fill or fill material excavated from other areas on site. Contaminated media excavated from other areas of the site will not be used as fill material for bulkhead rehabilitation unless approved by Ecology. The backside of the new sheet pile bulkhead will be lined with a membrane to create an impermeable barrier between the lake and the fill material. The final design of the bulkhead will be an element of the Engineering Design Report that is subject to review and approval by Ecology as a deliverable required under the Cleanup Action Plan Timeline.

All bulkhead rehabilitation activities will comply with the substantive requirements of applicable state and local laws and with all requirements of applicable federal laws, including any applicable Army Corps of Engineer permitting requirements. The federal, state, and local laws applicable to the cleanup are described in Section 9.0. Notification will be provided to Ecology as to any additional substantive requirements that are determined to apply.

11.1.8 Stormwater and Utility Construction

Construction of the site stormwater system will manage rain runoff from the building footprint area, including parking lots and roof areas. The stormwater collection system will discharge to vaults/pond/swales and/or to storm outfalls that discharge runoff to the Sammamish River. An impermeable layer will be installed beneath the vault/pond/swale areas.

Grading associated with vaults/ponds/swales construction and utility trenching will include both cuts and fills. In areas where grading is planned, existing vegetation will be grubbed out and the land surface will be reshaped. Where fill placement is called for in the landscaping plan, landfilled demolition debris relocated from adjacent cuts may provide lightweight fill material, provided that it is surfaced with cap material. Following grading activities, the graded area will be capped to prevent human contact with landfill debris. The area will be sloped to discourage ponding of rain runoff in topographic depressions.

All planned stormwater vaults/ponds/swales and utility trenches will comply with the substantive requirements of all applicable laws. The substantive requirements of federal, state, and local laws applicable to the cleanup are described in Section 9.0.

11.1.9 Shoreline Habitat Enhancement and Preservation

Shoreline habitat enhancement and preservation will take place between the proposed fire lane and the shoreline. Enhancement will occur in areas to be reconfigured, as well as in areas with new stormwater vaults/ponds/swales or utility trenches. Public access would be allowed in the enhanced areas. Areas of existing shoreline habitat will also be preserved. In the preservation areas, features that manage human access such as interpretive trails and viewing platforms will be provided. Viewing platforms will be constructed to allow views of the southern shoreline. Within both enhancement and preservation areas, riparian/slope plantings are planned along the shoreline. Riparian plantings will be accomplished by hand labor, with minimal disturbance to the existing soil profile. Throughout these areas, existing healthy and safe trees will be preserved where feasible and appropriate; diseased and unsafe trees will be removed under the direction of a qualified arborist.

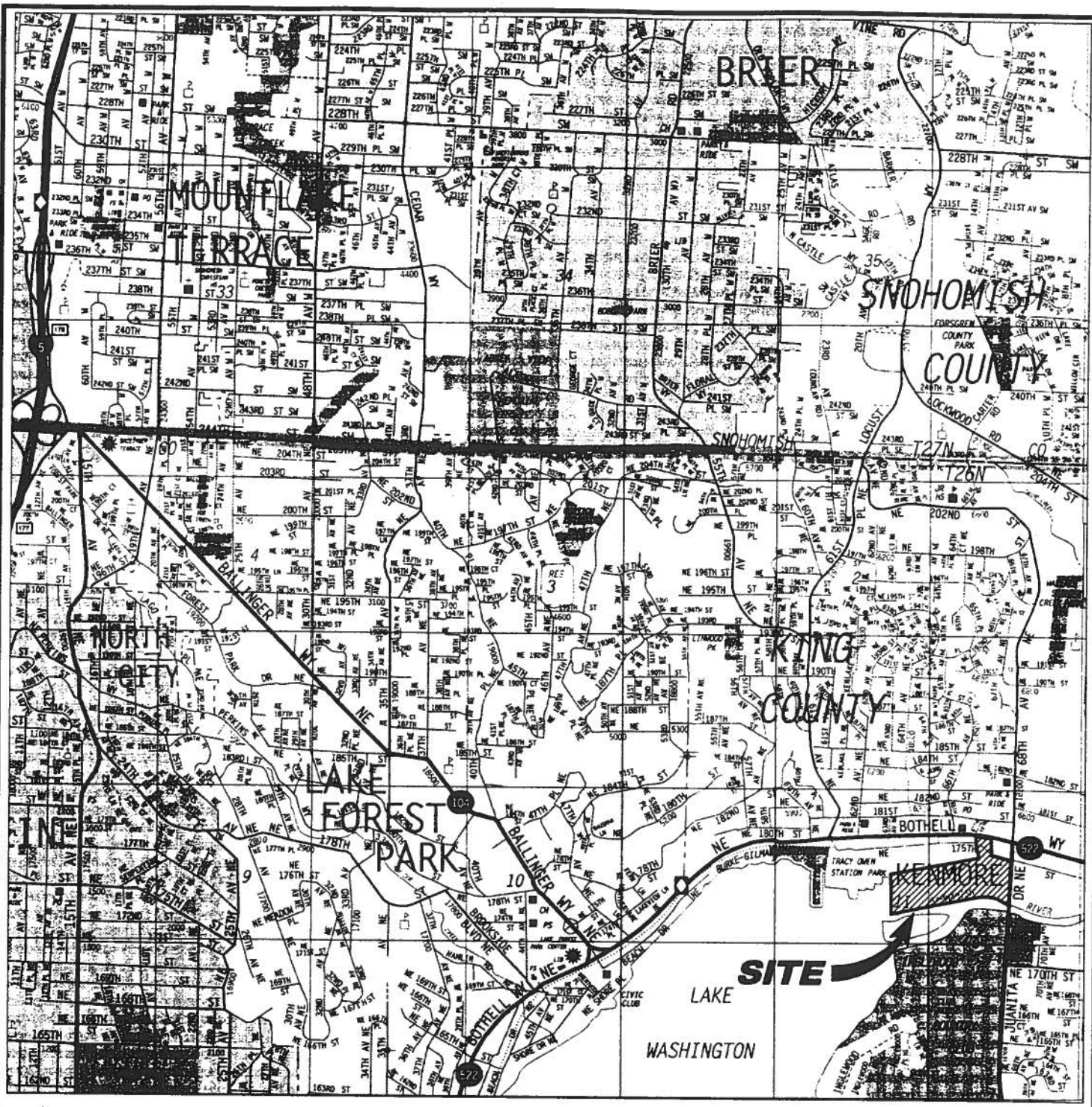
All planned habitat enhancement activities will comply with the substantive requirements of all applicable laws. The substantive requirements of federal, state, and local laws applicable to the cleanup are described in Section 9.0.

11.2. Compliance

The selected cleanup action will meet the remedial action objectives. As described in Section 2.0, an estimated 800,000 cubic yards of landfilled media comprised primarily of wood, concrete and asphalt rubble, and soil, will remain on site following construction of the engineered cap. The COCs identified in the RI/FS are TPH, arsenic and lead, and proposed cleanup standards for the COCs are presented in Sections 5.1 and 5.2 of this Plan.

In the soil or landfilled media, TPH concentrations currently exceed cleanup levels at three locations and arsenic and lead concentrations in the soil exceed cleanup levels throughout the landfilled areas of the site. Human contact with the soil COCs, which will remain at the site as part of the proposed cleanup action, will be prevented by the construction of the engineered cap and by institutional controls.

Groundwater COC concentrations currently meet cleanup standards at the conditional point of compliance as detailed in Sections 5.1 and 5.4 of this Plan. Groundwater compliance monitoring will verify that standards continue to be met. The point of compliance wells listed in Section 5.3 will be included in the monitoring program. A Compliance Monitoring Plan will be prepared for review and approval by Ecology after entry of the Consent Decree.



JOB NO.: 7-91M-10459-D-CAP | DWG DATE: 04-10-2001 | SCALE: N.T.S. | DESIGN BY: DHG | FILE NAME: LOCATION-CAP.DWG

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LOCATION MAP

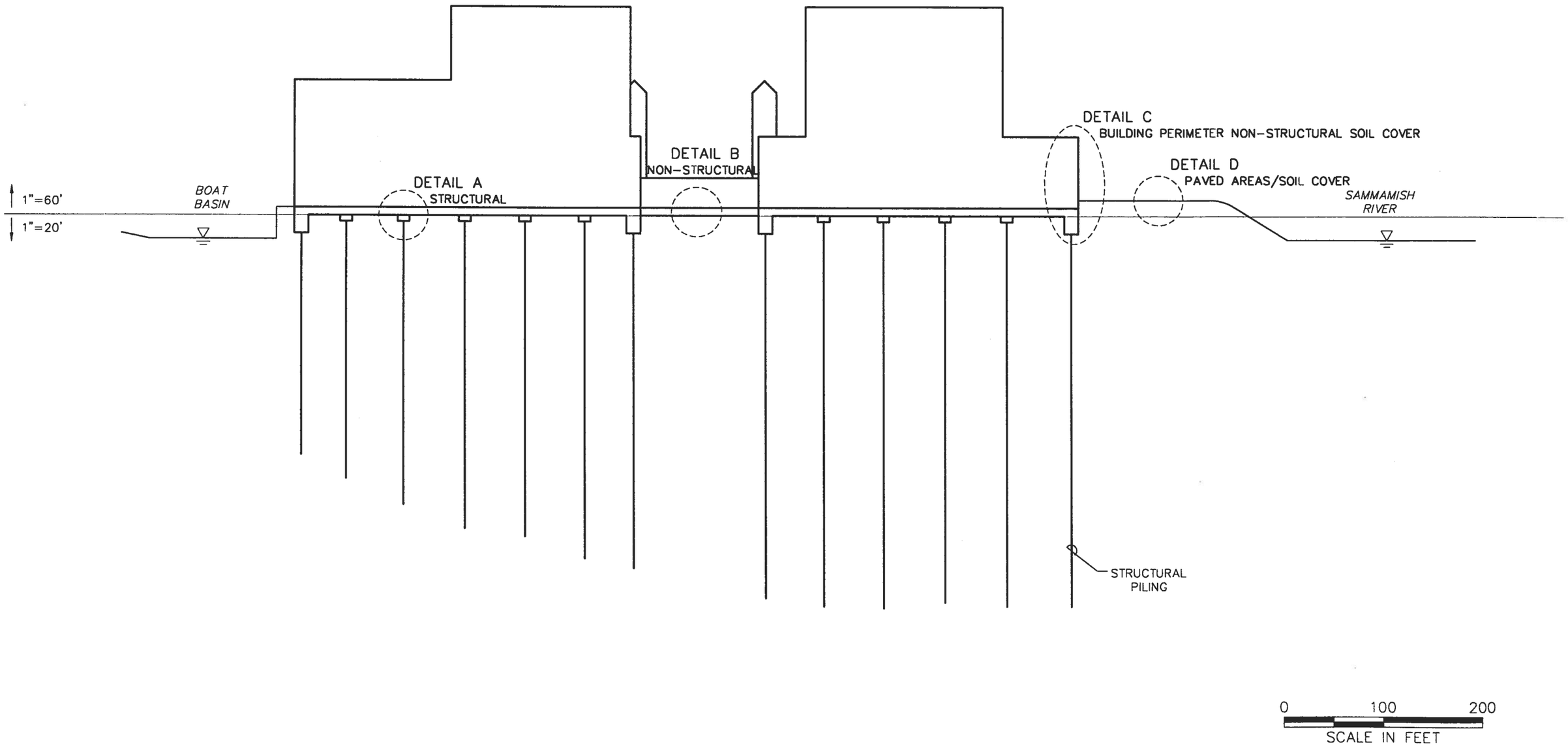
KENMORE INDUSTRIAL PARK

KING COUNTY, WASHINGTON

FIGURE 1

NW

SE



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SOURCE: SECTION 5, SHEET A3.2, LAKEPOINTE CDSP PLAN SET.

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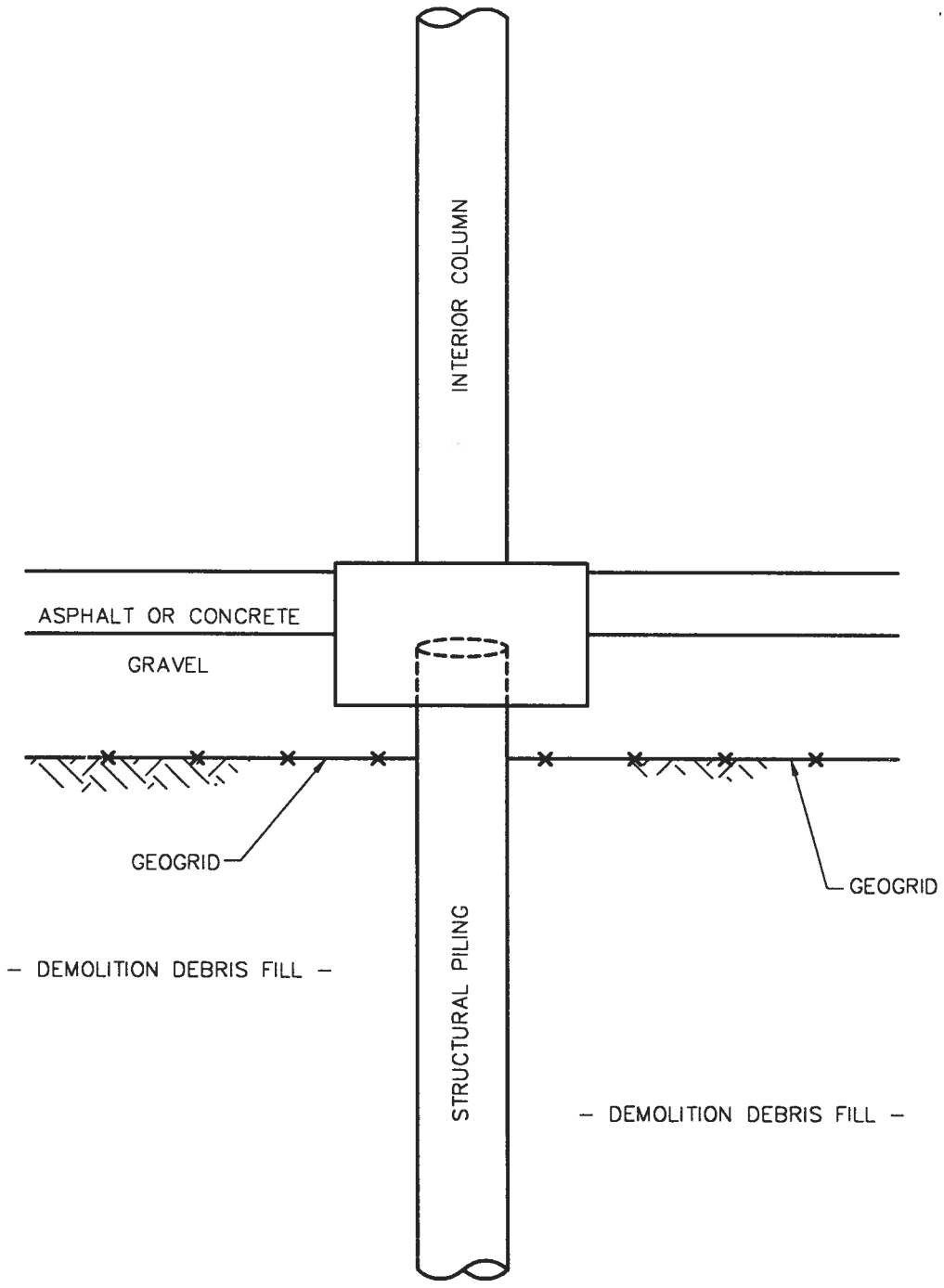
SCHEMATIC CROSS SECTION

KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

FIGURE 2



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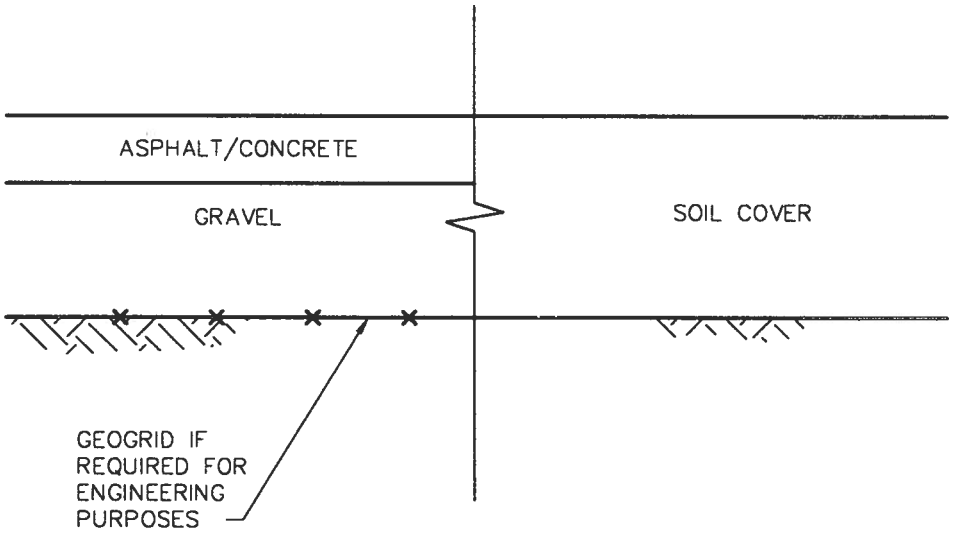
DETAIL A/FIGURE 2

STRUCTURAL PROFILE
KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON



– DEMOLITION DEBRIS FILL –

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DETAIL B/FIGURE 2

NON–STRUCTURAL PROFILE

KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

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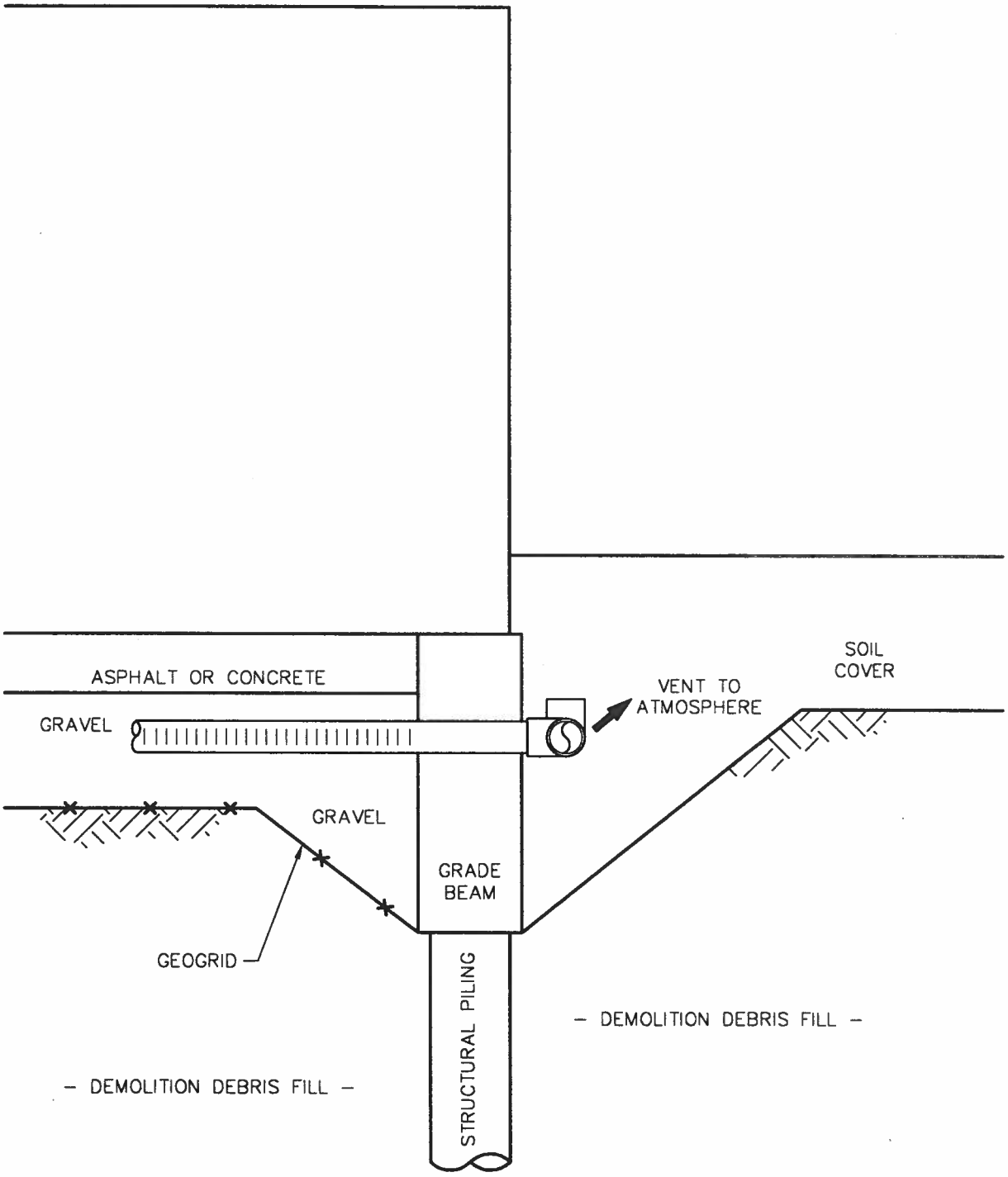

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DETAIL C/FIGURE 2

BUILDING PERIMETER PROFILE
KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

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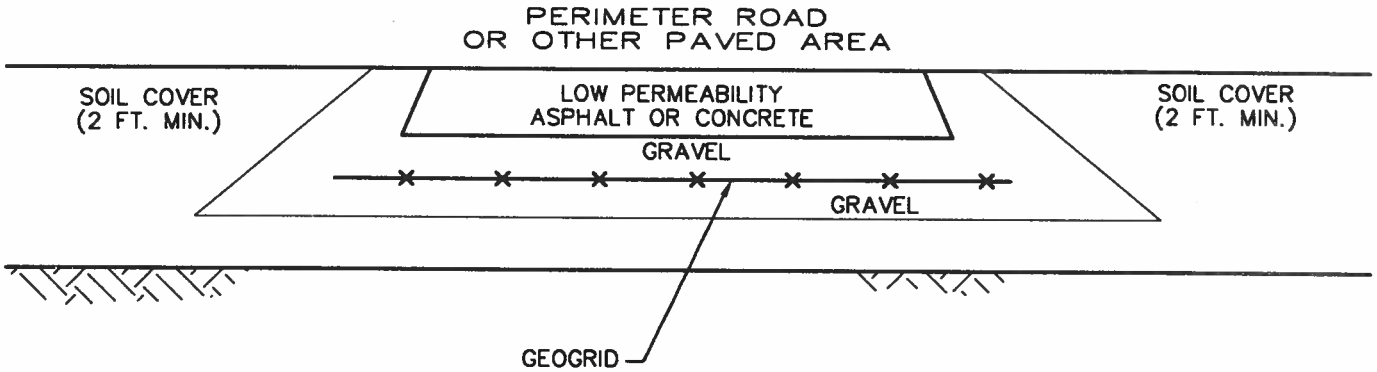

– DEMOLITION DEBRIS FILL –

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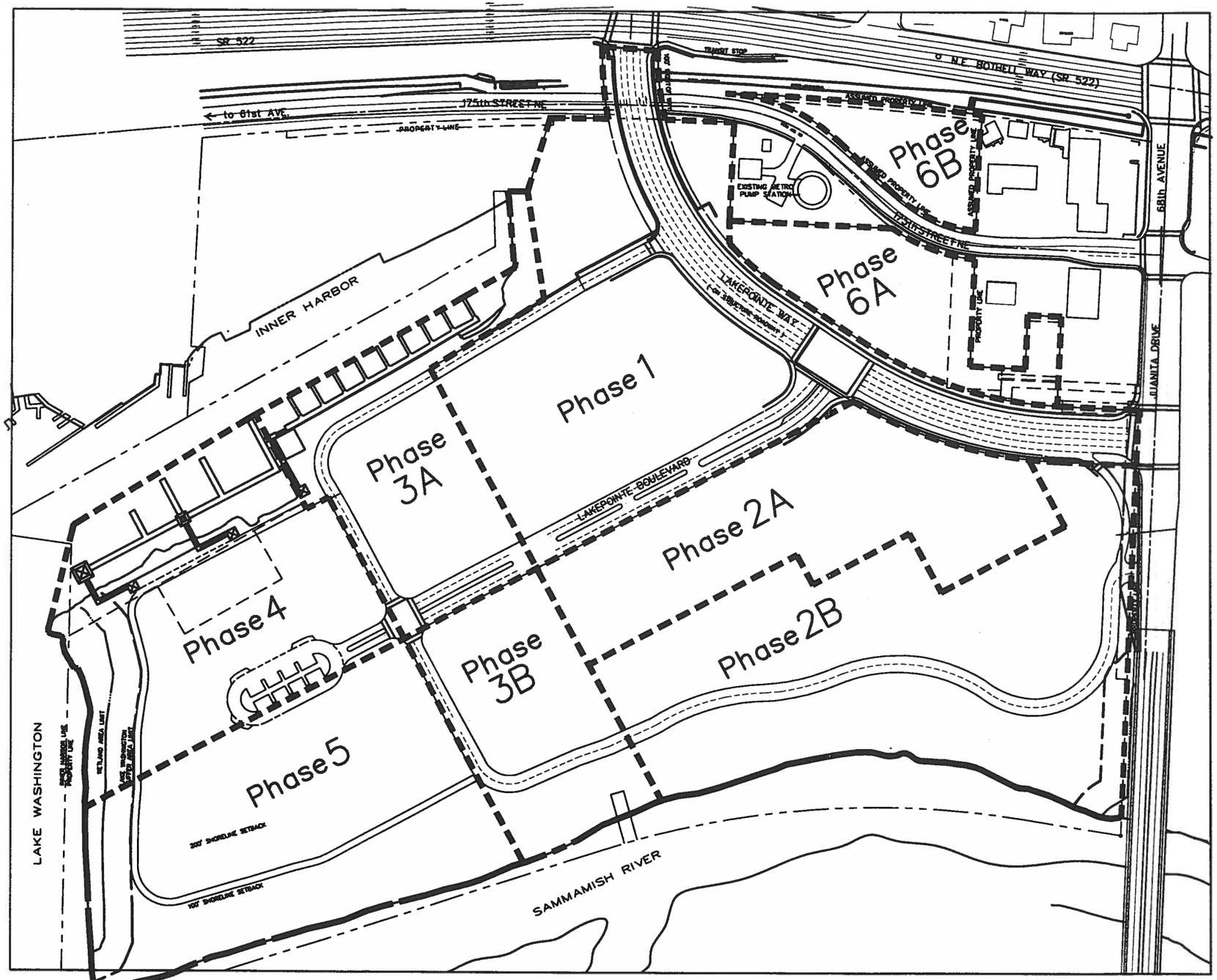
DETAIL D/FIGURE 2

PAVED AREAS/SOIL COVER
KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

JOB NO.: 0-91M-10459-D-CAP | DWG DATE: 04-10-2001 | SCALE: N.T.S. | DESIGN BY: DHG | FILE NAME: DETAIL D-CAP.DWG



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SOURCE: DRAWING BASED ON A PLAN BY ABUGOV-KASPER

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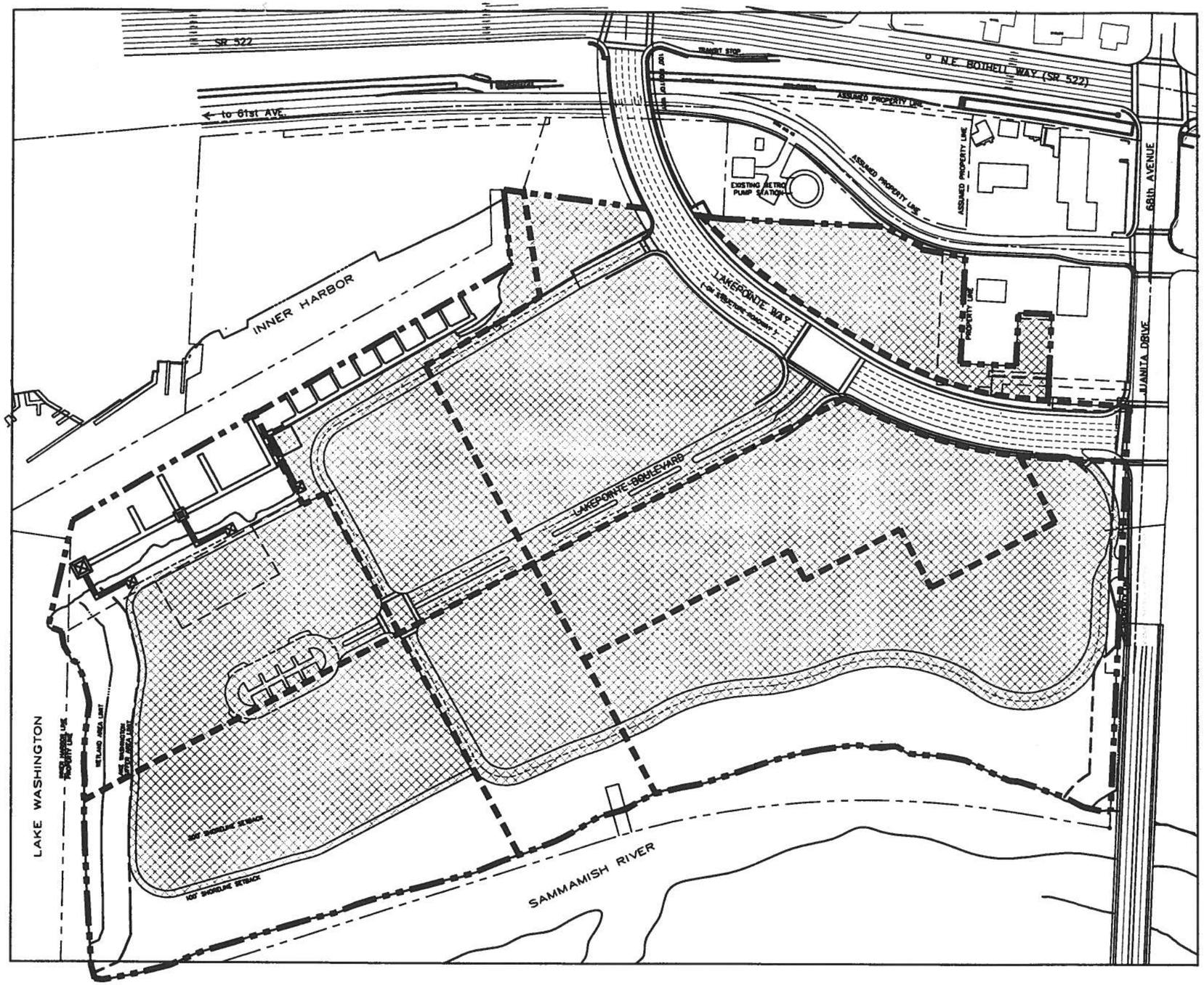
CONCEPTUAL PHASING PLAN

KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

FIGURE 3



LEGEND

APPROXIMATE EXTENT OF ENGINEERED CAP

SITE BOUDARY

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SOURCE: DRAWING BASED ON A PLAN BY ABUGOV–KASPER

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COVERAGE OF ENGINEERED CAP

KENMORE INDUSTRIAL PARK

KENMORE, WASHINGTON

FIGURE 4

ATTACHMENT A

TIMELINE

Kenmore Industrial Park
Kenmore, Washington

ACTIVITY			CALENDAR DAYS
A	**Entry of Consent Decree**		1 day
	1	DRAFT Remedial Engineering Design Report	180 days
	2	Ecology Review & Issue Remedial Engineering Design Report	60 days
	3	DRAFT Health & Safety Plan	20 days
	4	Ecology Review & Issue Health & Safety Plan	30 days
B	**Phase 1**		
	1	Development Permits Received for Phase 1	1 day
	2	Bid Process	60 days
	3	Select Contractor	15 days
	4	Cleanup Preparation	
		a Fence Construction Areas and Phases 2-5	15 days
		b Demolish Existing Structures	20 days
		c Erosion Control Phases 2-5	15 days
	5	Preliminary Grading	
		a TESC Measures and Access	20 days
		b Relocate Roofing Debris	30 days
		c Lakepointe Drive	180 days
	6	Cap Construction	
		a Install Piling	120 days
		b Cap Construction	60 days
		c Building Construction	300 days
	7	Finish Grading	
		a Complete Utility and Vent Connections	60 days
		b Landscape	40 days
	8	Plan Preparation	
		a DRAFT Compliance Monitoring Plan	20 days
		b DRAFT Operations and Maintenance Plan	20 days
		c Ecology Review & Issue Final Plans	20 days
	9	Certificate of Completion – Phase 1	30 days

TIMELINE

Kenmore Industrial Park
Kenmore, Washington

ACTIVITY			CALENDAR DAYS
C	**Next & Subsequent Phases**		
	1	Development Permits Received for Relevant Phase	1 day
	2	Bid Process	60 days
	3	Select Contractor	15 days
	4	Preliminary Grading	
		a Reference to Separate Construction from TESC Area	15 days
		b TESC Measures and Access	10 days
	5	Cap Construction	
		a Install Piling	60 days
		b Cap Construction	60 days
		c Building Construction	270 days
	6	Finish Grading	
		a Complete Utility and Vent Connections	30 days
		b Shoreline Enhancement (if applicable)	60 days
		c Landscaping	30 days
	7	Plan Preparation	
		a DRAFT Compliance Monitoring Plan	20 days
		b DRAFT Operations and Maintenance Plan	10 days
		c Ecology Review & Issue Final Plans	10 days
	8	Certificate of Completion – Current Phase	30 days

ATTACHMENT B

APPLICABLE STATE AND FEDERAL LAWS TABLE

STATUTE, REGULATION, OR ORDINANCE	REQUIREMENT	COMMENTS
Federal Clean Water Act, 33 USC 1344, 33 CFR 325-330	Section 404 (Dredge and Fill) permit or Nationwide permit issued by Army Corps of Engineers for dredge or fill activities in navigable waters (including wetland areas).	Potentially applicable to bulkhead rehabilitation; and activity in/near site wetlands
Federal Clean Water Act, 33 USC 1341	State Water Quality Certification issued by State Department of Ecology for activities subject to Section 404 permit.	Potentially applicable if Section 404 (dredge and fill) permit required
Federal Rivers and Harbors Act, 33 USC 403	Section 10 Permit issued by Army Corps of Engineers for activities that obstruct navigational waterways.	Potentially applicable to bulkhead rehabilitation
Federal Endangered Species Act (ESA) 16 USC 1531 *et. seq.*	Consultation with NMFS required where there is a federal nexus and potential impact on endangered or threatened species.	Potentially applicable to bulkhead rehabilitation
Federal Occupational Safety and Health Act (OSHA), 29 CFR 1910.120	Site worker health and safety requirements.	Potentially applicable to remedial action construction activities.
State Water Pollution Control Act, RCW 90.48, NPDES Permit Program, Ch. 173-220 WAC (implementing Federal Clean Water Act, 33 USC 1342)	National Pollutant Discharge Elimination System (NPDES) permit issued by the Department of Ecology for point source discharges to surface waters. [1]	Substantive requirements potentially applicable to point source discharges to adjacent surface waters
State Water Pollution Control Act, RCW 90.48, State General Permit Program, Ch. 173-226 WAC (implementing Federal Clean Water Act, 33 USC 1342)	Baseline General Stormwater Permit issued by Ecology for construction activities impacting more than 5 acres. [1]	Substantive requirements potentially applicable to remedial action construction activities.

APPLICABLE STATE AND FEDERAL LAWS TABLE (CONT.)

STATUTE, REGULATION, OR ORDINANCE	REQUIREMENT	COMMENTS
State Water Pollution Control Act, RCW 90.48, WAC 173-201A	Compliance with state surface water quality standards issued by the Department of Ecology.[1]	Substantive requirements potentially applicable for Lake Washington/Sammamish River classifications.
State Hydraulics Act, RCW 75.20, Ch. 220-110 WAC	Hydraulic Project Approval from the State Department of Fish and Wildlife for activities that affect the natural flow or bed of any water body.[1]	Substantive requirements potentially applicable to bulkhead rehabilitation, temporary bypass culverts, outfall structures, and stormwater pond facilities.
State Noise Control Act, RCW 70.107, Ch. 173-60 WAC	Establishes noise levels.	Potentially applicable to remedial action construction activities.
Washington Clean Air Act, RCW 70.94 RCW, WAC 173-400 through 492 (implementing the Federal Clean Air Act, 42 USC 7401 et.seq.) Puget Sound Clean Air Authority (PSCAA) Regulation I	Requirements applicable for control of fugitive dust emissions, Regulation I, Article 9.	Substantive requirements potentially applicable to construction of engineered cap.
State Environmental Policy Act (SEPA), 43.21 RCW, Ch. 197-11 WAC	Project environmental review.	Potentially applicable to the remedial action. *Note: A SEPA checklist has been submitted to Ecology for the remedial action*
State Shoreline Management Act, RCW 90.58; King County Code, Title 25 (as adopted by the City of Kenmore)	City of Kenmore shoreline management provisions for activities within 200 feet of State shorelines.	Potentially applicable to remedial actions within shoreline areas. *Note: King County issued a Shoreline Substantial Development Permit (File No. L96SH107) for the site in August 1998.*[2]

APPLICABLE STATE AND FEDERAL LAWS TABLE (CONT.)

STATUTE, REGULATION, OR ORDINANCE	REQUIREMENT	COMMENTS
Washington Minimum Functional Standards for Solid Waste Handling, RCW 70.95, Ch. 173-304 WAC	Closure requirements for demolition waste landfills.	The standards of WAC 173-304-405 through 173-304-490 do not apply to this site because it was closed prior to the date of the regulations in accordance with WAC 173-304-400. However, the demolition waste landfilling facility closure requirements in WAC 173-304-461 are relevant and appropriate requirements.
Washington Industrial Safety and Health Act (WISHA), Ch. 296-62 WAC	Site worker health and safety requirements.	Potentially applicable to remedial action construction activities.
King County Board of Health Code, Regulation 10.76.020	Construction standards for methane control.	Substantive requirements potentially applicable to methane control elements of remedial action.
City of Kenmore Provisions[3]	Local land use and development requirements.[1]	Substantive requirements potentially applicable to land use and construction elements of remedial action. *Note: King County approved a Master Site Plan and issued a Commercial Site Development Permit (File No. B96CS005) for the site in August 1998.*[2]

Notes:

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 that are known to be potentially applicable and for which Pioneer Towing is exempt from the procedural requirements pursuant to RCW 70.105D.090(1) are set out in detail in Exhibit G to the Consent Decree.

2. The Commercial Site Development Permit (CSDP) and Shoreline Substantial Development Permit (SSDP) issued for the redevelopment may address and/or stand in lieu of certain listed requirements. However, the substantive requirements of the King County Code as adopted by the City of Kenmore supercede

specific conditions in these permits. Therefore, implementation of the Cleanup Action Plan in conformance with applicable substantive code standards may not comply with all of the conditions identified in the CSDP and SSDP.

3. The City of Kenmore has adopted King County's Code provisions subject to certain modifications. The City plans to codify its own development provisions some time in 2001.

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TABLES

TABLE 5-1 CLEANUP LEVELS FOR GROUNDWATER, KENMORE INDUSTRIAL PARK		
Contaminant	**Cleanup Level (Φg/L)**	**Standard/Criteria**
TPH (ORPH and DRPH)	1,000	MTCA Method A (based on protection of groundwater because no applicable surface water cleanup level exists under MTCA Methods A, B, or, C, and there is no MTCA Method B groundwater cleanup level)
Arsenic	5	MTCA Method A (based on natural background concentrations for the State of Washington)
Lead (dissolved)	14.4	MTCA Method A and B (based on hardness dependent formula in WAC 173-201A-040. Calculation was based on lowest observed groundwater hardness of 524 mg. eq./L)
Barium	1,000	MTCA Method A and B (based on EPA National Recommended Water Quality Criteria)

TABLE 5-2 CLEANUP LEVELS FOR SOIL		
Contaminant	**Cleanup Level (mg/kg)**	**Standard/Criteria**
TPH (ORPH and DRPH)	200.0	Method A Residential
Arsenic	20.0	Method A Residential
Barium	100	Method B Residential
Lead	250	Method A Residential
Selenium	0.5	Method B Residential

TABLE 5-3 CLEANUP LEVELS FOR SOIL FOR CONTINUED INDUSTRIAL USE		
Contaminant	**Cleanup Level (mg/kg)**	**Standard/Criteria**
TPH (ORPH and DRPH)	200.0	Method A Industrial
Arsenic	200.0	Method A Industrial
Barium	100	Method C Industrial
Lead	1000	Method A Industrial
Selenium	0.5	Method C Industrial

TABLE 5-4 COMPARISON OF CURRENT COC CONCENTRATIONS TO GROUNDWATER CLEANUP LEVELS FOR PROTECTION OF SURFACE WATER AT CONDITIONAL POINT OF COMPLIANCE, KENMORE INDUSTRIAL PARK			
Contaminant	**2001 Measured Groundwater Concentration Range at Shoreline Compliance Wells (Φg/L)**	**Cleanup Level (Φg/L)**	**Exceedance of Cleanup Levels at the Conditional Point of Compliance**
TPH (ORPH and DRPH)	<250 to <750	1,000	None
Arsenic	1.02 to 4.75	5	None[1]
Barium	68.9 to 889	1,000	None[2]
Lead	<1 to 13	14.4	None

Notes: [1]A single anomalous exceedance of 12 Φg/L occurred in 1996 in the no longer operable well AW-10.
[2]A single anomalous exceedance of 1,090 Φg/L occurred in 1996 in the well AW-11.

TABLE 5-5
COMPARISON OF COC CONCENTRATIONS TO RESIDENTIAL SOIL MEDIA CCLs, KENMORE INDUSTRIAL PARK

Contaminant	Measured Soil Concentration Range (mg/kg)	Cleanup Level (mg/kg)	Exceedance Of CCL
TPH (ORPH and DRPH)	15 to 4,800	200	Throughout
Arsenic	<1.2 to 7.7	20	None
Barium	22 to 441	100	3 exceedances
Lead	<10 to 1,510	250	3 exceedances
Selenium	<0.5 to 0.6	0.5	2 exceedances

TABLE 5-6
COMPARISON OF COC CONCENTRATIONS TO INDUSTRIAL SOIL MEDIA CCLs, KENMORE INDUSTRIAL PARK

Contaminant	Measured Soil Concentration Range (mg/kg)	Cleanup Level (mg/kg)	Exceedance Of CCL
TPH (ORPH and DRPH)	15 to 4,800	200	Throughout
Arsenic	<1.2 to 7.7	200	None
Barium	22 to 441	100	3 exceedances
Lead	<10 to 1,510	1,000	1 exceedance
Selenium	<0.5 to 0.6	0.5	2 exceedances

EXHIBIT C

Schedule

TIMELINE

Kenmore Industrial Park
Kenmore, Washington

ACTIVITY			CALENDAR DAYS
A	**Entry of Consent Decree**		1 day
	1	DRAFT Remedial Engineering Design Report	180 days
	2	Ecology Review & Issue Remedial Engineering Design Report	60 days
	3	DRAFT Health & Safety Plan	20 days
	4	Ecology Review & Issue Health & Safety Plan	30 days
B	**Phase 1**		
	1	Development Permits Received for Phase 1	1 day
	2	Bid Process	60 days
	3	Select Contractor	15 days
	4	Cleanup Preparation	
		a Fence Construction Areas and Phases 2-5	15 days
		b Demolish Existing Structures	20 days
		c Erosion Control Phases 2-5	15 days
	5	Preliminary Grading	
		a TESC Measures and Access	20 days
		b Relocate Roofing Debris	30 days
		c Lakepointe Drive	180 days
	6	Cap Construction	
		a Install Piling	120 days
		b Cap Construction	60 days
		c Building Construction	300 days
	7	Finish Grading	
		a Complete Utility and Vent Connections	60 days
		b Landscape	40 days
	8	Plan Preparation	
		a DRAFT Compliance Monitoring Plan	20 days
		b DRAFT Operations and Maintenance Plan	20 days
		c Ecology Review & Issue Final Plans	20 days
	9	Certificate of Completion – Phase 1	30 days

TIMELINE

Kenmore Industrial Park
Kenmore, Washington

ACTIVITY			CALENDAR DAYS
C	**Next & Subsequent Phases**		
	1	Development Permits Received for Relevant Phase	1 day
	2	Bid Process	60 days
	3	Select Contractor	15 days
	4	Preliminary Grading	
		a Reference to Separate Construction from TESC Area	15 days
		b TESC Measures and Access	10 days
	5	Cap Construction	
		a Install Piling	60 days
		b Cap Construction	60 days
		c Building Construction	270 days
	6	Finish Grading	
		a Complete Utility and Vent Connections	30 days
		b Shoreline Enhancement (if applicable)	60 days
		c Landscaping	30 days
	7	Plan Preparation	
		a DRAFT Compliance Monitoring Plan	20 days
		b DRAFT Operations and Maintenance Plan	10 days
		c Ecology Review & Issue Final Plans	10 days
	8	Certificate of Completion – Current Phase	30 days

EXHIBIT D

Public Participation Plan

DRAFT PUBLIC PARTICIPATION PLAN

KENMORE INDUSTRIAL PARK
KENMORE, WASHINGTON

JUNE 2001

Prepared by
Washington State Department of Ecology,
with input from Kenmore Industrial Park

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LIST OF FIGURES

INTRODUCTION

The purpose of this Public Participation Plan is to assist in promoting public understanding and participation in the Kenmore Industrial Park cleanup. Cleanups conducted under the Washington State Model Toxics Control Act (MTCA) and the regulations that guide site cleanup (Chapter 173-340-WAC), require public notice and encourage public comment and participation. This Public Participation Plan outlines a variety of tools and activities to encourage public involvement in the Kenmore Industrial Park cleanup. While certain aspects of the Public Participation Plan are prescribed by regulation, the intent is to customize the approach to meet the specific community information needs.

This Public Participation Plan complies with MTCA and the MTCA regulations. The following sections provide a brief description of the site background and community profile and outline the public involvement tools and activities for the Kenmore Industrial Park.

This plan covers activities at the site for the State Remedial Investigation/Feasibility Study (RI/FS), Cleanup Action Plan, Consent Decree and State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) for the cleanup. SEPA compliance for the redevelopment is covered by the Northshore Community Plan Environmental Impact Statement (EIS), adopted in 1993, and the Lakepointe Mixed Use Master Plan Supplemental EIS, dated July 14, 1998. Pioneer Towing Company, Inc. (Pioneer Towing) and the Washington State Department of Ecology (Ecology) are committed to providing public participation opportunities prior to and during the cleanup of this site. This Plan is intended to promote public understanding of Pioneer Towing's and Ecology's responsibilities, planning activities, and remedial activities at the site. It also provides an opportunity to receive information from the public on a comprehensive cleanup plan to protect human health and the environment. Figure 1 shows the cleanup process and public participation activities, as well as opportunities for public comment.

SITE BACKGROUND

SITE LOCATION AND DESCRIPTION

Kenmore Industrial Park is located southwest of the intersection of Bothell Way NE and 68th Avenue NE in Kenmore, King County, Washington, along the 6500 to 6800 blocks of NE 175th Street (Figure 2). The site comprises approximately 45 acres. The site is located adjacent to and north of the mouth of the Sammamish River and the southwestern portion of the property forms a peninsula that extends into Lake Washington. The site is relatively flat and bordered by road and shoreline embankments.

The site is currently used as an industrial park and is occupied predominantly by a sand and gravel stockpile yard and several smaller storage and light industrial operations. The current owner of the site is Pioneer Towing.

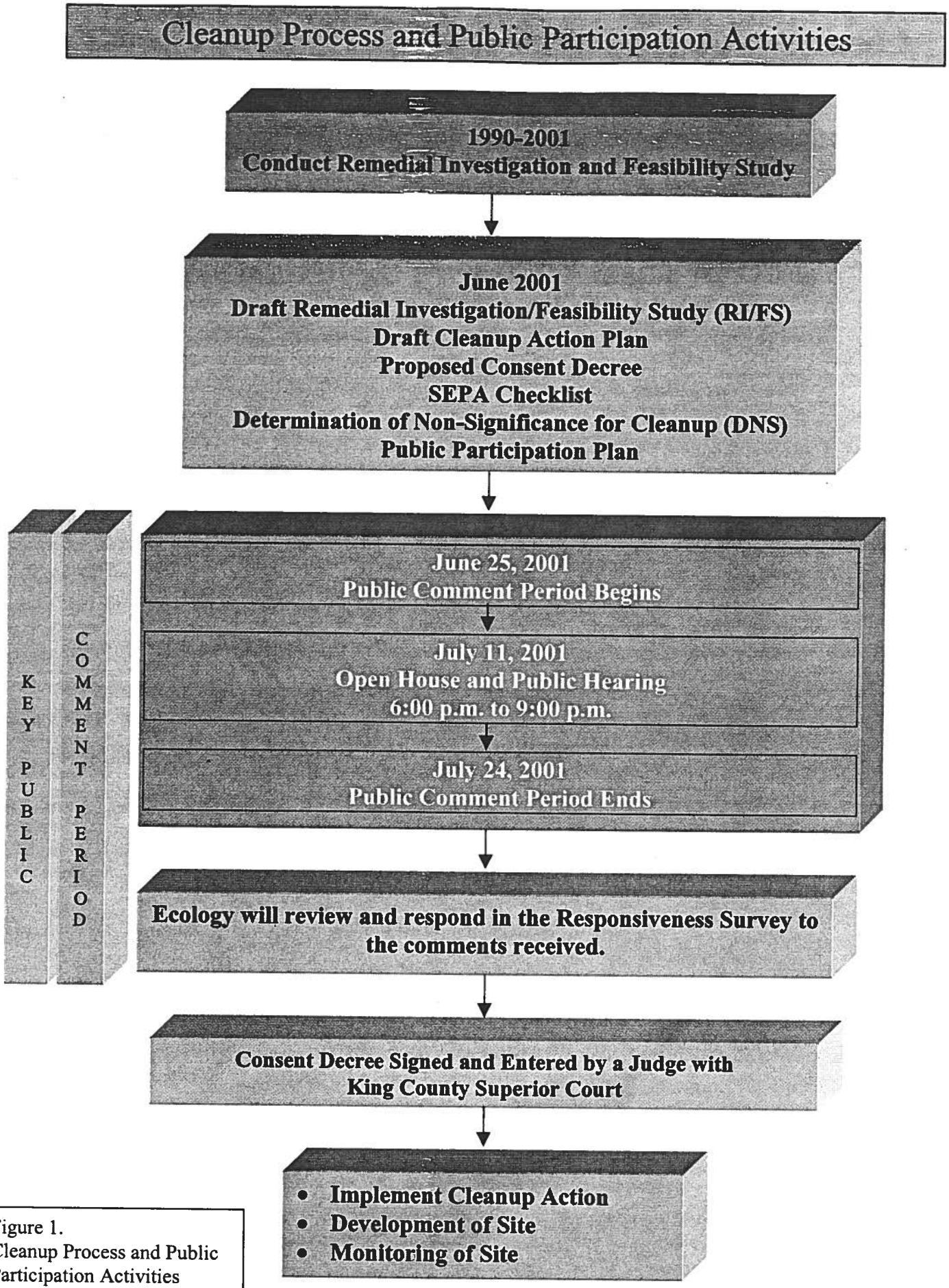

Figure 1.
Cleanup Process and Public Participation Activities

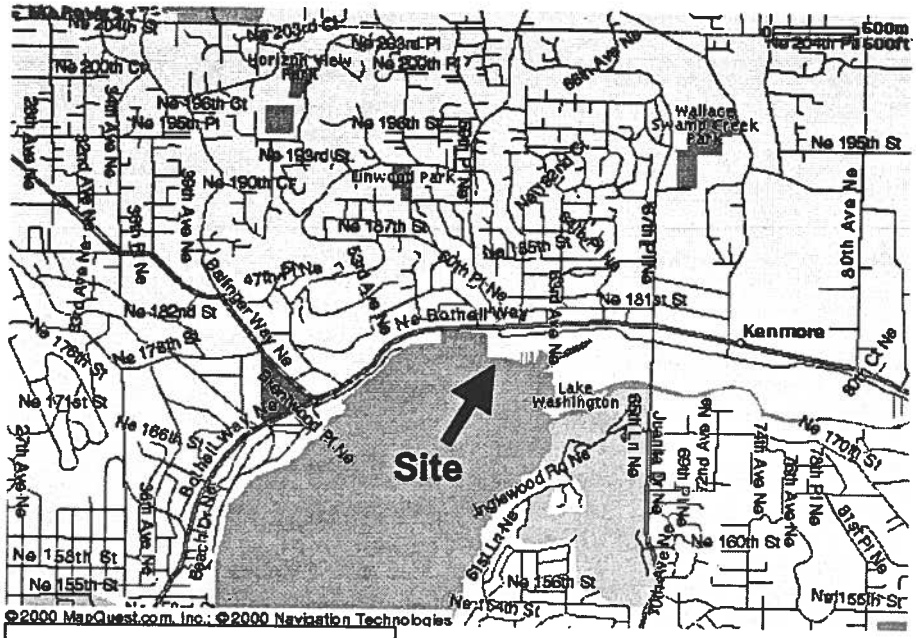

Figure 2. Site Location Map

SITE HISTORY AND HISTORICAL OPERATIONS

At the turn of the 20th century, the southern and western portions of the site comprised a shallow, submerged delta. In 1916, the United States Army Corps of Engineers lowered the lake level. As development progressed at the site, the southern and western portions were subject to reclamation. By 1956, significant filling activities occurred at the north margin of the property. During that time, various fill materials were placed at the site, resulting in a landfilled peninsula elevated above the former deltaic environment. By 1969, the entire property appears to have been filled to its current elevation. Fill records indicate that construction debris were disposed at the site. The fill consisted predominantly of demolition debris, with smaller amounts of concrete and asphalt rubble, and a minor soil matrix. The origin of the fill is reported to be housing demolition debris related to construction of the Interstate I-5. The landfill was eventually graded, covered with soil, and used as an industrial park.

A number of businesses historically operated at the site. Historic operations have included assorted small storage and manufacturing industries, sand and gravel staging and support facilities, and associated offices. In a fenced compound in the north-central portion of the property, a concrete truck fleet was fueled and maintained. Fuels were stored in above ground storage tanks inside the fenced compound. On the western portion of the site, a pond was maintained where excess concrete and concrete truck washwater was collected.

COMMUNITY PROFILE

KENMORE COMMUNITY DESCRIPTION

The site is located in the City of Kenmore. Kenmore, incorporated in August 1998, has a population of about 17,000 and covers an approximately 6-square-mile area within King County, Washington. Upon incorporation, Kenmore became responsible for the review and approval of all building and land use permits within its boundaries. The City Council has given priority to local control of planning and land use decision-making and began accepting new land use permits at Kenmore City Hall in the winter of 1998.

Kenmore has adopted King County development regulations and zoning codes, with minor exceptions, in an effort to provide continuity to the community; however, these regulations may change over time. Similarly, Kenmore negotiated an interlocal agreement with King County Department of Development and Environmental Services in an effort to assure a smooth transition in administration from King County to the City of Kenmore.

Kenmore recently drafted a vision statement to express its community goals and purposes. The preliminary vision statement provides a sense of the Kenmore community as it exists today and how it will likely exist in the future:

> With integrity as its cornerstone, Kenmore is a city that will meet its obligations by providing:
>
> - Public safety
> - Effective and efficient services
> - A community-generated plan for the future
> - Forums for citizen participation and involvement
> - Fair-friendly service responsive to the diverse needs of the citizens
> - Representation of Kenmore's interests in local and regional partnerships

... leaving a sustainable legacy.[1]

[1] City of Kenmore, http://www.cityofkenmore.com/, June 12, 2001.

KEY COMMUNITY CONCERNS

Overall, the community is supportive of the property being cleaned up and redeveloped. Community input into the proposed redevelopment and cleanup has come primarily through the efforts of the Lakepointe Citizens' Advisory Task Force. The Lakepointe Citizens' Advisory Task Force functioned for over three years and in the course of its work consulted on issues related to site cleanup and development of the project's Master Plan, Commercial Site Development Permit Application, and Shoreline Substantial Development Permit Application. The work of the Task Force involved continuing, substantive input from the very beginning of the cleanup process by a highly diverse group of local residents and representatives from the many community interests drawn from those geographic areas potentially effected by the cleanup and redevelopment. Ecology was active in the public participation process by presenting information, providing materials, and answering questions regarding the process and procedures applicable to the site cleanup. The Task Force meetings were open to the public and broadly advertised. Public comment was solicited at the beginning of each meeting, and public questions and comments were encouraged during most meetings. Although some concerns have been raised about traffic congestion associated with the redevelopment, in the course of a close collaboration with the development team, King County, and other interested groups, a broad consensus among the members developed a broad outline of the project as reflected in the Master Plan and the various permit applications. The consensus included confidence that the project would be built on the site in a manner protective of human health and the environment.

SITE CLEANUP AND REDEVELOPMENT

The cleanup action will be fully integrated with and will occur at the same time as the proposed redevelopment of the site. The objectives of the cleanup action are to prevent human contact with contaminants in the landfilled demolition debris and to prevent the migration of contaminants above levels of concern to surrounding surface waters. Contaminants that pose concern at the site include certain metals (lead, arsenic, barium, and selenium) and certain petroleum hydrocarbons.

CLEANUP ACTION PLAN

The proposed cleanup action includes: placement of soil cover, construction of site structures that form an engineered cap over a portion of the upland area of the property, long-term monitoring of groundwater, and implementation of measures to limit and/or prohibit activities that may interfere with the integrity of the cleanup or result in exposure to contaminants at the site. The proposed Cleanup Action Plan will be implemented in phases in conjunction with redevelopment and include the following tasks:

- Soil cover;
- Design of the redevelopment structures that will form an engineered cap over portions of the upland area of the property;
- Construction of the redevelopment structures that form the engineered cap;

- Implementation of physical measures in areas not yet redeveloped and in areas not currently under construction to limit access and potential exposure to landfilled debris at the site;
- Implementation of site modifications outside the engineered cap that reflect habitat preservation and enhancement goals;
- Implementation of worker health and safety plans and required property notices; and
- Monitoring of groundwater.

If the site remains in industrial use, deed notices, access controls, erosion controls, and groundwater monitoring appropriate for continued industrial uses will constitute the proposed cleanup action.

SITE REDEVELOPMENT

Site redevelopment will occur in conjunction with, and form an integral part of, the cleanup action. The proposed redevelopment will provide mixed commercial and residential uses, and may include phased development of residential units, professional office space, retail and commercial space, a marina with recreational boat slips, parking stalls, and construction of a new public street connecting NE Bothell Way and 68th Avenue NE. Open space on the site will include natural open space, public park areas, pedestrian walkways and trails, and possibly a public amphitheater. The open space areas on the site will also provide public access and viewpoints to Lake Washington and the Sammamish River.

ESTIMATED CLEANUP SCHEDULE

The schedule for cleanup will run concurrently with and be based on the schedule for site redevelopment. An estimated timeline for phases of the site cleanup and development is set out in the Cleanup Action Plan.

This estimated timeline might be modified during the course of redevelopment.

PUBLIC PARTICIPATION ACTIVITIES AND RESPONSIBILITIES

The purpose of this Public Participation Plan is to promote public understanding and participation in the Model Toxics Control Act (MTCA) cleanup planned for this site. This section of the Plan addresses how Ecology and Pioneer Towing will share information and receive public comments and community input on the site cleanup. Ecology, working with Pioneer Towing, retains lead responsibility for these activities.

PUBLIC INVOLVEMENT TOOLS

Ecology uses a variety of tools that are aimed at facilitating public participation in the planning and cleanup of MTCA sites. The following is a list of these tools, their purposes, and when and how they will be used during this site cleanup.

Formal Public Comment Period

For the Kenmore Industrial Park a thirty-day comment period will be held from June 25 to July 24, 2001. During this time, the community will have the opportunity to provide written comments on drafts of the Remedial Investigation/Feasibility Study (RI/FS), Consent Decree, Cleanup Action Plan, SEPA checklist and DNS, and this Public Participation Plan.

Public Hearing

In addition, a public hearing will be held at the Northshore Utility District Building, 6830 NE 185th Street, Kenmore, on the evening of July 11, 2001, from 7:00 – 9:00 PM, with an open house from 6:00 – 7:00 PM. At this hearing, Ecology and Pioneer Towing will communicate with the public directly, discuss the proposed cleanup actions, respond to questions and concerns about the proposed cleanup actions, and accept formal verbal comments.

Responsiveness Summary

After the public comment period, Ecology will review and respond to any comments received, both verbal and written, in a responsiveness summary. Ecology will consider changes or revisions based on input from the public. If significant changes are recommended, then a second comment period will be held. If no significant changes are recommended, then the Consent Decree will be finalized and recorded in Washington State Superior Court and preparation of the Cleanup Engineering Design report will begin. A copy of the responsiveness summary will be sent to all people who submitted comments, and it also will be made available at the Information Repositories listed below with the other site documents.

Information Repositories

During the comment period, the site documents will be available for review at information repositories. These documents will remain at the repositories for the entire duration of the cleanup. Ecology also can make copies of documents for a fee.

For the Kenmore Industrial Park cleanup, the information repositories are:

Kenmore Public Library 18138 73rd NE Kenmore, WA (425) 486-8747 Monday and Wednesday 11:00 AM – 9:00 PM Thursday, Friday, and Saturday 11:00 AM – 5:00 PM	Lake Forest Park Public Library Lake Forest Park Towne Centre 17171 Bothell Way NE Seattle, WA (206) 362-8860 Monday – Friday 11:00 AM – 9:00 PM Saturday 11:00 AM – 6:00 PM	Washington State Department of Ecology Northwest Regional Office 3190 160th Avenue SE Bellevue, WA 98008 Call Sally Perkins for an appointment: Phone: (425) 649-7190 Fax: (425) 649-4450 E-mail: perk461@ecy.wa.gov Monday – Thursday 8:00 AM – 12:00 PM and 1:00 – 4:00 PM

Site information will also be posted on the Ecology web site at:
http://www.ecy.wa.gov/programs/tcp/cleanup.html

Documents available for public review at these repositories will include drafts of the RI/FS, Consent Decree, Cleanup Action Plan, SEPA checklist, DNS, and this Public Participation Plan.

Site Register

One of the primary communication tools of Ecology's Toxics Cleanup Program is the Site Register. All public meetings and comment periods as well as many other activities are published in this bimonthly report. The public comment period for the site will be announced in the Site Register on June 26, 2001. To receive the Site Register, contact Sherrie Minnick at (360) 407-7200 or shan461@ecy.wa.gov.

Mailing List

Ecology, with Pioneer Towing, will jointly compile a mailing list for the site. The list will include individuals, groups, public agencies, elected officials, and private businesses and industries that request site-related mailings, potentially affected parties, as well as other known interested parties. The list will be maintained at Ecology's Northwest Regional Office and will be updated as needed.

Fact Sheet

A fact sheet is a site-specific newsletter-like publication that is mailed to potentially affected parties, as well as interested persons, businesses and government agencies in and around affected communities. The fact sheet is used to inform them of public comment periods and important site activities. A fact sheet may also be used to informally update the community regarding progress of the site cleanup.

For this site, a fact sheet was prepared and mailed out to announce the formal comment period, public hearing and availability of site documents to be reviewed. Future fact sheets will be prepared as appropriate to periodically update the community on the progress of the site cleanup.

Display Ad

The paid display ad for the site to announce the comment period and public hearing will be placed in the *Seattle Times*, the *Northlake News*, and the *Northshore Citizen*.

PLAN UPDATE

This Public Participation Plan may be updated as the project proceeds. If an update is necessary the revised plan will be submitted to the public for comment.

PUBLIC POINTS OF CONTACT

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P.O. Box 82298
Kenmore, WA 98028
(425) 486-2756

GLOSSARY

Cleanup: Actions taken to deal with a release, or threatened release of hazardous substances that could affect public health and/or the environment. The term "cleanup" is often used broadly to describe various response actions or phases of remedial responses such as the remedial investigation/feasibility study.

Cleanup Action Plan (CAP): A document that explains which cleanup alternative(s) will be used at sites for the cleanup. The Cleanup Action Plan is based on information and technical analysis generated during the remedial investigation/feasibility study and consideration of public comments and community concerns.

Comment Period: A time period during which the public can review and comment on various documents and Ecology or EPA actions. For example, a comment period is provided to allow community members to review and comment on proposed cleanup action alternatives and proposed plans. Also, a comment period is held to allow community members to review and comment on draft feasibility studies.

Consent Decree: A formal legal document, approved and issued by a court which formalizes an agreement reached between the state (and EPA if involved) and the potentially liable person(s) (PLPs) on what will take place during the Remedial Investigation/Feasibility Study and/or cleanup action. A Consent Decree is similar to an Agreed Order except that a Consent Decree goes through the courts. Consent Decrees are subject to public comment. If a decree is substantially changed, an additional comment period is provided.

Feasibility Study (FS): See Remedial Investigation/Feasibility Study.

Groundwater: Water found beneath the earth's surface that fills pores between materials such as sand, soil, or gravel. In some aquifers, ground water occurs in sufficient quantities that it can be used for drinking water, irrigation and other purposes.

Information Repository: A file containing current information, technical reports, and reference documents available for public review. The information repository is usually located in a public building that is convenient for local residents such as a public school, city hall, or library.

Model Toxics Control Act (MTCA): Legislation passed by the State of Washington in 1988. Its purpose is to identify, investigate, and clean up facilities where hazardous substances have been released. It defines the role of Ecology and encourages public involvement in the decision making process. MTCA regulations became effective March 1, 1989 and are administered by the Washington State Department of Ecology.

Public Participation Plan: A plan prepared to encourage coordinated and effective public involvement designed to the public's needs at a particular site.

Remedial Investigation/Feasibility Study: Two distinct but related studies. They are usually performed at the same time, and together referred to as the "RI/FS." They are intended to:

- Gather the data necessary to determine the type and extent of contamination;
- Establish criteria for cleaning up the site;
- Identify and screen cleanup alternatives for remedial action; and
- Analyze in detail the technology and costs of the alternatives.

Responsiveness Summary: A summary of oral and/or written public comments received by Ecology during a comment period on key documents, and Ecology's responses to those comments. The responsiveness summary is especially valuable during the Cleanup Action Plan phase at a site when it highlights community concerns.

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EXHIBIT E

Site Legal Description

SITE LEGAL DESCRIPTION

The Site is Parcels A, B, and D as described below:

Parcel A:
That portion of government Lots 1 and 2 in Section 11, Township 26 North, Range 4 East W.M., and of second class shore lands adjoining lying southerly of a 40 foot county road as conveyed by deeds recorded under recording Nos. 2964553 and 3904751 which adjoins the southerly line of the Northern Pacific Railway right-of-way and lying northerly of a line as described in deed dated October 26, 1959, filed December 17, 1959, under recording No. 5113469, and lying easterly and southerly of the following described line:
Beginning at the intersection of the southerly line of said 40 foot county road with a line drawn parallel to and 207.00 feet east of the line between said government Lots 1 and 2 (said distance being measured at right angles to said line);
Thence south 01E35'06" west, along said parallel line, 307.69 feet; thence south 59E50'29" west 968.85 feet to the northeasterly angle point on the inner harbor line of Lake Washington as shown on sheet No. 2 of plat of Lake Washington shore lands of September 19, 1921 (the courses in the above description being referred to the meridian used in said shore land plat);
Except the east 30 feet thereof deeded to King County for 68th Avenue N.E.;
And except that portion thereof lying north and east of a line described as follows:
Beginning at the intersection of the southerly line of said 40 foot county road with the west line of the Juanita Highway (68th Avenue N.E.);
Thence south, along said highway line, 608.75 feet to the southeast corner of a tract described under recording No. 7902271005;
Thence west, at right angles to said highway, 349.41 feet to the southwest corner of said tract;
Thence north, parallel to said highway, 192.77 feet, more or less, to a point 400 feet south of said 40 foot road known at point "A" of said tract;
Thence westerly 58.17 feet, more or less, to a point 305 feet west of the west line of said highway;
Thence north 192.91 feet, more or less, to the south margin of N.E. 175th Street as conveyed to King County by instrument recorded under recording No. 5429742;
Thence northwesterly along said south margin on a curve to the right having a radius of 111.48 feet, the radial center of which bears north of 05E41'49" east, through a central angle of 29E17'40" an arc distance of 159.26 feet to the southeast corner of that tract of land conveyed to the municipality of Metropolitan Seattle by instrument recorded under recording No. 5671305;
Thence north 87E28'06" west along the south line of said tract 290.00 feet to the southeast corner of said Metro tract;
Thence north 02E33'43" east along (the west line of said Metro tract 175.25 feet to a point on the southerly margin of said 40 foot road and the end of said line;
And except any portion thereof lying northerly of the southerly margin of N.E. 175th Street as conveyed to King County by deed recorded under recording No. 5429742;
And except that portion conveyed to Custom Industries by deeds recorded under recording Nos. 7609200436 and 7707140957, described as follows:
That portion of said government Lot 1:
Beginning at the intersection of the westerly margin of 68th Avenue N.E., with the southerly margin of the Northern Pacific Railroad right-of-way;

Thence south 02E33'43" west along said westerly margin 470.00 feet to the true point of beginning of said exception;
Thence continuing south 02E33'43" west 143.69 feet;
Thence north 87E26'17" west at right angles to said margin 235.00 feet;
Thence north 02E33'43" east 157.00 feet;
Thence north 87E26'17" west 70.00 feet to a point hereinafter referred to as point "A";
Thence north 02E33'43" east 40.0 feet;
Thence south 87E26'17" east 100.00 feet;
Thence north 02E33'43" east 96.69 feet;
Thence south 87E26'17" east 60.00 feet;
Thence south 02E33'43" west 150.00 feet;
Thence south 87E26'17" east 145 feet, more or less, to the true point of beginning of said exception; Situate in the County of King, State of Washington.

Parcel B:

That portion of government Lots 1 and 2 in Section 11, Township 26 North, Range 4 East W.M. and second class shore lands, as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon, described as follows:
Beginning at the intersection of the east line of the west 1,030 feet of said government Lot 2 with the south line of a 40 foot road adjoining the Northern Pacific Railway right-of-way on the south as conveyed by deeds recorded under recording No. 2964553 and 3904751;
Thence easterly along said road line to an intersection with a line parallel to and 480 feet (measured at right angles to the line between said government Lots 1 and 2) east of the line of the west 1,030 feet of said government Lot 2;
Thence south along said parallel line 300 feet;
Thence approximately south 59E00'00" west 980 feet, more or less, to an angle point on the inner harbor line of Lake Washington;
Thence north 83E00'00" west along said harbor line of Lake Washington, 160 feet, more or less, to an intersection with the center line of dredged channel leading from Lake Washington into said government Lot 2;
Thence northeasterly along said center line of said channel to an intersection with said east line of west 1,030 feet of said government Lot 2, produced;
Thence north to the point of beginning;
And that portion of the east 100 feet of the west 980 feet of government Lot 2 in said Section 11, and the second glass shore lands as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon bounded on the north by the south line of 40 foot road adjacent to and south of the Northern Pacific Railroad right-of-way crossing said government Lot; and bounded on the south by the north line of dredged channel leading from Lake Washington into said government Lot 2;
And that portion of the bed of said dredged channel between the center line thereof and the north line thereof and between the side lines of said east 100 feet as above described;
Except therefrom the following described portion:
Beginning at a point on the west line of said east 100 feet of the west 980 feet of government Lot 2, 385 feet south of the northwest corner thereof;
Thence easterly, 25 feet;

Thence southerly 50 feet;
Thence westerly 28 feet;
Thence northerly 65 feet to the point of beginning;
And that portion of the east 50 feet of the west 1,030 feet of government Lot 2 in said Section 11 and the second class shore lands as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon, bounded on the north by the south line of 40 foot road adjacent to and south of the Northern Pacific Railroad right-of-way crossing said government Lot and bounded on the south by the north line of dredged channel leading from Lake Washington into said government Lot 2;
And that portion of the bed of said dredged channel between the center line thereof and the north line thereof, and between the side lines of said east 50 feet as above described;
Except _____ **[INSERT METES AND BOUNDS OF THE PORTION OF PARCEL B TO BE EXCEPTED]**;
Situate in the county of King, state of Washington,

Parcel D:
That portion of the northwest ¼ of Section 11, Township 26 North, Range 4 East W.M., described as follows:
Beginning at a tack in lead monument at the intersection of the centerline of N.E. 175th Street and 68th Avenue N.E., said point being on the east line of the northeast ¼ of said Section 11 which is south 02E33'43" west 1797.24 feet from the northeast corner thereof;
Thence continuing along said east line and road centerline south 02E33'43" west 119.82 feet;
Thence north 87E26'17" west 30.00 feet to a point of the westerly margin of said 68th Avenue N.E. which is 320 feet southerly, as measured along said margin, from its intersection with the southerly margin of the Northern Pacific Railroad right-of-way;
Thence continuing north 87E26'17" west 145.00 feet to the true point of beginning;
Thence south 02E33'43" west 150.00 feet;
Thence south 87E26'17" east 145.00 feet to the westerly margin of said 68th Avenue N.E.;
Thence south 02E33'43" west along said margin 138.75 feet;
Thence north 87E35'56" west 248.41 feet;
Thence north 03E01'58" east 192.77 feet to a point hereinafter referred to as point "A";
Thence south 87E26'17" east 41.83 feet;
Thence north 02E33'43" east 96.69 feet;
Thence south 87E26'17" east 60.00 feet to the true point of beginning;
Situate in the county of King, state of Washington.

EXHIBIT F

Restrictive Covenant

RESTRICTIVE COVENANT

KENMORE INDUSTRIAL PARK
N.E. BOTHELL WAY AND JUANITA DRIVE N.E.
KENMORE, WASHINGTON

This Restrictive Covenant is made pursuant to RCW 70.105D.030(l)(f) and (g) and WAC 173-340-440 by the Pioneer Towing Company Inc.

A remedial action (hereafter "Remedial Action") is to be conducted on the property that is the subject of this Restrictive Covenant. The Remedial Action includes cleanup actions appropriate for mixed residential/commercial use of the property (hereafter the "Residential/Commercial Remedial Action") and/or cleanup actions appropriate for continued industrial use of the property (hereafter the "Continued Industrial Use Remedial Action"). The Residential/Commercial Remedial Action and the alternative Continued Industrial Use Remedial Action are both described in (1) the Cleanup Action Plan for Kenmore Industrial Park ("CAP"), dated ____ 2001 and (2) Consent Decree No. _____, entered as of _____. The CAP and the Consent Decree are on file at Ecology's Northwest Regional Office located at 3190 160th Avenue S.E. Bellevue, Washington.

This Restrictive Covenant is required because residual concentrations of lead, arsenic, barium, selenium, and petroleum hydrocarbons remain in soil and/or groundwater below the subsurface of the property in concentrations that exceed Washington Department of Ecology ("Ecology") residential cleanup standards. This Restrictive Covenant is also required because a conditional point of compliance has been established for groundwater.

The undersigned, Pioneer Towing Company, Inc. ("Owner"), is the fee owner of real property (hereafter "Property") in the County of King, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described in Attachment A of this Restrictive Covenant and made a part hereof by reference.

The following covenants, conditions, and restrictions apply to the use of the Property. They are intended to run with the land, and be binding on the Owner and its successors and assigns.

Section 1. **Activity Prohibitions**. The Owner shall prohibit activities on the Property that (a) interfere with either the Remedial Action or other measures to assure the integrity of the cleanup action and continued protection of human health and the environment or (b) may result in the release of a hazardous substance which was contained as a part of the cleanup. Pursuant to this requirement, the Owner of the Property shall not take any action that will reduce the integrity of the soil cover or the impervious surface cap without Ecology approval; provided, however, that the completion of maintenance or construction activities at the Property that will include the replacement of portions of the soil cover or impervious surface cap located at the Property, including the construction of foundations and other structure and the installation or maintenance of dry utility, gas, stormwater, water and sewer lines, shall not constitute activities that will

reduce the integrity of the soil cover or impervious surface cap at the Property if performed in accordance with the Ecology approved Health and Safety Plan, Operations and Maintenance Plan, and Engineering Design Report, including the Landfill Gas Design Report, required by the Consent Decree.

Section 2. **Restriction on Use of Groundwater at the Property.** No groundwater may be taken for any use from the Property that is inconsistent with the Remedial Action unless approved by Ecology.

Section 3. **Conveyance Requirement.** No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Property shall be consummated without provision for continued operation and maintenance of any containment system, treatment system, or monitoring system and for continued compliance with this restrictive covenant. Owner shall notify Ecology at least thirty (30) days prior to any transfer of a fee interest in the Property, excluding any transfers of a fee interest in a condominium unit, a lease or rental of an apartment unit, or a commercial lease of less than 50,000 square feet.

Section 4. **Lease Restriction**. The Owner shall restrict leases to uses and activities consistent with this restrictive covenant and notify lessees of the restrictions on the use of the Property.

Section 5. **Inconsistent Use Requirement**. The Owner shall notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve of an inconsistent use only after public notice and opportunity for comment; however, Ecology's approval shall not be unreasonably withheld.

Section 6. **Access**. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times, and after advance notice from Ecology, for the purposes of inspecting records related to the Remedial Action, reviewing the progress of remedial actions conducted at the Property, conducting tests and collecting samples, and verifying data submitted to Ecology. However, Ecology need only provide advance notice if feasible.

Section 7. **Allowed Residential and Commercial Uses**. The Residential/Commercial Use Remedial Action contemplates and is to be carried out in conjunction with and as part of redevelopment of the Property as a mixed use property. Following implementation of the Residential/Commercial Use Remedial Action for each phase, residential and commercial uses of that portion of the Property consistent with the terms of this Restrictive Covenant shall be permitted. If the Continued Industrial Use Remedial Action alternative is implemented for all or a portion of the Property, only industrial property uses and support facilities (e.g., facilities such as offices or restaurants that are commercial in nature but are primarily devoted to administrative functions necessary for the industrial use and/or are primarily intended to serve the industrial facility employees and not the general public) as described under WAC 173-340-200 and WAC 173-340-745(b)(i), and/or property uses approved by Ecology, shall be permitted for those portions of the Property where the Continued Industrial Use Remedial Action alternative is implemented.

Section 8. **Reservation of Rights**. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or any portion of the Property or be of any further force or effect. Such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs; however, Ecology's concurrence shall not be unreasonably withheld.

PIONEER TOWING COMPANY, INC.

By _____
Its _____
Dated this ___ day of _____, 2000

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ___ day of _____, 200_, before me personally appeared _____, to me known to be the _____ of _____, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that was authorized to execute the said instrument, and that the seal affixed, if any, is the corporate seal of said corporation.

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

_____
(Signature)

_____
(Please print name legibly)

NOTARY PUBLIC in and for the State of Washington, residing at

_____.
My commission expires: _____.

RECEIPT OF THIS RESTRICTIVE COVENANT IS HEREBY ACKNOWLEDGED.

Executed this _____ day of _____, 1997.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

By _____

(Printed name) _____

Title _____

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Attachment A
Property Legal Description

SITE LEGAL DESCRIPTION

The Site is Parcels A, B, and D as described below:

Parcel A:
That portion of government Lots 1 and 2 in Section 11, Township 26 North, Range 4 East W.M., and of second class shore lands adjoining lying southerly of a 40 foot county road as conveyed by deeds recorded under recording Nos. 2964553 and 3904751 which adjoins the southerly line of the Northern Pacific Railway right-of-way and lying northerly of a line as described in deed dated October 26, 1959, filed December 17, 1959, under recording No. 5113469, and lying easterly and southerly of the following described line:
Beginning at the intersection of the southerly line of said 40 foot county road with a line drawn parallel to and 207.00 feet east of the line between said government Lots 1 and 2 (said distance being measured at right angles to said line);
Thence south 01E35'06" west, along said parallel line, 307.69 feet; thence south 59E50'29" west 968.85 feet to the northeasterly angle point on the inner harbor line of Lake Washington as shown on sheet No. 2 of plat of Lake Washington shore lands of September 19, 1921 (the courses in the above description being referred to the meridian used in said shore land plat);
Except the east 30 feet thereof deeded to King County for 68th Avenue N.E.;
And except that portion thereof lying north and east of a line described as follows:
Beginning at the intersection of the southerly line of said 40 foot county road with the west line of the Juanita Highway (68th Avenue N.E.);
Thence south, along said highway line, 608.75 feet to the southeast corner of a tract described under recording No. 7902271005;
Thence west, at right angles to said highway, 349.41 feet to the southwest corner of said tract;
Thence north, parallel to said highway, 192.77 feet, more or less, to a point 400 feet south of said 40 foot road known at point "A" of said tract;
Thence westerly 58.17 feet, more or less, to a point 305 feet west of the west line of said highway;
Thence north 192.91 feet, more or less, to the south margin of N.E. 175th Street as conveyed to King County by instrument recorded under recording No. 5429742;
Thence northwesterly along said south margin on a curve to the right having a radius of 111.48 feet, the radial center of which bears north of 05E41'49" east, through a central angle of 29E17'40" an arc distance of 159.26 feet to the southeast corner of that tract of land conveyed to the municipality of Metropolitan Seattle by instrument recorded under recording No. 5671305;
Thence north 87E28'06" west along the south line of said tract 290.00 feet to the southeast corner of said Metro tract;
Thence north 02E33'43" east along (the west line of said Metro tract 175.25 feet to a point on the southerly margin of said 40 foot road and the end of said line;
And except any portion thereof lying northerly of the southerly margin of N.E. 175th Street as conveyed to King County by deed recorded under recording No. 5429742;
And except that portion conveyed to Custom Industries by deeds recorded under recording Nos. 7609200436 and 7707140957, described as follows:
That portion of said government Lot 1:
Beginning at the intersection of the westerly margin of 68th Avenue N.E., with the southerly margin of the Northern Pacific Railroad right-of-way;

Thence south 02E33'43" west along said westerly margin 470.00 feet to the true point of beginning of said exception;
Thence continuing south 02E33'43" west 143.69 feet;
Thence north 87E26'17" west at right angles to said margin 235.00 feet;
Thence north 02E33'43" east 157.00 feet;
Thence north 87E26'17" west 70.00 feet to a point hereinafter referred to as point "A";
Thence north 02E33'43" east 40.0 feet;
Thence south 87E26'17" east 100.00 feet;
Thence north 02E33'43" east 96.69 feet;
Thence south 87E26'17" east 60.00 feet;
Thence south 02E33'43" west 150.00 feet;
Thence south 87E26'17" east 145 feet, more or less, to the true point of beginning of said exception; Situate in the County of King, State of Washington.

Parcel B:

That portion of government Lots 1 and 2 in Section 11, Township 26 North, Range 4 East W.M. and second class shore lands, as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon, described as follows:
Beginning at the intersection of the east line of the west 1,030 feet of said government Lot 2 with the south line of a 40 foot road adjoining the Northern Pacific Railway right-of-way on the south as conveyed by deeds recorded under recording No. 2964553 and 3904751;
Thence easterly along said road line to an intersection with a line parallel to and 480 feet (measured at right angles to the line between said government Lots 1 and 2) east of the line of the west 1,030 feet of said government Lot 2;
Thence south along said parallel line 300 feet;
Thence approximately south 59E00'00" west 980 feet, more or less, to an angle point on the inner harbor line of Lake Washington;
Thence north 83E00'00" west along said harbor line of Lake Washington, 160 feet, more or less, to an intersection with the center line of dredged channel leading from Lake Washington into said government Lot 2;
Thence northeasterly along said center line of said channel to an intersection with said east line of west 1,030 feet of said government Lot 2, produced;
Thence north to the point of beginning;
And that portion of the east 100 feet of the west 980 feet of government Lot 2 in said Section 11, and the second glass shore lands as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon bounded on the north by the south line of 40 foot road adjacent to and south of the Northern Pacific Railroad right-of-way crossing said government Lot; and bounded on the south by the north line of dredged channel leading from Lake Washington into said government Lot 2;
And that portion of the bed of said dredged channel between the center line thereof and the north line thereof and between the side lines of said east 100 feet as above described;
Except therefrom the following described portion:
Beginning at a point on the west line of said east 100 feet of the west 980 feet of government Lot 2, 385 feet south of the northwest corner thereof;
Thence easterly, 25 feet;

Thence southerly 50 feet;
Thence westerly 28 feet;
Thence northerly 65 feet to the point of beginning;
And that portion of the east 50 feet of the west 1,030 feet of government Lot 2 in said Section 11 and the second class shore lands as conveyed by the State of Washington, situate in front of, adjacent to or abutting thereon, bounded on the north by the south line of 40 foot road adjacent to and south of the Northern Pacific Railroad right-of-way crossing said government Lot and bounded on the south by the north line of dredged channel leading from Lake Washington into said government Lot 2;
And that portion of the bed of said dredged channel between the center line thereof and the north line thereof, and between the side lines of said east 50 feet as above described;
Except _____ **[INSERT METES AND BOUNDS OF THE PORTION OF PARCEL B TO BE EXCEPTED]**;
Situate in the county of King, state of Washington,

Parcel D:
That portion of the northwest ¼ of Section 11, Township 26 North, Range 4 East W.M., described as follows:
Beginning at a tack in lead monument at the intersection of the centerline of N.E. 175th Street and 68th Avenue N.E., said point being on the east line of the northeast ¼ of said Section 11 which is south 02E33'43" west 1797.24 feet from the northeast corner thereof;
Thence continuing along said east line and road centerline south 02E33'43" west 119.82 feet;
Thence north 87E26'17" west 30.00 feet to a point of the westerly margin of said 68th Avenue N.E. which is 320 feet southerly, as measured along said margin, from its intersection with the southerly margin of the Northern Pacific Railroad right-of-way;
Thence continuing north 87E26'17" west 145.00 feet to the true point of beginning;
Thence south 02E33'43" west 150.00 feet;
Thence south 87E26'17" east 145.00 feet to the westerly margin of said 68th Avenue N.E.;
Thence south 02E33'43" west along said margin 138.75 feet;
Thence north 87E35'56" west 248.41 feet;
Thence north 03E01'58" east 192.77 feet to a point hereinafter referred to as point "A";
Thence south 87E26'17" east 41.83 feet;
Thence north 02E33'43" east 96.69 feet;
Thence south 87E26'17" east 60.00 feet to the true point of beginning;
Situate in the county of King, state of Washington.

EXHIBIT G

Substantive Requirements For Exempt Permits And Approvals

SUBSTANTIVE REQUIREMENTS FOR EXEMPT LAWS AND LOCAL PERMITS

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 that are known to be applicable and that are potentially applicable as of the time of entry of the Consent Decree are listed in this Exhibit. Pursuant to RCW 70.105D.090(l), Pioneer Towing is exempt from the procedural requirements of these laws and local requirements, including requirements to obtain permits or approvals.

SUBSTANTIVE REQUIREMENTS FOR EXEMPT STATE LAWS AND LOCAL PERMITS TABLE

STATUTE, REGULATION, OR ORDINANCE	STATE OR LOCAL GOVERNMENTAL AUTHORITY	SUBSTANTIVE REQUIREMENTS INCLUDE:
State Clean Air Act; (implementing Federal Clean Air Act provisions) RCW 70.94 *42 USC 7401-7642*	Puget Sound Clean Air Authority (PSCAA)	Applicable and/or potentially applicable air emission substantive requirements during construction are: • Requirements applicable for control of fugitive dust emissions, Regulation I, Article 9
State Solid Waste Management Act RCW 70.95	Washington Department of Ecology/Local Health Department	Potentially relevant and applicable solid waste facility closure substantive requirements for the engineered cap are found in: • WAC 173-304-461 (Closure requirements for demolition waste landfilling facilities)
State Hydraulics Act, including Hydraulic Project Approval RCW 75.20	Washington Department of Fish and Wildlife	Applicable and/or potentially applicable substantive requirements for in/near water construction activities are found in: • WAC 220-110-032 (modifications) • WAC 220-110-050 (bank protection) • WAC 220-110-120 (temporary bypass culverts) • WAC 220-110-170 (outfall structures) • WAC 220-110-180 (stormwater pond facilities waterward of Ordinary High Water line) • WAC 220-110-223 (freshwater lake bulkheads)
State Water Pollution Control Act, including NPDES Permit RCW 90.48	Washington Department of Ecology	Applicable and/or potentially applicable substantive requirements for discharges to surface waters are found in: • WAC 173-220-130 (effluent limitations) • WAC 173-220-140 (compliance schedules) • WAC 173-220-150 (terms and conditions) • WAC 173-220-210 (monitoring, recording, reporting)

SUBSTANTIVE REQUIREMENTS FOR EXEMPT LAWS AND LOCAL PERMITS TABLE (Cont.)

STATUTE, REGULATION, OR ORDINANCE	STATE OR LOCAL GOVERNMENTAL AUTHORITY	SUBSTANTIVE REQUIREMENTS INCLUDE:
State Water Pollution Control Act, General Permit Regulations including Stormwater Discharge Permit RCW 90.48	Washington Department of Ecology	Applicable and/or potentially applicable substantive requirements for stormwater permits are: • WAC 173-226-070 (effluent limitations) • WAC 173-226-080 (terms and conditions) • WAC 173-226-090 (monitoring, recording, reporting) • Development of a Stormwater Pollution Prevention Plan (SWPPP)
State Shoreline Management Act RCW 90.58	City of Kenmore	Applicable and/or potentially applicable substantive requirements for activities in shoreline urban environments as found in: • WAC Ch. 173-26 (shoreline master program guidelines) • King County Code Title 25 (shoreline master program) as adopted by the City of Kenmore[1] *Note: King County issued a Shoreline Substantial Development Permit (File No. L96SH107) for the site in August 1998.*[2]
City of Kenmore Zoning Approvals	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 21A (zoning) *Note: King County approved a Master Plan and issued a Commercial Site Development Permit (File No.B96CS005) for the site in August 1998.*[2]
City of Kenmore Clearing and Grading Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 16.82 (clearing and grading) *Note: 16.82.050(A)(15) provides an exemption to the grading permit requirement for projects that have obtained a Commercial Site Development Permit.*
City of Kenmore Surface Water Management/Drainage Review	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 9 (surface water management)

SUBSTANTIVE REQUIREMENTS FOR EXEMPT LAWS AND LOCAL PERMITS TABLE (Cont.)

STATUTE, REGULATION, OR ORDINANCE	STATE OR LOCAL GOVERNMENTAL AUTHORITY	SUBSTANTIVE REQUIREMENTS INCLUDE:
City of Kenmore Building Permits	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 16.04 (building and fencing permits)
City of Kenmore Road Standards Variance	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 14.42 (road standards and variances)
City of Kenmore Right-of-Way Use Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 14.28 (right of way use permits)
City of Kenmore Fire System Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 17 (fire systems)
City of Kenmore Noise Variance	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore relating to noise levels and times for construction as found in: • KCC Title 12
City of Kenmore Boundary Line Adjustment, Short Plat, and Binding Site Plan	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 19A
City of Kenmore Utilities in Right-of-Way Construction Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 14.44

SUBSTANTIVE REQUIREMENTS FOR EXEMPT LAWS AND LOCAL PERMITS TABLE (Cont.)

STATUTE, REGULATION, OR ORDINANCE	STATE OR LOCAL GOVERNMENTAL AUTHORITY	SUBSTANTIVE REQUIREMENTS INCLUDE:
City of Kenmore Side Sewer Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 13.04
City of Kenmore Sewer Disposal System Permit	City of Kenmore	Applicable and/or potentially applicable substantive requirements of the City of Kenmore as found in: • KCC Title 13.08
King County Board of Health Code Methane Control Plan Approval	King County Department of Health	Applicable and/or potentially applicable substantive requirements of King County Board of Health Code as found in: • King County Board of Health Code 10.76.020 (construction standards for methane control)

Notes:

1. The City of Kenmore has adopted King County Code (KCC) provisions subject to certain modifications. The City plans to codify its own development provisions some time in 2001.

2. The Commercial Site Development Permit (CSDP) and Shoreline Substantial Development Permit (SSDP) issued for the site redevelopment may address and/or stand in lieu of listed permit/approval requirements. However, the substantive requirements of the King County Code as adopted by the City of Kenmore supercede specific conditions in these permits. Therefore, implementation of the Cleanup Action Plan in conformance with the applicable substantive code standards may not comply with all of the conditions identified in the CSDP and/or SSDP.

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