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STATE OF WASHINGTON
SNOHOMISH COUNTY SUPERIOR COURT

STATE OF WASHINGTON DEPARTMENT
OF ECOLOGY,

Plaintiff,

v.

HOUSING AUTHORITY OF THE CITY OF
EVERETT,

Defendant.

No.

PROSPECTIVE PURCHASER
CONSENT DECREE RE: FENCED
AREA, EVERETT SMELTER SITE,
EVERETT, WASHINGTON

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EXHIBITS

- EXHIBIT A. Legal Description of Asarco Property
- EXHIBIT B. Maps depicting the Everett Smelter Site and relevant portions thereof
- EXHIBIT C. Cleanup Action Plan (FCAP/FEIS)
- EXHIBIT D. Restrictive Covenant 1 and 2
- EXHIBIT E. Public Participation Plan
- EXHIBIT F. Proposed Schedule
- EXHIBIT G. Interim Action Report and Final Design Report
- EXHIBIT H. Letter from EHA to Ecology asserting Innocent Purchaser Defense

1 I. INTRODUCTION

2 A. This prospective purchaser consent decree (“Decree”) is made and entered into
3 by and between the Washington State Department of Ecology (“Ecology”) and the Housing
4 Authority of the City of Everett (“EHA”).

5 B. The purpose of this Decree is to (1) resolve the potential liability of EHA for
6 contamination of soil, groundwater and surface water at the Everett Smelter Site (Site) arising
7 from releases or threatened releases of hazardous substances associated with the historic
8 operation of the Everett Smelter; (2) to promote the public interest by providing for remedial
9 action at one portion of the Site known as the “Fenced Area”; and (3) to facilitate the cleanup
10 and redevelopment of contaminated residential land in Everett, Washington, within the “Fenced
11 Area.” The Fenced Area includes both streets and other public rights of way (the “Public
12 Property”), and 22 vacant residential-zoned tracts of real property (the “Asarco Property”). A
13 legal description of the Asarco Property is attached as Exhibit A. Maps of the Site that depict
14 the extent of the Site plus relevant portions of the Site such as the Fenced Area, are attached as
15 Exhibit B.

16 C. EHA is entering into a Purchase and Sale Agreement (the “Agreement”) to
17 purchase the Asarco Property from Domestic Realty Company, a wholly-owned subsidiary of
18 ASARCO Incorporated, a New Jersey Corporation (“Asarco”), current owner of the Asarco
19 Property. EHA anticipates that it will also seek vacation of some or all of the Public Property,
20 and will hold title to the Public Property until new streets are created and dedicated to the City
21 of Everett.

22 D. EHA proposes to perform a partial cleanup of the Site, by completing clean up of
23 one portion of the Site, the Fenced Area, and making the Fenced Area available for residential
24 development, consistent with applicable City of Everett zoning provisions and comprehensive
25 plan designations. EHA’s proposed completion of cleanup for the Fenced Area will occur
26 subsequent to remediation of the Fenced Area by removal of all material with arsenic

1 concentrations exceeding 3,000 mg/kg, which will be performed by Asarco outside the terms of
2 this Decree and which will serve as a precondition of EHA's purchase of the Asarco Property.

3 E. In the absence of this Decree, at the time it acquires an interest in the Fenced
4 Area, EHA would incur potential liability under RCW 70.105D.040(1)(a) of the Model Toxics
5 Control Act ("MTCA") for performing remedial actions, or for paying remedial costs incurred
6 by Ecology, resulting from past releases or threatened releases of hazardous substances at the
7 Site.

8 F. Ecology has identified confirmed or suspected contamination in soil,
9 groundwater, and surface water at the Site. Ecology has assigned the Site an overall priority
10 ranking of 1 pursuant to MTCA.

11 G. Asarco has performed a Remedial Investigation and Feasibility Study ("RI/FS")
12 (1995) and other sampling efforts and studies, which confirmed that environmental media at the
13 upland area of the Site contain concentrations of hazardous substances above applicable MTCA
14 cleanup levels, and which characterized the upland area of the Site adequately for cleanup
15 activities. The upland area of the Site includes the Fenced Area.

16 H. Ecology has approved an Integrated Final Cleanup Action Plan (1999), as
17 amended (2002) ("FCAP/FEIS"), attached to this Decree as Exhibit C. Ecology has also
18 approved an Interim Action Report and Final Design Report, both attached as Exhibit G. These
19 documents provide for (1) removal of all material from the Fenced Area in excess of 3,000
20 mg/kg of arsenic, followed by (2) removal of all material from the Fenced Area between 150
21 and 3,000 mg/kg of arsenic and the placement of two feet of clean fill, and (3) compliance
22 monitoring activities. As described in Section V (Statement of Facts), a subsequent
23 enforcement order issued to Asarco (Enforcement Order No. 02TCPNR-4059) and an Agreed
24 Judgment enforcing that order (Agreed Judgment Granting Relief to Enforce Order Pursuant to
25 RCW 70.105D.050, Snohomish Cty. Sup. Ct. No. 03-2-08502-1, October 20, 2003) ("Agreed
26 Judgment"), require partial implementation of FCAP/FEIS provisions. The application of

1 MTCA cleanup and remediation levels as indicated in the FCAP/FEIS is appropriate under
2 MTCA for residential redevelopment of the Fenced Area, the portion of the Site that is the
3 subject of this Decree.

4 I. This Decree promotes the public interest by expediting cleanup activities at the
5 Site and by facilitating the redevelopment and reuse of a portion of the Site (the Fenced Area)
6 for residential and/or related uses consistent with applicable zoning and comprehensive plan
7 designations.

8 J. EHA has offered to further certain Ecology goals as provided in this Decree, in
9 exchange for a covenant not to sue and protection from contribution under MTCA. Among
10 other things, subsequent to purchasing the Asarco Property, EHA will complete cleanup of the
11 the Fenced Area as specified in the FCAP/FEIS.

12 K. Plans for the redevelopment of the Fenced Area are not likely to aggravate or
13 contribute to contamination at the Site, interfere with remedial actions that may be needed on
14 the Site, or increase human health risks to persons at or in the vicinity of the Site.

15 L. This Decree will provide a substantial public benefit by promoting the cleanup,
16 redevelopment, and active reuse of contaminated and partially vacant urban residential property
17 and providing affordable housing and substantial community and economic benefits to the area.

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

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

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

5 P. The Court is fully advised of the reasons for entry of this Decree, and good cause
6 having been shown:

7 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

8 **II. JURISDICTION**

9 A. This Court has jurisdiction over the subject matter and over the Parties pursuant
10 to MTCA, Chapter 70.105D RCW. Venue is proper in Snohomish County pursuant to RCW
11 70.105D.050(5)(b).

12 B. Authority is conferred upon the Washington State Attorney General by RCW
13 70.105D.040(4)(a) and 70.105D.040(5) to agree to a settlement with any potentially liable
14 person ("PLP") if, after public notice and any required hearing, Ecology finds the proposed
15 settlement would lead to a more expeditious cleanup of hazardous substances. In addition, the
16 Attorney General may agree to a settlement with a person not currently liable for remedial
17 action at a facility who proposes to purchase, redevelop, or reuse the facility, provided that the
18 settlement will yield substantial new resources to facilitate cleanup, the settlement will expedite
19 remedial action consistent with the rules adopted under MTCA, and Ecology determines based
20 upon available information that the redevelopment or reuse of the facility is not likely to
21 contribute to the existing release or threatened release, interfere with remedial actions that may
22 be needed at the site, or increase health risks to persons at or in the vicinity of the site. RCW
23 70.105D.040(4)(b) requires that such a settlement be entered as a consent decree issued by a
24 court of competent jurisdiction.

25 C. Ecology has determined that a release or threatened release of hazardous
26 substances has occurred at the Site.

1 D. EHA currently owns a number of properties that are located within the Site's
2 boundaries, as outlined in Exhibit H to this Decree. Given the unique circumstances and all
3 information presented by EHA to Ecology in Exhibit H, however, Ecology has determined
4 under RCW 70.105D.040(3)(b) that EHA innocently purchased such properties and is not
5 currently liable for the Site under RCW 70.105D.040(1)(a) by virtue of owning such properties.
6 EHA certifies that it does not currently own any other interest in the Site, except as
7 contemplated by paragraph E of this Section, below.

8 E. EHA and Asarco are negotiating a Purchase and Sale Agreement for a separate
9 portion of property at the Site, the Asarco Houses. At the time EHA acquires an interest in the
10 Fenced Area, EHA will have previously acquired the Asarco Houses and settled through a
11 separate Prospective Purchaser Consent Decree (the "Asarco Houses Consent Decree") the
12 liability for the Site that would otherwise be incurred at the time it acquires the Asarco Houses.

13 F. Ecology has not determined that EHA is a PLP for the Site, and EHA has
14 certified under Section XII (Certification) that it is not otherwise currently liable with respect to
15 the Site under Chapter 70.105D RCW, and pursuant to paragraphs D and E of this Section.

16 G. Were EHA to acquire any interest in property at the Site in addition to the
17 separate interests owned by EHA and as described in paragraphs D and E of this Section, it
18 could become a PLP as an owner or operator under RCW 70.105D.040(1)(a). This Decree is
19 entered prior to EHA acquisition of any interest in the Fenced Area in order to resolve EHA's
20 liability for the Site that would otherwise be incurred through EHA's acquisition of an interest
21 in the Fenced Area, and to facilitate a more expeditious cleanup at the Site than otherwise would
22 occur. This Decree is entered pursuant to the authority set forth in RCW 70.105D.040(5).

23 H. This Decree has been subject to public notice and comment.

24 I. This Decree will yield substantial new resources to facilitate cleanup, and will
25 expedite remedial action consistent with Chapter 173-340 WAC. Based on available
26 information, Ecology has determined that the redevelopment or reuse of the facility will provide

1 a substantial public benefit and is not likely to contribute to the existing release or threatened
2 release, interfere with remedial actions that may be needed at the Site, or increase health risks to
3 persons at or in the vicinity of the Site.

4 **III. PARTIES BOUND**

5 This Decree shall apply to and be binding upon the Parties to this Decree, their
6 successors and assigns. The undersigned representative of each party hereby certifies that he or
7 she is fully authorized to enter into this Decree and to execute and legally bind such party to
8 comply with the Decree. EHA agrees to undertake all actions required by the terms and
9 conditions of this Decree and not to contest state jurisdiction regarding this Decree. No change
10 in ownership or corporate status shall alter EHA's responsibility under this Decree. EHA shall
11 provide a copy of this Decree to Asarco and all agents, contractors, and subcontractors retained
12 to perform work required by this Decree, and shall ensure that all work undertaken by such
13 agents, contractors, and subcontractors complies with this Decree.

14 **IV. DEFINITIONS**

15 Except as specified herein, all definitions in RCW 70.105D.020 and WAC 173-340-200
16 apply to the terms of this Decree.

17 "Asarco Houses" shall mean the 15 residential properties, lying outside of the Fenced
18 Area, with existing single-family and duplex houses, located north of Butler Street on
19 Hawthorne Street, Pilchuck Path and East Marine View Drive, as shown in Exhibit B.

20 "Asarco Houses Consent Decree" shall mean the Prospective Purchaser Consent Decree
21 entered into by EHA to resolve the liability for contamination at the Site that EHA would
22 otherwise incur by purchasing the Asarco Houses.

23 "Asarco Property" shall mean the 22 residential-zoned tracts of real property that are
24 located within the "Fenced Area," as legally described in Exhibit A and shown in Exhibit B.

25 "Consent Decree" or "Decree" shall mean this Decree and each of the Exhibits to the
26 Decree. All exhibits are integral and enforceable parts of this Decree.

1 “Fenced Area” refers to the Former Arsenic Trioxide Processing Area as shown in
2 Figure 1-2 of the FCAP/FEIS, Exhibit C, and in Exhibit B. The Fenced Area comprises one
3 portion of the Site, and includes 22 residential-zoned tracts of real property (“Asarco Property”)
4 along with streets and other public rights of way (“Public Property”), generally located south of
5 North Broadway (SR 529), east of Hawthorne Street, west of East Marine View Drive and north
6 of Butler street, upon which the residential structures and improvements have been demolished
7 and are now surrounded by security fencing.

8 “Final Design Report” shall mean the *Final Design Report, Everett Smelter Site, 2004*,
9 attached as Exhibit G (Exhibit G also includes the Interim Action Report).

10 “Integrated Final Cleanup Action Plan” and “FCAP/FEIS” shall mean the combined
11 Integrated Final Cleanup Action Plan and Final Environmental Impact Statement for the Upland
12 Area, November 19, 1999, as amended, attached as Exhibit C.

13 “Interim Action Report” shall mean the *Interim Action Report, Fenced Area Cleanup,*
14 *Everett Smelter Site, 2002*, attached as Exhibit G (Exhibit G also includes the Final Design
15 Report).

16 “Parties” refers to the Washington State Department of Ecology (“Ecology”) and the
17 Housing Authority of the City of Everett (“EHA”).

18 “Public Property” shall mean the public streets and other public rights of way that are
19 located within the “Fenced Area,” as shown in Exhibit B.

20 “Asarco Tacoma Smelter” shall mean the portion of the Commencement Bay Near
21 Shore Tidelands Superfund site which is Asarco’s former Tacoma Smelter, Ruston Way and
22 North 51st Street, Tacoma, WA 98407, EPA ID WAD980726368.

23 “Section” shall mean a portion of this Decree identified by a Roman numeral and
24 including one or more paragraphs.

25 “Site” shall mean the Everett Smelter Site located in Everett, Washington. The Site is
26 defined by the extent of contamination caused by the release or threatened release of hazardous

1 substances at the Site. The Site is generally located in northeast Everett and is more particularly
2 described in Exhibit B to this Decree, which is a detailed Site diagram. The Site includes as one
3 portion the Fenced Area, and as another portion, the Asarco Houses. The Site constitutes a
4 Facility under RCW 70.105D.020(4).

5 "Successors in Interest and Assign" or "successors and assigns" shall mean any person
6 who acquires an interest in the Fenced Area subsequent to EHA acquiring an interest in the
7 Fenced Area, through purchase, lease, transfer, assignment, or otherwise.

8 V. STATEMENT OF FACTS

9 Ecology makes the following findings of fact:

10 1. The Site is located in Everett, Washington, and consists of approximately 686
11 acres. The Fenced Area constitutes a portion of the Site and approximately 5 acres. Maps of
12 the Site, which depict the extent of the Site plus relevant portions of the Site including the
13 Fenced Area, Asarco Houses, Asarco Property, and Public Property, are attached as Exhibit B.

14 2. The Everett Smelter Site previously hosted a smelter plant that, at the turn of the
15 last century, was one of the largest industrial facilities in Everett. In 1894, the Puget Sound
16 Reduction Company began operating the smelter, refining ores primarily from the Monte Cristo
17 mining district. Some of the ore from the Monte Cristo mining district contained over
18 25 percent total arsenic. To recover arsenic from the ore, an arsenic processing plant was
19 constructed on the southern end of the Everett Smelter Site. The plant consisted of several
20 structures, including additional smoke stacks, flues, ovens and mills, and a large arsenic
21 processing building.

22 3. In 1903, a corporation that subsequently became ASARCO Incorporated
23 ("Asarco") bought and continued operating the smelter. Asarco subsequently dismantled the
24 smelter in 1914 and 1915.

25 4. Asarco sold the smelter and its surrounding land-holdings through a series of
26 transactions between 1914 and 1936 to different buyers, including the Weyerhaeuser Company

1 (“Weyerhaeuser”), the State of Washington Department of Transportation, the City of Everett
2 and Burlington Northern. In addition, 17.89 acres were purchased and subsequently developed
3 into residential neighborhoods. About 25 houses were built on property that is now within the
4 Fenced Area.

5 5. During an environmental investigation in 1990, Weyerhaeuser discovered an
6 outcrop of slag discovered on the hillside below East Marine View Drive. As part of the
7 investigation, slag, soil, and ground water samples were collected on Weyerhaeuser property
8 and analyzed for the presence of heavy metals. After receiving the data, Weyerhaeuser notified
9 Ecology that a release of a hazardous substance had occurred at the Everett Smelter Site.

10 6. Ecology conducted an initial investigation of the Smelter Site in December 1990.
11 The investigation included a site visit, historic research of the area, and a review of the data
12 previously submitted by Weyerhaeuser.

13 7. Ecology conducted a Site Hazard Assessment (SHA) of the Smelter Site in
14 February 1991. The SHA consisted of a magnetic survey, to attempt to locate the extent of
15 buried slag, and collection of 20 surface soil samples that were analyzed for metals. Laboratory
16 analysis demonstrated releases of arsenic, cadmium, and lead to the soils found in the residential
17 area on the site.

18 8. Ecology conducted a “Pre-Remedial Investigation” (Pre-RI) in May 1991. The
19 Pre-RI consisted of the preparation of a site map and collection of additional soil samples. The
20 purpose of the investigation was to further characterize the nature and extent of elevated
21 concentrations of residual metals that were identified in the SHA. Results of the Pre-RI
22 confirmed releases of arsenic, cadmium, and lead in surface soils throughout the study area.

23 9. By letter dated August 29, 1991, Ecology notified Asarco of its status as a
24 “potentially liable person” under RCW 70.105D.040 after notice and opportunity for comment.

1 10. In April 1992 Ecology issued Enforcement Order No. DE92TC-N147 to Asarco.
2 This Order required Asarco to perform a Remedial Investigation/Feasibility Study and certain
3 Interim Actions to limit exposure of residents to arsenic and other metals at the Smelter Site.

4 11. In March 1994, Ecology issued the first amendment to Enforcement Order
5 No. DE92TC-N147. The first amendment required Asarco to perform additional interim actions
6 and prepare an interim deliverable remedial investigation report. The amendment also required
7 Asarco to undertake additional sampling for the remedial investigation and extended the
8 schedule.

9 12. In 1994 and 1995, Asarco voluntarily implemented a property buy-out program
10 for the homes located in the Fenced Area. All but two of the homes were purchased as part of
11 this program.

12 13. In September 1995 Ecology issued Enforcement Order No. DE95TC-N350 to
13 Asarco. This Order required Asarco to immediately take action to stop the exposure to arsenic
14 of residents, pets, and others who resided in the two remaining houses at 520 and 534 East
15 Marine View Drive, within the Fenced Area. Thereafter, Asarco purchased these properties and
16 the families vacated them.

17 14. Pursuant to Enforcement Order DE92TC-N147, Asarco prepared an Interim
18 Deliverable report in April 1994 and a Remedial Investigation and Feasibility Study (RI/FS)
19 report (*Everett Smelter Remedial Investigation and Feasibility Study, prepared by*
20 *Hydrometrics, Inc. for Asarco Inc. and dated September 1995*) for most of the study area.

21 15. Based on analytical data in the RI/FS report, there is evidence of arsenic and lead
22 in ground water and arsenic and lead in surface water on the Site. Based on other analytical
23 data collected, there is evidence of arsenic and lead in house dust on the Site.

24 16. Subsequent to issuance of Enforcement Order Nos. DE92TC-N147 and
25 DE95TC-N350 Asarco expanded its property buy-out program and purchased all but fifteen of
26 the residences in the area south of Broadway, east of Balsam Lane, north of Butler Street, and

1 west of East Marine View Drive. Since Asarco's purchase, all of the homes located within the
2 Fenced Area have been vacated and demolished. Many of the homes adjacent to the Fenced
3 Area have also been vacated, although Asarco is currently leasing some of these properties,
4 known as the Asarco Houses, for residential use.

5 17. After public notice and comment, Ecology issued the Integrated Final Cleanup
6 Action Plan and Final Environmental Impact Statement for one portion of the Everett Smelter
7 Site (FCAP/FEIS) on November 19, 1999. The FCAP/FEIS required, among other things, that
8 all material within the Fenced Area with an arsenic concentration greater than 3,000
9 milligrams/kilogram (mg/kg, equivalent to parts per million) be excavated and sent off-site to a
10 facility permitted to accept such waste. This requirement was based on concern over leaving
11 high levels of contamination in an urban neighborhood that, if exposed, could constitute an
12 immediate threat to human health.

13 18. As documented in the RI/FS and FCAP/FEIS, the remedial action to be
14 implemented pursuant to this Decree will achieve partial cleanup of the Site by achieving
15 cleanup standards for one portion of the Site, the Fenced Area. The remedial action to be
16 implemented under the FCAP/FEIS includes (1) removal of all material from the Fenced Area
17 in excess of 3,000 mg/kg of arsenic, followed by (2) removal of all material from the Fenced
18 Area between 150 and 3,000 mg/kg of arsenic and the placement of two feet of clean fill, and
19 (3) compliance monitoring activities. Because treatment, excavation, disposal, and/or recycling
20 of all hazardous substances at this portion of the Site is not practicable, the remedy for the
21 Fenced Area of the Site includes elements of on-site containment, through on-site capping, as
22 set forth in the FCAP/FEIS. The remedy therefore includes monitoring and institutional
23 controls.

24 19. In January 2000 Asarco issued the draft *Comprehensive Lowland Area Remedial*
25 *Investigation Report* (LL Report). Asarco's report concluded that it is likely that remediation
26 activities planned for the Fenced Area would be successful in intercepting and removing current

1 sources of metals to ground water and surface water. Asarco's report found that the best
2 approach for addressing elevated arsenic concentrations was to begin with the Fenced Area.

3 20. On June 10, 2002, Ecology issued Enforcement Order No. 02TCPNR-4059 to
4 Asarco. Enforcement Order No. 02TCPNR-4059 required Asarco to perform an interim action
5 to remove the most contaminated material within the Fenced Area, consisting of arsenic
6 concentrations exceeding 3,000 mg/kg. Specifically, the enforcement order required Asarco to
7 excavate and send to an off-site facility all flue dust, arsenic trioxide, soil, and any other
8 material with an arsenic concentration exceeding 3,000 mg/kg.

9 21. Ecology amended Enforcement Order No. 02TCPNR-4059 in December of
10 2002, to require Asarco to include removal of material outside of the Fenced Area with arsenic
11 concentrations exceeding 3,000 mg/kg. The material outside the Fenced Area that is known to
12 have concentrations exceeding the 3,000 mg/kg limit is located along East Marine View Drive.

13 22. Enforcement Order No. 02TCPNR-4059 required Asarco to submit a work plan
14 for accomplishing the required cleanup work. Asarco submitted a draft work plan in December
15 2002. The work plan proposed accomplishing the required work in 2003 and 2004, but
16 acknowledged that delay of removal of material until 2004 would violate the Order. Asarco's
17 work plan indicated Asarco intended to send excavated material to its Asarco Tacoma Smelter,
18 but contained a contingency plan for actions to implement if the material could not be sent to
19 the Asarco Tacoma Smelter.

20 23. In a letter dated March 18, 2003, Ecology approved Asarco's December 2002
21 draft work plan.

22 24. On June 20, 2003, after correspondence established Asarco's inability to meet
23 the April 30, 2003 mobilization date stated in Enforcement Order No. 02TCPNR-4059, Ecology
24 filed suit in Snohomish County Superior Court. The suit sought injunctive relief to cause
25 Asarco to come into compliance with Enforcement Order No. 02TCPNR-4059, and adhere to
26 the schedule which had been set out in the Ecology approved December 2002 work plan.

1 designations for the Site. EHA expects that Asarco will utilize, inter alia, sale proceeds from
2 EHA's purchase of the Asarco Houses under a separate purchase agreement, and matching
3 funds from an Environmental Trust Fund administered by the U.S. Environmental Protection
4 Agency, to remediate the Fenced Area plus an additional adjacent area, by removing material
5 with arsenic concentrations exceeding 3,000 mg/kg, in accordance with the Agreed Judgment.
6 EHA shall then, upon purchase of the Asarco Property, complete the cleanup of the Fenced
7 Area of the Site in accordance with the Scope of Work set forth herein (FCAP/FEIS, Exhibit C,
8 and the Interim Action Report and Final Design Report, Exhibit G) and with the Schedule
9 (Exhibit F) set forth herein, including but not limited to: removal of material with
10 concentrations between 150 and 3,000 mg/kg, regrading of the Fenced Area, placement of a
11 marker fabric and two feet of clean fill over contaminated soil, and implementation of required
12 monitoring and institutional controls.

13 The proposal will ensure the cleanup of approximately 5 acres of land and mitigate
14 existing exposure pathways at the Fenced Area.

15 Ecology has complied with the State Environmental Policy Act ("SEPA") environmental
16 review requirements for the proposed remedial actions to be performed. Ecology has been
17 established as the agency lead pursuant to SEPA. The SEPA Final Environmental Impact
18 Statement for the planned remedial actions is integrated with the Final Cleanup Action Plan
19 dated November 19, 1999, as amended (FCAP/FEIS) and is attached as Exhibit C.

20 **VII. WORK TO BE PERFORMED**

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

24 **A. Scope of Work**

25 The Scope of Work requires EHA to implement the Interim Action Report and Final
26 Design Report, Exhibit G, according to the Schedule as set forth herein and contained in Exhibit

1 F, except that EHA will not be responsible for removing the material exceeding 3000 mg/kg
2 arsenic. With respect to the compliance monitoring requirements set forth in the Compliance
3 Monitoring Plan, incorporated as Appendix A into both the Interim Action Report and the Final
4 Design Report (Exhibit G), EHA and its successors and assigns shall be responsible under this
5 Consent Decree for implementing all requirements of the Compliance Monitoring Plan
6 including but not limited to soil, groundwater, surface water and storm drain sediment
7 monitoring (except those requirements applying to soil in the peripheral area and import
8 material placed in the peripheral area).

9 EHA expects that prior to the Effective Date of this Decree and as a precondition to
10 EHA's purchase of the Asarco Property, Asarco will utilize, *inter alia*, sale proceeds from
11 EHA's previous purchase of the Asarco Houses and matching funds from an Environmental
12 Trust Fund administered by the U.S. Environmental Protection Agency to implement the
13 remediation specified in the Agreed Judgment, including all attachments thereto, and work
14 plans prepared thereunder, according to the schedules provided therein. Clean up activities to
15 be performed by Asarco will include removal of all material from the Site in excess of 3,000
16 mg/kg of arsenic.

17 Pursuant to this Decree, EHA shall implement a remedial action to remove all material
18 from the Fenced Area between 150 and 3,000 mg/kg of arsenic, regrade, cap, perform
19 compliance monitoring, and perform other work as required by the FCAP/FEIS, the Interim
20 Action Report and the Final Design Report.

21 The contaminated soils from the Fenced Area shall be disposed of at the Asarco Tacoma
22 Smelter. Coordination of cleanup and development will minimize disruption to the surrounding
23 community.

24 EHA shall provide security at the Fenced Area designed to prevent entry by
25 unauthorized persons. Security measures shall be maintained during the duration of this Decree,
26 unless otherwise agreed to by Ecology.

1 Completion of remediation for any parcel may be certified by Ecology after receipt of all
2 validated performance monitoring data and pursuant to Section XXVII (Certifications by
3 Ecology).

4 Because residual concentrations of hazardous substances in groundwater at the Site will
5 exceed cleanup levels following completion of the remedial action, and because residual
6 concentrations of hazardous substances in soils at certain parcels of the Fenced Area may
7 exceed cleanup levels following completion of the remedial action, EHA shall either: (1) record
8 Restrictive Covenant 1 shown in Exhibit D for parcels on which soil contamination remains or
9 (2) record Restrictive Covenant 2 shown in Exhibit D for parcels where no soil contamination
10 remains. EHA must seek Ecology's prior written approval before filing a Restrictive Covenant
11 for any parcel within ten (10) days of the completion of the remedial action for that parcel or for
12 the Fenced Area as a whole. EHA shall then file the Restrictive Covenant with the Snohomish
13 County Auditor's Office within ten (10) days of receiving Ecology's written approval, and shall
14 then provide Ecology with a copy of each recorded Restrictive Covenant within thirty (30) days
15 of the recording date. If associated replatting of any such parcels will occur within an expected
16 timeframe and no activities conducted at the parcels in question will threaten the integrity of the
17 remedial action or the continued protection of human health and the environment in the interim,
18 EHA may extend the timeline for seeking Ecology's written approval of the Restrictive
19 Covenant for the parcel in question to within ten (10) days of any associated replatting, and the
20 timeline for filing such Restrictive Covenant will be extended to within ten (10) days of EHA's
21 receipt of Ecology's written approval. If at any point in the future the conditions requiring a
22 restrictive covenant for any parcel under this Section no longer exist, then EHA, or its
23 Successors in Interest and Assigns, may submit a request to Ecology that the restrictive
24 covenant be eliminated. The restrictive covenant shall be removed, if Ecology, after public
25 notice and opportunity to comment, concurs.

1 incurred in implementing the work to be performed, hereunder are eligible for a local
2 government grant; and (c) implementation of this Decree will lead to a more expeditious
3 cleanup of hazardous substances at the Site in compliance with cleanup standards adopted under
4 RCW 70.105D.030(2)(e).

5 **X. DESIGNATED PROJECT COORDINATORS**

6 The project coordinator for Ecology is:

7 David L. South
8 Department of Ecology
9 3190 160th Avenue SE
Bellevue, WA 98008
Telephone: (425-649-7200)

10 The project coordinator for EHA is:

11 Mr. Bud Alkire
12 Executive Director
13 The Housing Authority of the City of Everett
P.O. Box 1547, Everett, WA 98206-1547
Telephone: (425) 303-1102

14 Each project coordinator shall be responsible for overseeing the implementation of this
15 Decree. The Ecology project coordinator will be Ecology's designated representative at the
16 Site. To the maximum extent possible, communications between Ecology and EHA, and all
17 documents, including reports, approvals, and other correspondence concerning the activities
18 performed pursuant to the terms and conditions of this Decree shall be directed through the
19 project coordinators. The project coordinators may designate, in writing, working-level staff
20 contacts for all or portions of the implementation of the work required by this Decree. The
21 project coordinators may agree to minor changes to the work to be performed without formal
22 amendments to this Decree. Minor changes will be documented in writing by Ecology.
23 Substantial changes shall require amendment of this Consent Decree.

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

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XI. 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. All construction and engineering work performed pursuant to this Decree must be under the supervision of a professional engineer. EHA shall notify Ecology in writing of 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.

XII. CERTIFICATION OF EHA

EHA represents and certifies that, to the best of its knowledge and belief, it has fully and accurately disclosed to Ecology the information currently in its possession or control that relates to the environmental conditions at and in the vicinity of the Site, or to EHA's right and title thereto.

EHA represents and certifies that it did not cause or contribute to a release or threatened release of hazardous substances at the Site and is not otherwise potentially liable under RCW 70.105D.040(1), pursuant to paragraph D of Section II (Jurisdiction), except as provided in the Asarco Houses Decree, and except by becoming an owner and/or operator of the Site by acquiring an interest in the Fenced Area.

XIII. TRANSFER OF INTEREST IN PROPERTY

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

Prior to EHA's transfer of any interest in all or any portion of the Site, and during the effective period of this Decree, EHA shall serve a copy of this Decree upon any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30)

1 days prior to any transfer, EHA shall notify Ecology of said transfer. Upon transfer of any
2 interest, EHA shall restrict uses and activities to those consistent with this Consent Decree and
3 notify the transferee(s) of the restrictions on the use of the property.

4 **XIV. AMENDMENT OF CONSENT DECREE**

5 This Decree may only be amended by a written stipulation among the Parties that is
6 entered by the Court, or by order of the Court. Such amendment shall become effective upon
7 entry by the Court. Agreement to amend the Decree shall not be unreasonably withheld by any
8 Party.

9 EHA shall submit any request for an amendment to Ecology for approval. Ecology shall
10 indicate its approval or disapproval in a timely manner after the request for amendment is
11 received. If the amendment to the Decree represents a substantial change, Ecology will provide
12 public notice and opportunity for comment. Reasons for the disapproval of a proposed
13 amendment to the Decree shall be stated in writing. If Ecology does not agree to any proposed
14 amendment, the disagreement may be addressed through the dispute resolution procedures
15 described in Section XV (Dispute Resolution).

16 **XV. DISPUTE RESOLUTION**

17 A. In the event a dispute arises as to any approval, disapproval, proposed change, or
18 other decision or action by Ecology's project coordinator, the Parties shall use the dispute
19 resolution procedure set forth below.

20 (1) Upon receipt of the Ecology project coordinator's decision, EHA shall
21 have fourteen (14) days to notify Ecology's project coordinator of any objection to the decision.

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

1 (3) EHA may then request Ecology management review of the decision.
2 This request shall be submitted in writing to the Toxics Cleanup Program Manager within seven
3 (7) days of receipt of Ecology's project coordinator's written decision.

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

8 B. If Ecology's final written decision is unacceptable to EHA, EHA has the right to
9 submit the dispute to the Court for resolution. The Parties agree that one judge should retain
10 jurisdiction over this case and shall, as necessary, resolve any dispute arising under this Decree.
11 In the event EHA presents an issue to the Court for review, the Court shall review the action or
12 decision of Ecology on the basis of whether such action or decision was arbitrary and capricious
13 and render a decision based on such standard of review.

14 C. The Parties agree to only utilize the dispute resolution process in good faith and
15 to expedite, to the extent possible, the dispute resolution process whenever it is used. When
16 either party uses the dispute resolution in bad faith or for purposes of delay, the other party may
17 seek sanctions.

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

21 **XVI. CONTRIBUTION PROTECTION**

22 With regard to claims for contribution against EHA, the Parties agree that EHA is
23 entitled to protection against claims for contribution for matters addressed in this Decree as
24 provided by RCW 70.105D.040(4)(d).
25
26

1 For the purposes of this Section, "matters addressed" include all remedial actions taken
2 or to be taken and all remedial action costs (including Ecology's oversight costs) incurred or to
3 be incurred by Ecology or any other person with respect to the Site. This Contribution
4 Protection does not protect EHA against claims for contribution or recovery of remedial action
5 costs taken or to be taken by Ecology or any other person with respect to the Site, in the event
6 EHA incurs liability for the Site by acquiring any interest in the Site other than the Fenced Area
7 as contemplated by this Decree, and EHA does not resolve such potential liability for the Site
8 through a separate, valid consent decree.
9

10 **XVII. COVENANT NOT TO SUE; REOPENERS**

11 A. Covenant Not to Sue: In consideration of EHA's compliance with the terms and
12 conditions of this Decree, Ecology covenants not to institute legal or administrative actions
13 against EHA regarding the release or threatened release of hazardous substances at the Site
14 covered by this Decree.
15

16 This Decree covers only the Everett Smelter Site, specifically identified in Exhibit B and
17 those hazardous substances that Ecology knows are located at the Site as of the date of entry of
18 this Decree. This Decree does not cover any other hazardous substance or area. Ecology
19 retains all of its authority relative to any substance or area not covered by this Decree. In
20 addition, this Covenant Not to Sue does not provide EHA protection from legal or
21 administrative actions against EHA for the release or threatened release at the Site, in the event
22 EHA incurs liability for the Site by acquiring any separate interest in the Site (other than the
23 Fenced Area, as contemplated by this Decree), and EHA does not resolve such liability for the
24 Site through a separate, valid consent decree.
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26

1 This Covenant Not To Sue shall have no applicability whatsoever to:

2 (1) Criminal liability;

3 (2) Liability for damages to natural resources;

4 (3) Any Ecology action, including cost recovery, against potentially liable persons

5 not a party to this Decree.

6
7 If factors not known to Ecology at the time of entry of the settlement agreement are
8 discovered and present a previously unknown threat to human health or the environment, the
9 Court shall amend this covenant not to sue.

10 B. Reopeners: Ecology specifically reserves the right to institute legal or
11 administrative action against EHA to require it to perform additional remedial actions at the
12 Fenced Area of the Site and to pursue appropriate cost recovery, pursuant to RCW 70.105D.050
13 under the following circumstances:

14
15 (1) Upon EHA's failure to meet the requirements of this Decree, including but not
16 limited to, failure of the remedial action to meet the cleanup standards identified in the
17 FCAP/FEIS (Exhibit C); or

18 (2) Upon Ecology's determination that action beyond the terms of this Decree is
19 necessary to abate an imminent and substantial endangerment to human health or the
20 environment; or

21 (3) Upon the availability of new information regarding factors previously unknown
22 to Ecology, including the nature or quantity of hazardous substances at the Site, and Ecology
23 determines, in light of this information, that further remedial action is necessary at the Fenced
24 Area of the Site to protect human health or the environment; or

1 (4) Upon Ecology's determination that additional remedial actions are necessary to
2 achieve cleanup standards for the Fenced Area of the Site within the reasonable restoration time
3 frame set forth in the FCAP/FEIS.

4 C. Except in the case of an emergency, prior to instituting legal or administrative
5 action against EHA pursuant to paragraph B. above, Ecology shall provide EHA with fifteen
6 (15) calendar days notice of such action.

7 **XVIII. DISCLAIMER**

8 This Decree does not constitute a representation by Ecology that the Site is fit for any
9 particular purpose.

10 **XIX. RETENTION OF RECORDS**

11 During the pendency of this Decree and for ten (10) years from the date this Decree is no
12 longer in effect as provided in Section XXVII (Duration of Decree), EHA shall preserve all
13 records reports, documents, and underlying data in its possession relevant to the implementation
14 of this Decree and shall insert a similar record retention requirement into all contracts with
15 project contractors and subcontractors. Upon request of Ecology, EHA shall make all records
16 available to Ecology and allow access for review within a reasonable period of time.

17 **XX. ACCESS**

18 Ecology or any Ecology authorized representative shall have full authority to enter and
19 freely move about all property at the Site that EHA either owns, controls, or has access rights to
20 at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and
21 contracts related to the work being performed pursuant to this Decree; reviewing EHA's
22 progress in carrying out the terms of this Decree; conducting such tests or collecting such
23 samples as Ecology may deem necessary; using a camera, sound recording, or other
24 documentary type equipment to record work done pursuant to this Decree; and verifying the
25 date submitted to Ecology by EHA. EHA shall make all reasonable efforts to secure access
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1 rights for those properties within the Site not owned or controlled by Defendant where remedial
2 activities or investigations will be performed pursuant to this Decree. Ecology or any
3 authorized representative shall give reasonable notice before entering any Site property owned
4 or controlled by EHA unless an emergency prevents such notice. All Parties who access the
5 Site pursuant to this paragraph shall comply with the approved Health and Safety Plan in the
6 Final Design Report, Exhibit G.

7 **XXI. COMPLIANCE WITH OTHER APPLICABLE LAWS**

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

11 B. Pursuant to RCW 70.105D.090(1), the substantive requirements of Chapters
12 70.94, 70.95, 70.105, 75.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing
13 local government permits or approvals for remedial action under this Decree that are known to
14 be applicable at the time of entry of the Decree have been included in the FCAP/FEIS (Exhibit
15 C), and/or the Interim Action Report and/or Final Design Report (Exhibit G), and are binding
16 and enforceable requirements of the Decree.

17 EHA has a continuing obligation to determine whether additional permits or approvals
18 addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under
19 this Decree. In the event either EHA or Ecology determines that additional permits or approvals
20 addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under
21 this Decree, it shall promptly notify the other party of this determination. Ecology shall
22 determine whether Ecology or EHA shall be responsible to contact the appropriate state and/or
23 local agencies. If Ecology so requires, EHA shall promptly consult with the appropriate state
24 and/or local agencies and provide Ecology with written documentation from those agencies of
25 the substantive requirements those agencies believe are applicable to the remedial action.
26 Ecology shall make the final determination on the additional substantive requirements that must

1 be met by EHA and on how EHA must meet those requirements. Ecology shall inform EHA in
2 writing of these requirements and EHA shall have the opportunity to comment on such
3 requirements. Once established by Ecology, the additional requirements shall be enforceable
4 requirements of this Decree. EHA shall not begin or continue the remedial action potentially
5 subject to the additional requirements until Ecology makes its final determination.

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

8 C. Pursuant to RCW 70.105D.090(2), in the event that Ecology determines that the
9 exemption from complying with the procedural requirements of the laws referenced in RCW
10 70.105D.090(1) would result in the loss of approval from a federal agency necessary for the
11 state to administer any federal law, such exemption shall not apply and EHA shall comply with
12 both the procedural and substantive requirements of the laws referenced in RCW
13 70.105D.090(1), including any requirements to obtain permits.

14 **XXII. SAMPLING, DATA REPORTING, AND AVAILABILITY**

15 With respect to the implementation of this Decree, EHA shall make the results of all
16 sampling, laboratory reports, and/or test results generated by it, or on its behalf available to
17 Ecology and shall submit these results in accordance with Section XXIII (Progress Reports).

18 Ground water sampling shall be submitted to Ecology according to the requirements of
19 WAC 173-340-840(5). These submittals shall be provided to Ecology in accordance with
20 Section XXIII (Progress Reports). Such groundwater sampling will be submitted to Ecology in
21 conjunction with the as built reports required by WAC 173-340-400(6)(b)(ii).

22 If requested by Ecology, EHA shall allow split or duplicate samples to be taken by
23 Ecology and/or its authorized representative of any samples collected by EHA pursuant to the
24 implementation of this Decree. EHA shall notify Ecology at least seven (7) working days in
25 advance of any sample collection or work activity at the Site. Ecology shall, upon request,
26 allow split or duplicate samples to be taken by EHA or its authorized representative, of any

1 samples collected by Ecology pursuant to the implementation of this Decree, provided it does
2 not interfere with the Ecology's sampling. Without limiting Ecology's rights under Section XX
3 (Access), Ecology shall endeavor to notify EHA at least five (5) working days prior to any
4 sampling collection activity.

5 **XXIII. PROGRESS REPORTS**

6 EHA shall submit to Ecology written monthly progress reports that describe the actions
7 taken during the previous month to implement the requirements of this Decree. The progress
8 report shall include the following:

9 A. A list of activities that have taken place at the Fenced Area pursuant to
10 the terms of this Decree during the month;

11 B. Detailed description of any deviations from required tasks not otherwise
12 documented in project plans or amendment requests;

13 C. Description of all deviations from the Schedule (Exhibit F) during the
14 current month and any planned deviations in the upcoming month;

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

17 E. All raw data (including laboratory analyses) received by EHA during the
18 past month and an identification of the source of the sample; and

19 F. A list of deliverables for the upcoming reporting period if different from
20 the Schedule.

21 EHA may substitute project reports submitted by Asarco or EHA's agents, contractors or
22 subcontractors for any EHA progress reports required under this Section, provided such reports
23 meet the above requirements. All Progress Reports shall be submitted by the tenth (10) day of
24 the month in which they are due after the Effective Date of this Decree. Unless otherwise
25 specified, Progress Reports and any other documents submitted pursuant to this Decree shall be
26 sent by hard copy and electronic copy to Ecology's project coordinator.

1 **XXIV. EXTENSION OF SCHEDULE**

2 A. An extension of schedule shall be granted only when a request for an extension is
3 submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the
4 deadline for which the extension is requested, and good cause exists for granting the extension.
5 All extensions shall be requested in writing. The request shall specify the reason(s) the
6 extension is needed.

7 An extension shall only be granted for such period of time as Ecology determines is
8 reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety
9 (90) days only as a result of:

- 10 (1) Delays in the issuance of a necessary permit which was applied for in a timely
11 manner; or
12 (2) Other circumstances deemed exceptional or extraordinary by Ecology; or
13 (3) Endangerment as described in Section XXV.

14 A requested extension shall not be effective until approved by Ecology or, if required,
15 by the Court. Ecology shall act upon any written request for extension in a timely fashion.
16 Ecology shall give EHA written notification in a timely fashion of any extensions granted
17 pursuant to this Decree. Unless the extension is a substantial change, it shall not be necessary to
18 amend the Decree pursuant to Section XIV (Amendment of Consent Decree) when a schedule
19 extension is granted.

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

- 23 (1) Circumstances beyond the reasonable control and despite the due diligence of
24 EHA, including delays caused by unrelated third parties or Ecology, such as (but not limited to)
25 delays by Ecology in reviewing, approving, or modifying documents submitted by EHA; or
26

1 (2) The unavailability of the Asarco Tacoma Smelter for disposal of the materials to
2 be removed under this Decree; or

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

5 (4) Endangerment as described in Section XXV.

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

9 **XXV. ENDANGERMENT**

10 If, for any reason, Ecology determines that any activity being performed at the Site
11 pursuant to this Decree is creating or has the potential to create a danger to human health or the
12 environment, Ecology may direct EHA to cease such activities for such period of time as it
13 deems necessary to abate the danger. EHA shall immediately comply with such direction.

14 If, for any reason, EHA determines that any activity being performed at the Site pursuant
15 to this Decree is creating or has the potential to create a danger to human health or the
16 environment, EHA may cease such activities. EHA shall notify Ecology's project coordinator
17 as soon as possible, but no later than twenty-four (24) hours after making such determination or
18 ceasing such activities. Upon Ecology's direction, EHA shall provide Ecology with
19 documentation of the basis for the determination or cessation of such activities. If Ecology
20 disagrees with EHA's cessation of activities, it may direct EHA to resume such activities.

21 If Ecology concurs with or directs a work stoppage pursuant to this Section, EHA's
22 obligations with respect to the ceased activities shall be suspended until Ecology determines the
23 danger is abated, and the time for performance of such activities, as well as the time for any
24 other work dependent upon such activities, shall be extended, in accordance with Section XXIV
25 (Extension of Schedule), for such period of time as Ecology determines is reasonable under the
26 circumstances.

1 Nothing in this Order shall limit the authority of Ecology, its employees, agents, or
2 contractors to take or require appropriate action in the event of an emergency.

3 **XXVI. PUBLIC PARTICIPATION**

4 The Public Participation Plan for the remediation of the Fenced Area of the Site pursuant
5 to the terms of this Decree, is attached as Exhibit E. Ecology shall maintain the responsibility
6 for public participation at the Site. However, EHA shall cooperate with Ecology, and shall:

7 A. If agreed to by Ecology, prepare drafts of public notices and fact sheets at
8 important stages of the remedial action, such as the submission of work plans, Remedial
9 Investigation/Feasibility Study reports and engineering design reports. As appropriate, Ecology
10 will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of
11 Ecology's presentations and meetings;

12 B. Notify Ecology's project coordinator prior to the preparation of all press releases
13 and fact sheets, and before meetings with the interested public and local governments. Likewise,
14 Ecology shall notify EHA prior to the issuance of all press releases and fact sheets, and before
15 meetings with the interested public and local governments. For all press releases, fact sheets,
16 meetings, and other outreach efforts by EHA that do not receive prior Ecology approval, EHA
17 shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach
18 effort was not sponsored or endorsed by Ecology;

19 C. If agreed to by Ecology, participate in public presentations on the progress of the
20 remedial action at the Site. Participation may be through attendance at public meetings to assist in
21 answering questions, or as a presenter;

22 D. In cooperation with Ecology, assist in maintaining information repositories to be
23 located at the following locations:

24
25 **Department of Ecology**
Northwest Regional Office, Central Files
3190 160th Avenue SE
26 Bellevue, WA

1 425-649-7190

2 **Everett Public Library**
3 2702 Hoyt Avenue
4 Everett, WA 98201
5 425-257-8000

6 At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured
7 ground water, surface water, soil sediment, and air monitoring data; remedial actions plans,
8 supplemental remedial planning documents, and all other similar documents relating to
9 performance of the remedial action required by this Decree shall be promptly placed in the
10 Northwest Regional Office repository.

11 **XXVII. DURATION OF DECREE AND RETENTION OF JURISDICTION;
12 CERTIFICATIONS BY ECOLOGY**

13 This remedial program described in the Decree shall be maintained and continued until
14 EHA has received written notification by Ecology that the requirements of this Decree have
15 been satisfactorily completed. This Decree shall remain in effect until dismissed by the Court.
16 When dismissed, Section XVII (Covenant Not to Sue) and Section XVI (Contribution
17 Protection) of this Decree, shall survive.

18 In order to facilitate the timely redevelopment of the Fenced Area, upon completion and
19 confirmation of the remediation activities specified in the Scope of Work herein (the
20 FCAP/FEIS, the Interim Action Report and the Final Design Report), Ecology may issue a
21 Partial Certificate of Completion where appropriate on a parcel by parcel basis, noting that
22 redevelopment may proceed based only upon the implementation of any required institutional
23 controls, including Restrictive Covenants. In the alternative, upon completion and confirmation
24 of the remediation activities specified in the Scope of Work herein (the FCAP/FEIS, the Interim
25 Action Report and the Final Design Report) and upon implementation of institutional controls
26 and City of Everett approval of the planned project and any associated replatting, Ecology will
issue a Certificate of Completion. Unless Ecology becomes aware of any circumstances at the

1 Site that present a previously unknown threat to human health or the environment, Ecology
2 shall, within thirty (30) days of issuance of the Certificate of Completion, propose to remove the
3 Site from the Hazard Sites List, pursuant to WAC 173-340-330(7).

4 **XXVIII. WITHDRAWAL OF CONSENT**

5 If the Court withdraws its consent, this Decree shall be null and void at the option of any
6 party and the accompanying complaint shall be dismissed without costs and without prejudice.
7 In such an event, no party shall be bound by the requirements of this Decree. This Section shall
8 not create a basis for withdrawal of consent or termination of this Decree other than those
9 created by the terms of this Decree or that exist by operation of law or equity.

10 **XXIX. IMPLEMENTATION OF REMEDIAL ACTION**

11 If Ecology determines that EHA has failed without good cause to implement the remedial
12 action, in whole or in part, Ecology may, after notice to EHA, perform any or all portions of the
13 remedial action that remain incomplete. If Ecology performs all or portions of the remedial action
14 because of the EHA's failure to comply with its obligations under this Decree, EHA shall
15 reimburse Ecology for the costs of doing such work in accordance with Section VIII (Ecology
16 Costs), provided that EHA is not obligated under this Section to reimburse Ecology for costs
17 incurred for work inconsistent with or beyond the scope of this Decree.

18 **XXX. INDEMNIFICATION**

19 EHA agrees to indemnify and save and hold the State of Washington, its employees, and
20 agents harmless from any and all claims or causes of action for death or injuries to persons or
21 for loss or damage to property arising from or on account of acts or omissions of EHA, its
22 officers, employees, agents, or contractors in entering into and implementing this Decree.
23 However, EHA shall not indemnify the State of Washington nor save nor hold its employees
24 and agents harmless from any claims or causes of action arising out of the negligent acts or
25 omissions of the State of Washington, or employees or agents of the State in implementing the
26 activities pursuant to this Decree.

1 **XXXI. CLAIMS AGAINST THE STATE**

2 EHA hereby agrees that it will not seek to recover any costs accrued in implementing the
3 remedial action required by this Decree from the State of Washington or any of its agencies.
4 This Section does not limit EHA from applying for grant funding from the Local Toxics Control
5 Account for a portion of the costs incurred in implementing this Decree. Except as provided
6 above, however, EHA expressly reserves its right to seek to recover any costs incurred in
7 implementing this Decree from any other PLP.

8 **XXXII. SEVERABILITY**

9 If any section, subsection, sentence or clause of this Decree is found to be illegal, invalid
10 or unenforceable, such illegality, invalidity or unenforceability will not affect the illegality or
11 enforceability of this Decree as a whole or of any other section, subsection, sentence or clause.

12 **XXXIII. EFFECTIVE DATE**

13 The Effective Date of this Decree is the final date when both the Decree is entered by
14 the Court and title to the Asarco Property vests in EHA. If EHA does not take title to the
15 Asarco Property, this Decree shall be void.

16 The undersigned Parties enter into this Prospective Purchaser Consent Decree on the
17 date specified below.

18
19 STATE OF WASHINGTON
20 DEPARTMENT OF ECOLOGY

CHRISTINE O. GREGOIRE
Attorney General

21 _____
22 James J. Pendowski
23 Program Manager
Toxics Cleanup Program

Kristie E. Carevich, WSBA No. 28018
Assistant Attorney General

24 Date: _____

Date: _____

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HOUSING AUTHORITY OF THE CITY OF EVERETT

S. Bud Alkire
Executive Director

Date: _____

ENTERED this _____ day of _____, 2004.

JUDGE
Snohomish County Superior Court

EXHIBIT A
ASARCO PROPERTY LEGAL DESCRIPTION

PARCEL A:

LOTS 18 THROUGH 23 INCLUSIVE, 43 THROUGH 48, INCLUSIVE, THE NORTH HALF OF LOT 49, 63 THROUGH 66 INCLUSIVE, BRIDGEWAY, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 119, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

(003966-000-018-00; 003966-000-019-00; 003966-000-020-00; 003966-000-022-00; 003966-000-043-01; 003966-000-043-02; 003966-000-045-00; 003966-000-046-00; 003966-000-047-01; 003966-000-047-02; 003966-000-049-01; 003966-000-063-00; 003966-000-064-00; 003966-000-065-00)

PARCEL B:

LOT 17, AND ALL THAT PORTION OF LOT 16, BRIDGEWAY, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 119, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 16;
THENCE SOUTHEASTERLY ALONG THE WESTERLY LINE OF SAID LOT 16, 20 FEET;
THENCE IN A NORTHEASTERLY DIRECTION TO A POINT ON THE EAST LINE OF SAID LOT 16, 25 FEET SOUTHERLY FROM THE NORTHEAST CORNER OF SAID LOT;
THENCE NORTHERLY ALONG SAID EASTERLY LINE 25 FEET TO THE NORTHEAST CORNER OF SAID LOT 16;
THENCE SOUTHWESTERLY ALONG THE NORTH LINE OF SAID LOT 16 TO THE POINT OF BEGINNING.

(003966-000-016-00)

PARCEL C:

LOTS 41 AND 42, BRIDGEWAY ADDITION, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 119, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON FOR HIGHWAY PURPOSES BY WARRANTY DEED RECORDED JANUARY 14, 1953 UNDER AUDITOR'S FILE NO. 1050272.

(003966-000-041-00)

PARCEL D:

LOT 67, AND THE SOUTH HALF OF LOT 68 OF PLAT OF BRIDGEWAY, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 119, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

(003966-000-067-00)

PARCEL E:

LOT 69 AND THE NORTH HALF OF LOT 68, BRIDGEWAY, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 119, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

ALSO THAT PART OF LOT 70, BRIDGEWAY, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 119, IN SNOHOMISH COUNTY, WASHINGTON, LYING SOUTHEASTERLY OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE THAT IS NORTH 21°45'30" WEST 25 FEET FROM THE MOST EASTERLY CORNER OF SAID LOT; THENCE FROM SAID POINT BEGINNING RUN SOUTHWESTERLY ON A STRAIGHT LINE 113 FEET, MORE OR LESS, TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT THAT IS MIDWAY AND EQUIDISTANT FROM THE MOST WESTERLY CORNER OF SAID LOT AND THE MOST SOUTHERLY CORNER THEREOF.

(003966-000-068-00)

PARCEL F:

PART OF LOTS 70 AND 71, BRIDGEWAY, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 119, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF SAID LOT 70;

THENCE NORTH 21°45'30" WEST ALONG THE NORTHEASTERLY LINE OF SAID LOT, A DISTANCE OF 25 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE FROM SAID POINT RUN SOUTHWESTERLY ON A STRAIGHT LINE 113 FEET, MORE OR LESS, TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT THAT IS MIDWAY AND EQUIDISTANT FROM THE MOST WESTERLY CORNER OF SAID LOT AND THE MOST SOUTHERLY CORNER THEREOF;

THENCE NORTH 22°35'20" WEST ALONG THE SOUTHWESTERLY LINE OF LOTS 70 AND 71, A DISTANCE OF 60 FEET, MORE OR LESS, TO THE SOUTHERLY RIGHT OF WAY LINE OF THE STATE HIGHWAY OVER SAID LOT 71, AS CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER AUDITOR'S FILE NUMBER 1045343;

THENCE NORTHEASTERLY FOLLOWING SAID RIGHT OF WAY LINE, A DISTANCE OF 45 FEET, MORE OR LESS, TO THE NORTHWESTERLY LINE OF SAID LOT 71;

THENCE NORTH 68°07'50" EAST 75 FEET, MORE OR LESS, TO THE MOST NORTHERLY CORNER OF SAID LOT 71;

THENCE SOUTH 21°45'30" EAST 75 FEET TO THE POINT OF BEGINNING.

(003966-000-070-00)

PARCEL G:

LOT 73 AND THE NORTH 25 FEET OF LOT 74, BRIDGEWAY, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 119, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

TOGETHER WITH VACATED PORTION OF HAWTHORNE STREET ADJACENT TO AND ABUTTING THEREON AS VACATED BY ORDER NO. 3246 RECORDED UNDER AUDITOR'S FILE NUMBER 917761, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, WHICH WOULD ATTACH BY OPERATION OF LAW.

(003966-000-073-00)

PARCEL H:

THE SOUTH HALF OF LOT 74, AND ALL OF LOT 75 AND THE NORTHERLY 25 FEET OF LOT 76 OF BRIDGEWAY, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 119, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

TOGETHER WITH VACATED PORTION OF HAWTHORNE STREET ADJACENT TO AND ABUTTING THEREON AS VACATED BY ORDER NO. 3246 RECORDED

UNDER AUDITOR'S FILE NUMBER 917761, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, WHICH WOULD ATTACH BY OPERATION OF LAW.

(003966-000-074-00)

PARCEL I:

SOUTHERLY 25 FEET OF LOT 76, ALL OF LOT 77 AND THE NORTHERLY 25 FEET OF LOT 78, BRIDGEWAY, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 119, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

TOGETHER WITH VACATED PORTION OF HAWTHORNE STREET ADJACENT TO AND ABUTTING THEREON AS VACATED BY ORDER NO. 3246 RECORDED UNDER AUDITOR'S FILE NUMBER 917761, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, WHICH WOULD ATTACH BY OPERATION OF LAW.

(003966-000-076-00)

PARCEL N:

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SECTION CORNER COMMON TO SECTIONS 8, 9, 16 AND 17, TOWNSHIP 29 NORTH, RANGE 5, EAST, W.M.;

THENCE WESTERLY AND FOLLOWING THE SECTION LINE BETWEEN SECTIONS 8 AND 17, FOR 1649.81 FEET TO THE EAST PROPERTY LINE OF EAST GRAND AVENUE;

THENCE ANGLE TO THE RIGHT $61^{\circ} 21' 10''$ AND FOLLOWING THE EAST PROPERTY LINE OF EAST GRAND AVENUE FOR 773.51 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ON THE SAME STRAIGHT LINE FOR 97.9 FEET TO THE EAST PROPERTY LINE OF STATE ROAD NO. 1;

THENCE ANGLE TO THE RIGHT FOR $69^{\circ} 12'$ AND FOLLOWING THE SAID EAST PROPERTY LINE OF STATE ROAD NO. 1 FOR 189.7 FEET TO THE WEST PROPERTY LINE OF THE AMERICAN SMELTER SECURITIES COMPANY TR.;

THENCE ANGLE TO THE RIGHT OF $116^{\circ} 58' 50''$ AND FOLLOWING THE WEST PROPERTY LINE OF THE AMERICAN SMELTER SECURITIES COMPANY TRACT FOR 192.03 FEET TO THE STONE MONUMENT NO. 2;

THENCE ANGLE TO THE RIGHT OF $9^{\circ} 26'$ FOR 14.87 FEET TO A POINT;

THENCE ANGLE TO THE RIGHT OF 90° FOR 158.2 FEET TO THE TRUE POINT OF BEGINNING;

TOGETHER WITH THAT PORTION OF THE NORTHEASTERLY 10 FEET OF VACATED HAWTHORNE STREET (FORMERLY GRAND AVENUE) ADJACENT THERETO AND ABUTTING THEREON;
EXCEPT PORTION CONVEYED TO THE STATE OF WASHINGTON FOR HIGHWAY BY DEED UNDER RECORDING NUMBER 1095440.

(290508-004-014-00)

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

EXHIBIT B
MAPS DEPICTING THE EVERETT SMELTER SITE
AND
RELEVANT PORTIONS THEREOF

2, 35 J:\5177\5377-83.DWG

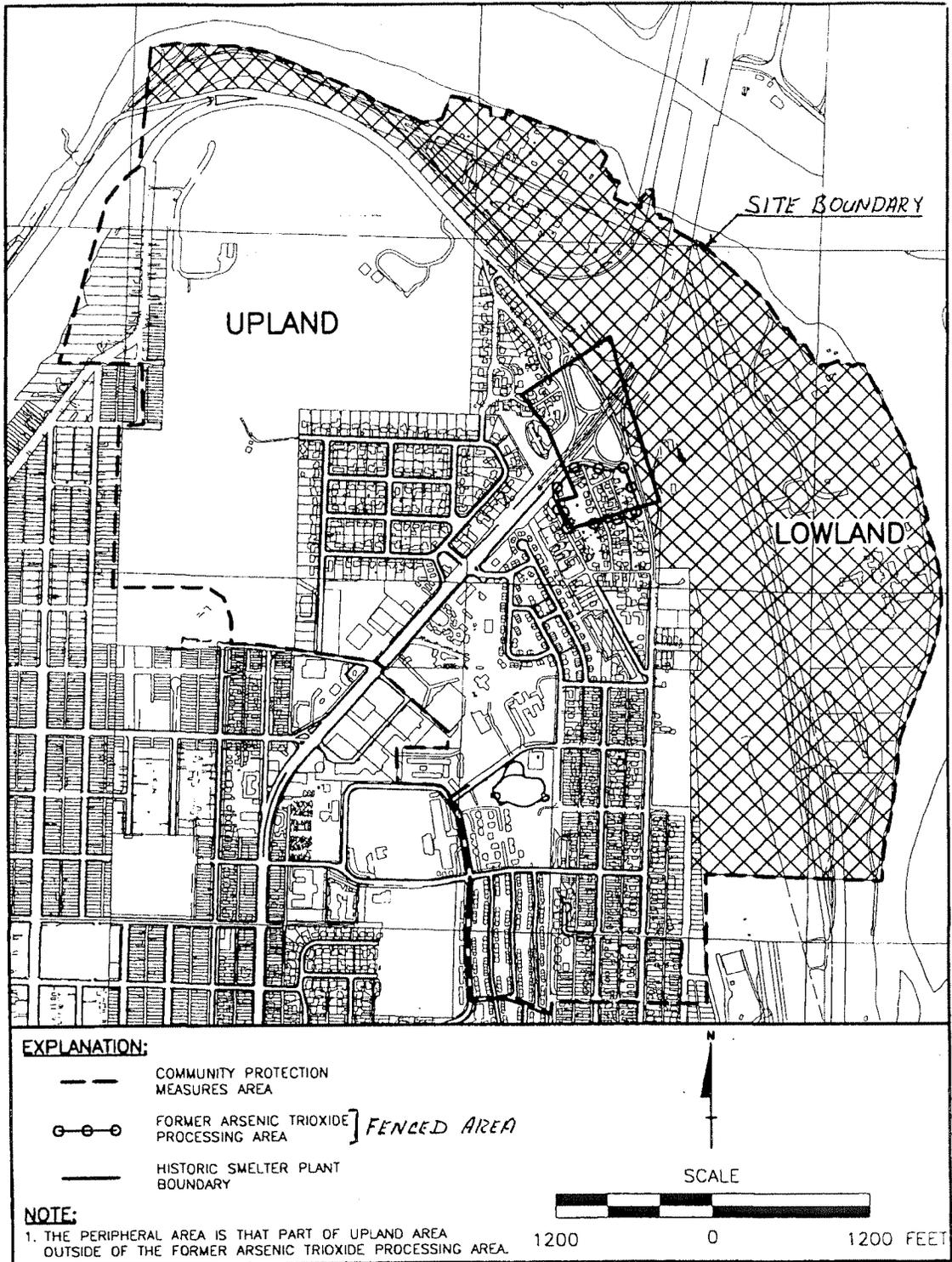


Figure 1-2: Site Features.

LEGEND



ASARCO PROPERTY



ASARCO HOUSES

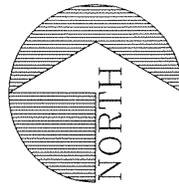
APPROXIMATE LOCATION OF HISTORICALLY OWNED ASARCO PROPERTY BOUNDARY



SECURITY FENCE



PUBLIC PROPERTY TO BE REMEDIATED



SCALE

(In Feet) 0 150



ASARCO
Consulting, Inc.

PROPERTY MAP
ASARCO INCORPORATED
EVERETT, WASHINGTON
04/19/04

EXHIBIT

B

EXHIBIT C
CLEANUP ACTION PLAN (FCAP/FEIS)

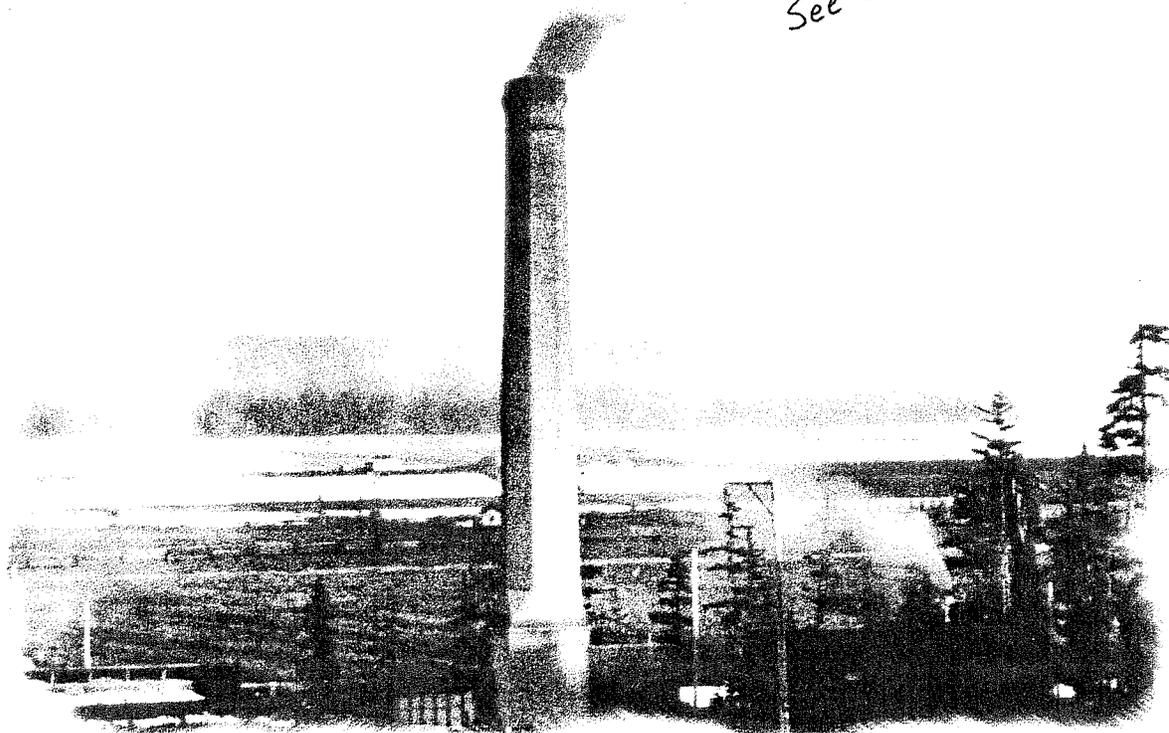
EVERETT SMELTER SITE

Everett, Washington

INTEGRATED FINAL CLEANUP ACTION PLAN and FINAL ENVIRONMENTAL IMPACT STATEMENT for the UPLAND AREA

Volume I

See separate bound volumes



Puget Sound Reduction Works facility looking east. December 10, 1895.
Duryee Collection. Courtesy of Everett Public Library

by
Washington State Department of Ecology

November 19, 1999

EXHIBIT D
RESTRICTIVE COVENANTS 1 AND 2

RESTRICTIVE COVENANT 1
[NAME OF PROPERTY OWNER, AND NAME OF PROPERTY]

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

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

- [LIST ALL APPLICABLE DOCUMENTS. INSERT THE DATE AND TITLE FOR EACH DOCUMENT LISTED INCLUDING THE NAME OF THE PERSON(S) OR BUSINESS WHO PREPARED THE DOCUMENT.]

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

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of [specifically list substances] which exceed the Model Toxics Control Act Method [list applicable Method A or Method B] for soil and groundwater established under WAC 173-340-740.

The undersigned, [name property owner] is the fee owner of real property (hereafter "Property") in the County of [name of county], State of Washington that is subject to this Restrictive Covenant. The legal description of the Property is as follows:

LEGAL DESCRIPTION

[Insert legal description or include as an attachment and incorporate by reference]

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

Section 1. No groundwater may be taken for any purposes from the Property.

Section 2. [If contaminated soil is both capped and remains under an existing structure, paving, asphalt, or unremediated landscaping due to the presence of trees or prized plants, state the following:] A portion of the Property contains [specifically list substances] contaminated soil located [specifically describe where located, i.e. under the southeast portion of Building 10

in the northeast portion of the Property]. The Owner shall not alter, modify, or remove the existing structure[s], paving, asphalt, or landscaping in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology. In addition, any activity on the Property that may result in the release or exposure of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in the capped areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

[or:]

Section 2. [If contaminated soil is capped, and no contaminated soil remains under any existing structure, paving, asphalt, or unremediated landscaping, state the following:] Any activity on the Property that may result in the release or exposure of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in the capped areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface, by more than 18 inches, with a rod, spike or similar item, bulldozing or earthwork.

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

Section 4. The Owner of the Property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

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

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

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

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the

Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

[NAME OF PROPERTY OWNER]

[DATE SIGNED]

[Property Owner must have this Restrictive Covenant notarized]

RESTRICTIVE COVENANT 2
[NAME OF PROPERTY OWNER, AND NAME OF PROPERTY]

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

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

- [LIST ALL APPLICABLE DOCUMENTS. INSERT THE DATE AND TITLE FOR EACH DOCUMENT LISTED INCLUDING THE NAME OF THE PERSON(S) OR BUSINESS WHO PREPARED THE DOCUMENT.]

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

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of [specifically list substances] which exceed the Model Toxics Control Act Method [list applicable Method A or Method B] for groundwater established under WAC 173-340-740.

The undersigned, [name property owner] is the fee owner of real property (hereafter "Property") in the County of [name of county], State of Washington that is subject to this Restrictive Covenant. The legal description of the Property is as follows:

LEGAL DESCRIPTION

[Insert legal description or include as an attachment and incorporate by reference]

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

Section 1. No groundwater may be taken for any purposes from the Property.

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

Section 3. Any activity on the Property that may result in the release or exposure to the

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

Section 4. The Owner of the Property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

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

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

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

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

[NAME OF PROPERTY OWNER]

[DATE SIGNED]

[Property Owner must have this Restrictive Covenant notarized]

EXHIBIT E
PUBLIC PARTICIPATION PLAN

**Everett Smelter Site
Fenced and Adjacent Areas
Public Participation Plan
for
Cleanup 2004**



Prepared by
Washington State Department of Ecology
3190 160th Avenue SE
Bellevue, WA 98008-5452

April 2004

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Everett Smelter Site
Upland Area
Public Participation Plan

Cleanup 2004

1. Introduction

Cleanup of contaminated soil within the Everett Smelter site will continue in 2004. Work in 2004 will address the most contaminated soil in the area – the soil within the Fenced Area where the old arsenic processing facilities were located. This fenced-off area is located just south of State Route 529 and between Hawthorne and East Marine View Drive (see Figure 1).

Thirty-seven contaminated residential yards also are anticipated to be cleaned up in 2004. This Public Participation Plan describes the anticipated cleanup activities and public involvement opportunities related to this work.

The Everett Smelter site is located in northeast Everett, Washington. The site extends along the Snohomish River from Legion Park in the northwest to 14th Street in the southeast.

Forty-seven homes with the most contaminated yards outside of the Fenced Area have been cleaned up by the Washington State Department of Ecology (Ecology) with state funds in previous years. No state funding was available in the current state fiscal biennium (July 2003 to June 2005) to clean up additional properties.

Cleanup in 2004 will be done by ASARCO, Inc. Asarco is the last owner of the smelting facilities.

Related to the cleanup work, Asarco is in the midst of a property transaction with the Everett Housing Authority (EHA). Here are some key points to this transaction:

- EHA will purchase 15 Asarco-owned homes outside the Fenced Area and accept liability for cleaning them up.
- Asarco will clean up the contaminated yards of these 15 homes as part of the purchase and sale agreement.
- This purchase and sale agreement also requires Asarco to clean up contaminated yards at an additional 22 homes in the area which are not owned by Asarco.
- After Asarco has removed the most contaminated soil from the Fenced Area (more than 3,000 parts per million arsenic), EHA will purchase this area from

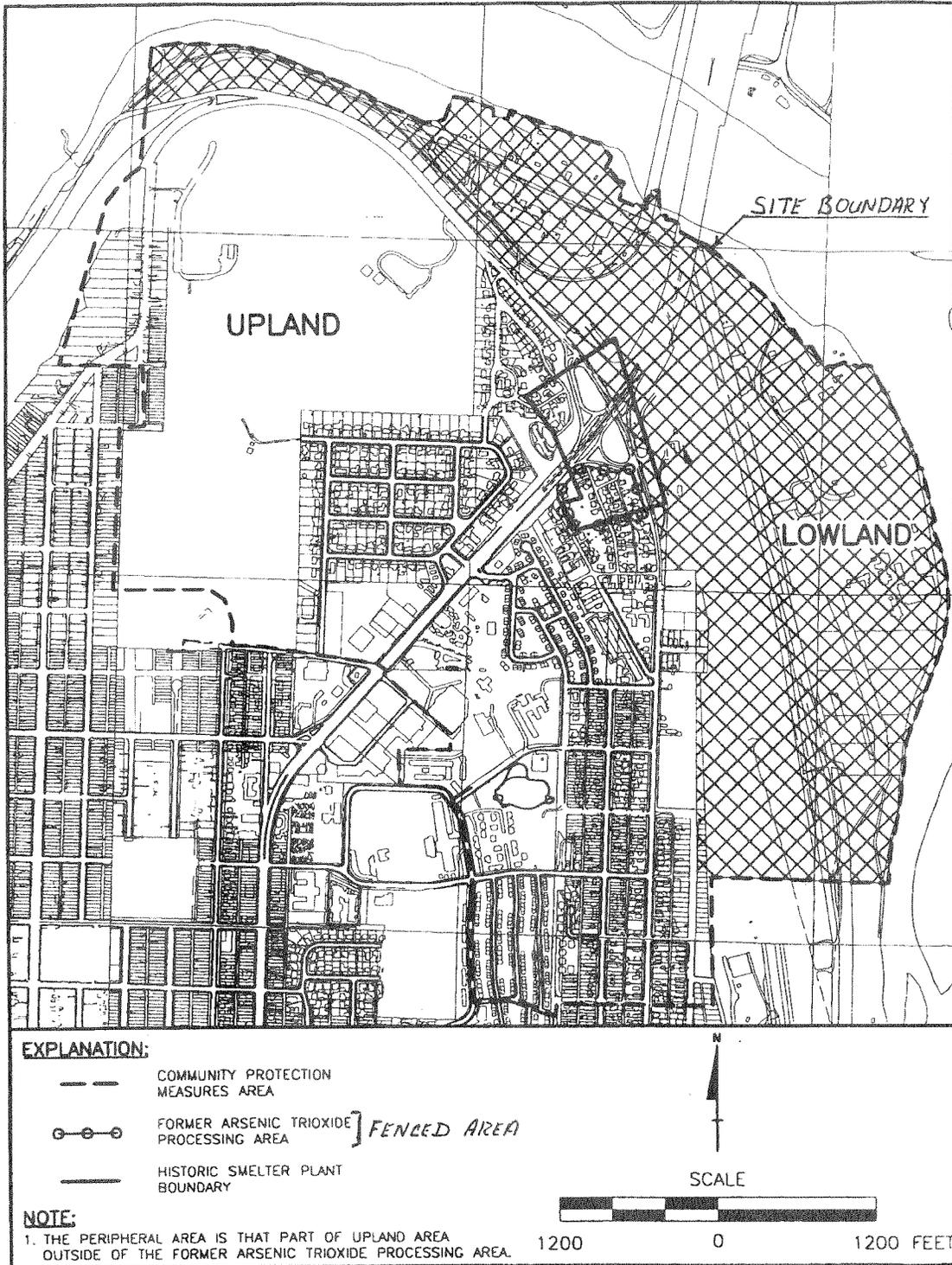


Figure 1. Site Location with Fenced Area

Asarco and accept liability for cleaning up the remaining arsenic-contaminated soil to state standards.

- Asarco will clean up the Fenced Area as a condition of the purchase and sale agreement.
- EHA has negotiated two Prospective Purchaser Consent Decrees with Ecology. One consent decree addresses EHA's liability within the Fenced Area. The other addresses EHA's liability for the 15 houses which EHA will purchase. These agreements specify and limit EHA's liability for known contamination from smelter activity with respect to the property it purchases. These agreements do not relieve Asarco of any responsibility at the Everett Smelter site. Public comment on these Prospective Purchaser Consent Decrees will occur between April 22 and May 21, 2004.

Asarco's contractor will bring equipment to the site by May 15th, in order to complete 2004 cleanup activity in October. The contaminated soil will be barged to a disposal facility at the Asarco smelter near Tacoma.

Funding for this cleanup work will come from several sources including:

- EHA will provide funds to Asarco as consideration for EHA's purchase of the Fenced Area and 15 residential properties (as part of the purchase and sale agreement, Asarco will clean up the Fenced Area, these 15 properties, and 22 additional properties not owned by Asarco).
- \$1 million from a trust fund established by Asarco to address their environmental liabilities nationwide, and
- \$1 million in matching funds will be provided by Ecology to EHA.

EHA has plans to redevelop these properties after cleanup work has occurred. Of the 15 Asarco-owned homes that EHA is purchasing, seven will be demolished and eight will be refurbished. The 22 privately-owned homes will remain in place. Lastly, the Fenced Area will be redeveloped as a single-family neighborhood. For questions about EHA's redevelopment plans, contact Darcy Walker at 425-303-1117.

Future clean up work in the area remains undetermined at this time.

2. Site Background

The Everett Smelter site was discovered in the fall of 1990 when Weyerhaeuser Company found slag on its property during an environmental investigation. Slag is a heavy, black, metallic, and sometimes glassy, rock-like material, which is the once molten waste product from the smelting process. The slag contains high concentrations of lead, arsenic and other metals. A large amount of the slag was mined and used for fill around the area. The slag also was used in the past to make rock wool insulation. A former arsenic smelter which operated between 1893 and 1912, and was demolished by 1914, had generated the slag. Slag piles and building debris were covered with fill soil.

In the following years, the property was sold and developed into residential, commercial, industrial and public use sections.

Asarco completed investigation of the site and submitted a report (the Remedial Investigation and Feasibility Study) to Ecology in 1995. Public comment on the report was solicited at the end of 1995. Ecology reviewed the comments received during the public comment period and began developing a Cleanup Action Plan for the site.

Also in 1997, Ecology and Asarco began a mediated process to make major cleanup decisions for the Cleanup Action Plan. Other stakeholders were invited to participate to move toward an efficient, quick cleanup. Mediation concluded without reaching agreement in August 1998, and Asarco filed a lawsuit in which the company sought to be dismissed as the potentially liable party for the cleanup.

Ecology prepared an Integrated Draft Cleanup Action Plan and Draft Environmental Impact Statement for the residential and commercial portion of the site. This portion of the site, called the upland area, is that area west of the low-lying industrial area along the Snohomish River. This plan was presented for public comment in January 1999. Ninety citizens, governmental agencies and private parties commented. The Integrated Final Cleanup Action Plan and Final Environmental Impact Statement were distributed to the public in November 1999.

In December 1999, a Superior Court decision upheld Asarco's liability for some parts of the site and rejected it for others. Both Ecology and Asarco appealed to the Washington State Supreme Court. The state Supreme Court remanded the case to Superior Court in April 2002, finding that there were not sufficient facts for the Court to reach a decision. Ecology and Asarco subsequently agreed to stay further litigation while addressing the Fenced Area (see next paragraph).

Ecology issued an Enforcement Order to Asarco on June 10, 2002, requiring cleanup of the most contaminated material within the Everett Smelter site. Specifically, the Order called for material with arsenic concentrations above 3,000 parts per million be excavated and disposed of off site. This material is primarily within the Fenced Area, with a small amount immediately adjacent to this area under East Marine View Drive.

Asarco prepared a plan for excavating the material with arsenic concentrations above 3,000 parts per million as required by the Order. The plan also provides for cleaning up material with arsenic concentrations above 150 parts per million in the Fenced Area and for cleaning up selected residential properties adjacent to the Fenced Area. Within the Fenced Area, two feet of clean fill are to be imported to cover the soil with arsenic concentrations between the cleanup level (20 parts per million) and 150 parts per million. At the conclusion of the work, the entire area will be cleaned up to standards which will allow residential use. Contaminated soil will remain on the properties at depths where it is unlikely that people will come into contact with it. Institutional controls will be used (property owner notification, a marker cloth at the top of the contaminated soil) to help

ensure that people are aware of where contaminated material may be encountered so they can take appropriate safety measures.

In December 2003, EHA signed an option with Asarco to purchase the Fenced Area and selected adjacent residential properties owned by Asarco. As described in the Introduction (see page 1), EHA is in the process of purchasing the Fenced Area and 15 Asarco-owned homes, and requiring cleanup of an additional 22 privately-owned homes (see Figure 2).

3. Community Background

The community surrounding the original smelter property is a well-established, diverse neighborhood of working and retired families who own or rent. Many residents closest to this property have owned their homes for 30 years or more. Asarco has purchased 37 homes in this area, including 22 homes (now demolished) on the most contaminated portion of the Everett Smelter site. As described above, this most-contaminated area is the location of the arsenic processing facilities that were demolished; some debris was left behind. A number of renters occupy Asarco-owned homes in the area adjacent to the Fenced Area. Further from the original smelter property are a juvenile detention facility and large complexes of apartments, including housing for low-income families. A major highway interchange bisects the original smelter property.

Members of the community have expressed a number of concerns and criteria for further action that include the following:

- a) The cleanup process
 - Eliminate further delay.
 - Involve the community in decisions that affect its future.
 - Meet the requirements of the Model Toxics Control Act (the state regulation that under which Ecology operates to identify, investigate, and cleanup facilities where hazardous substances have been released).

- b) Future of the neighborhood
 - Allow for re-use of the former smelter property in a way that is compatible with the neighborhood.
 - Protect property values.
 - Protect human health and the environment over the long term.

4. Public Involvement Activities

The purpose of this Public Participation Plan is to promote public understanding and participation in cleanup activities planned for this site. This section of the plan addresses how Ecology will share information and receive community input on site activities.

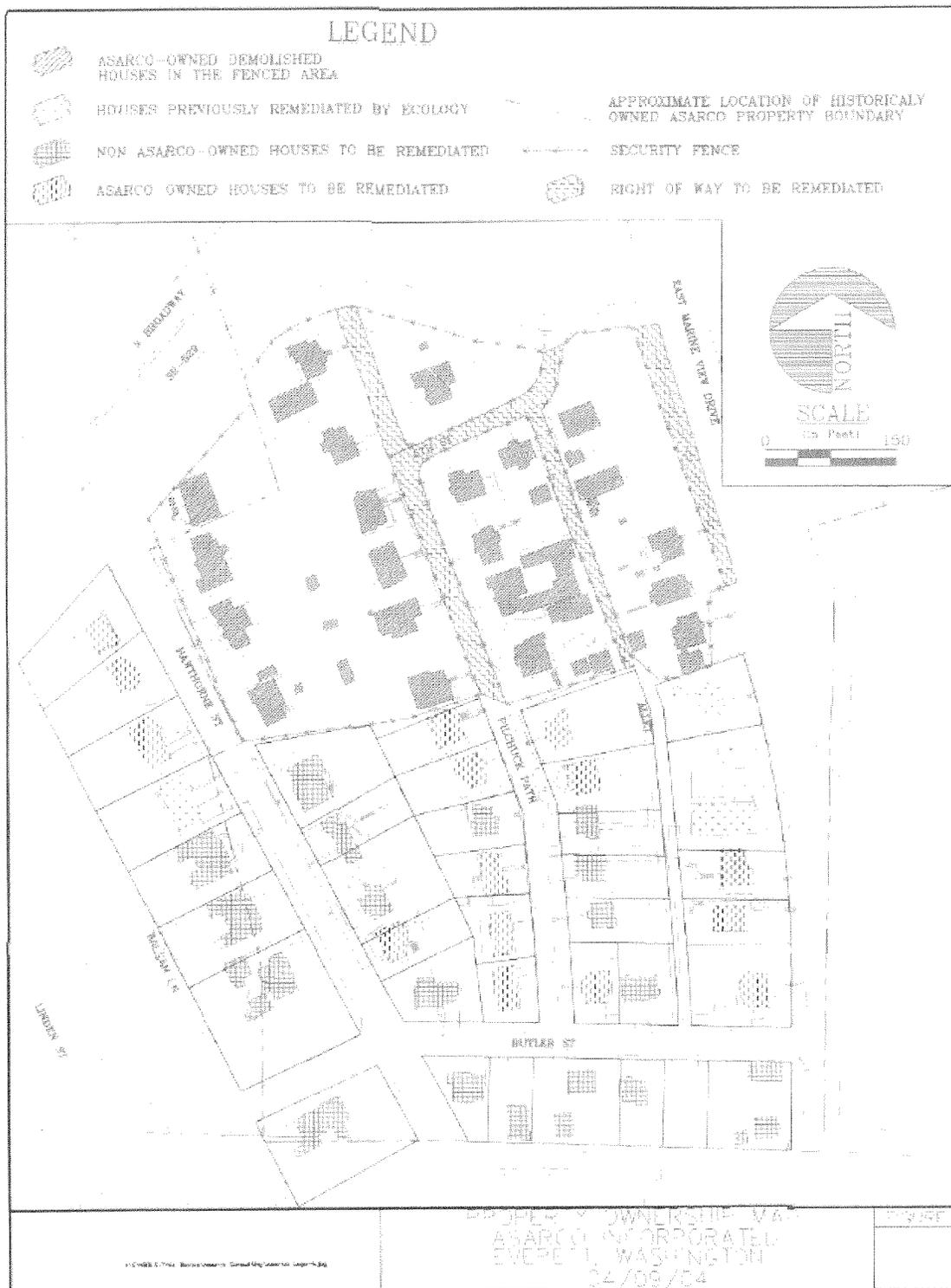


Figure 2. Property Ownership

Ecology uses a variety of activities to facilitate public participation in the investigation and cleanup of sites. Input provided by the community will be implemented whenever possible.

The following is a list of the public involvement activities that Ecology will use, their purposes, and descriptions of when and how they will be used during this phase of cleanup.

Public Comment Periods

Comment periods are the primary method Ecology uses to get feedback from the public on proposed cleanup decisions. Comment periods usually last 30 days and are required at key points during the investigation and cleanup process before final decisions are made.

During a comment period, the public can comment in writing. After the comment period, Ecology reviews all comments received and considers the need for changes or revisions based on input from the public. If significant changes are made, then a second comment period may be held. If no significant changes are made, then the draft document(s) will be finalized.

Ecology will hold a public comment period, with a public meeting, on the draft Prospective Purchaser Consent Decrees between EHA and Ecology from April 22 through May 21, 2004.

Public Meetings

Public meetings may be held at key points during the investigation and cleanup process. Ecology also may offer public meetings for actions expected to be of particular interest to the community. These meetings will be held at locations convenient to the community.

As described above, Ecology will hold a public meeting in conjunction with the upcoming public comment period on the Prospective Purchaser Consent Decrees. This meeting also will address upcoming cleanup activities. The public meeting will be held in the Jackson Conference Room at the Everett Community College, 2000 Tower Street, Everett, on April 27th 7:00-8:30PM.

Information Repositories

Information repositories are locations where residents and other interested persons in the community may read and review site information, including documents that are the subject of public comment. Ecology has established two repositories for the Everett Smelter site:

Everett Public Library - all major documents
2702 Hoyt Avenue
Everett, WA 98201
425-257-8000

Hours: Monday through Thursday, 10 a.m. to 9 p.m.
Friday and Saturday, 10 a.m. to 6 p.m.
Sunday, 1 p.m. to 5 p.m.

WA Department of Ecology - all major documents and complete project records
3190 160th Avenue SE
Bellevue, WA 98008
425-649-7190 (call for an appointment)
Hours: Monday through Thursday, 8 a.m. to 5 p.m.

While not an official information repository for the site, the Asarco Everett Information Center has most site documents available. Asarco's information center is located at 545 Hawthorne Street in Everett. Call for hours: 425-259-0822.

Some site information also is posted on Ecology's web site at
http://www.ecy.wa.gov/programs/tcp/sites/asarco/es_main.html

Site Register

The *Site Register* is a bimonthly publication produced by Ecology's Toxics Cleanup Program to announce all of its public meetings and comment periods, as well as many other activities. To receive the *Site Register*, contact Linda Thompson at (360) 407-6069 or by e-mail at ltho461@ecy.wa.gov. It also is available on Ecology's web site at http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html.

Mailing List

A mailing list for the Everett Smelter site is maintained by Ecology. The list includes individuals, groups, public agencies, elected officials, private businesses, potentially affected parties, and other known interested parties. The list is updated as needed.

Please contact Rebekah Padgett at 425-649-7257 or by e-mail at rpad461@ecy.wa.gov if you would like to have your address added, changed, or deleted from this mailing list.

Fact Sheets

Fact sheets will be mailed to persons on the mailing list at the beginning and completion of the 2004 cleanup activities. Additional fact sheets may be sent out as the cleanup process progresses.

Signs and Updates

Signs will be posted in the neighborhood with contact information and a description of the work being performed. Updates will be posted periodically on the signs outlining what has been accomplished what will be accomplished in upcoming steps.

Newspaper Ads

Ecology will place ads in the *Everett News Tribune* and *The Herald* to announce public comment periods or public meetings for the site.

Press Releases

Ecology's public information officer, with the assistance of the cleanup coordinator or public involvement specialist, will issue press releases as needed and, if requested by the press, will arrange a site visit.

Tours

Tours in the site area may be conducted as the cleanup takes place, if requested by the neighborhood, the press, government officials, etc. The purpose of the tours would be to explain the cleanup process, plans for the area, and to provide an opportunity for these individuals to express concerns and ask questions.

Other Outreach Activities

Other outreach activities will be conducted as necessary to keep the community informed of the progress of cleanup. If you have suggestions for other activities, please contact Rebekah Padgett at 425-649-7257 or by e-mail at rpad461@ecy.wa.gov.

Plan Update

This plan will be amended and updated as appropriate. Updates will occur when significant new phases of cleanup are entered.

5. Public Points of Contact

Washington State Department of Ecology

David L. South, Site Manager
3190 160th Avenue SE
Bellevue, WA 98008-5452
425-649-7200
dsou461@ecy.wa.gov

Rebekah Padgett, Public Involvement Specialist
3190 160th Avenue SE
Bellevue, WA 98008-5452
425-649-7257
rpad461@ecy.wa.gov

Larry Altose, Public Information Officer (press contact),
3190 160th Avenue SE
Bellevue, WA 98008-5452
425-649-7009
lalt461@ecy.wa.gov

Asarco

Clint Stanovsky
Asarco Everett Information Center
545 Hawthorne Street
Everett, WA 98201
(425) 259-0822
cstanovsky@alum.mit.edu

Everett Housing Authority

Darcy Walker, Smelter Site Project Manager
Housing Authority of the City of Everett
P.O. Box 1547
Everett, WA 98206-1547
425-303-1117
darcyw@evha.org

EXHIBIT F
PROPOSED SCHEDULE

Schedule for 150 – 3,000 ppm cleanup at the Fenced Area. Dates may be modified with approval by Ecology.

- On or before September 2004 Contractor mobilizes to the site.
- 30 October 2004 – Residential soils removal complete.
- 31 October 2004 – Site secured for winter.
- June 2006 – Cap installation completed.

EXHIBIT G
INTERIM ACTION REPORT
AND
FINAL DESIGN REPORT

**INTERIM ACTION REPORT
FENCED AREA CLEANUP
EVERETT SMELTER SITE**

Public Review Draft

*Approved as Final
March 18, 2003
David L. Smith*

Prepared for:

ASARCO, Incorporated

5219 N Shirley St

Suite 101

Tacoma, WA 98407

Please see separate bound volume.

Prepared by:

Asarco Consulting, Inc.

5219 N Shirley St

Suite 100

Tacoma, WA 98407

December 2002

Everett Smelter/SIT 15.7
Site Mgr Copy

**FINAL DESIGN REPORT
EVERETT SMELTER SITE**

FINAL

Please see separate bound volume and engineering drawings

Prepared by:

ASARCO Consulting, Inc.

5219 N Shirley St

Suite 100

Tacoma, WA 98407

March 29, 2004

**EXHIBIT H
LETTER FROM EHA TO ECOLOGY
ASSERTING
INNOCENT PURCHASER DEFENSE**

FOSTER PEPPER & SHEFELMAN PLLC
ATTORNEYS AT LAW



April 20, 2004

Direct Phone
(206) 447-8940

Direct Facsimile
(206) 749-1924

E-Mail
DeJaJ@foster.com

David South
Washington State Department of Ecology
3190 – 160th Avenue SE
Bellevue, WA 98008-5452

Re: Everett Housing Authority Property Ownership in ASARCO Everett
Study Area

Dear Dave:

As part of the Everett Housing Authority (“EHA”) application for a Prospective Purchaser Agreement Consent Decree, EHA is providing you with this letter describing EHA’s ownership of property within the ASARCO Everett Smelter area. Pursuant to RCW 70.105D.040(3)(b), EHA believes that, to the extent any of the property owned by EHA is part of the Everett ASARCO “Facility”, at the time of its purchases, EHA had no reason to know that any hazardous substance, the release or threatened release of which has resulted in or contributed to the need for remedial action, was released or disposed of on, in or at the property purchased by EHA. This letter describes the properties owned by EHA, and the inquiry undertaken by EHA in connection with the purchases.

1. Baker Heights Development, Baker View Apartments. The Baker Heights Development was purchased by EHA in 1951. It is located on the 1200 – 1400 blocks of Poplar, Larch, Hemlock and the west side of Pine, and includes 2605 15th Street. This development was built by EHA under the Federal Housing Program in 1943. Title was transferred to EHA in 1951. At the time EHA took title to the property, EHA had no knowledge or reason to believe that the property was potentially contaminated by the ASARCO Smelter operations. In 1951, standard practice did not include conducting “Phase I” environmental assessments or other due diligence activities. Because EHA could not have known that the site was potentially contaminated, EHA should not be treated as a liable party under MTCA based on its ownership of the Baker Heights development.

1111 THIRD
AVENUE
Suite 3400
SEATTLE
Washington
98101-3299

Telephone
(206)447-4400
Facsimile
(206)447-9700
Website
WWW.FOSTER.COM

ANCHORAGE
Alaska

PORTLAND
Oregon

SEATTLE
Washington

SPOKANE
Washington

2. Grandview Homes. The Grandview Homes property was purchased by EHA in 1951. The property is located on the 700 - 800 blocks of Linden, Locust and Pine. At the time EHA took title to the property, EHA had no knowledge or reason to believe that the property was potentially contaminated by the ASARCO Smelter operations. In 1951, standard practice did not include conducting "Phase I" environmental assessments or other due diligence activities. Because EHA could not have known that the site was potentially contaminated, EHA should not be treated as a liable party under MTCA based on its ownership of the Grandview Homes development.

3. Ballpark (abutting Wiggums Hollow Park). EHA took title to the Ballpark on the north side of 12th Street, opposite Larch Street, in 1951. At the time EHA took title to the property, EHA had no knowledge or reason to believe that the property was potentially contaminated by the ASARCO Smelter operations. In 1951, standard practice did not include conducting "Phase I" environmental assessments or other due diligence activities. Because EHA could not have known that the site was potentially contaminated, EHA should not be treated as a liable party under MTCA based on its ownership of the Ballpark.

4. 12 Pines. 12 Pines was purchased by EHA in 1999. The property is located at 2701 - 2741 12th Street. Prior to purchasing the 12 Pines project, EHA had sampling done of the soils throughout the site. A copy of the sampling results is attached as Exhibit A. Out of 150 samples, none tested at above applicable MTCA cleanup levels. EHA therefore undertook appropriate inquiry at the time of its acquisition, consistent with good commercial practice in order to minimize liability. Because the 12 Pines property is not contaminated, it cannot reasonably be argued that any hazardous substances were released or disposed of on or at the 12 Pines site, and EHA should not be treated as a liable party under MTCA based on its ownership of 12 Pines.

5. Pine Village. EHA purchased Pine Village in 2002. Pine Village is located at 2902 13th Street. Pine Village is further away from the ASARCO Smelter than the 12 Pines property mentioned above. EHA thus could reasonably determine that the Pine Village site was also not contaminated and not the source of a release or threatened release at the ASARCO Everett site. Phase II environmental testing on the Pine Village site, conducted by PBS Engineering, confirmed that the Pine Village site was also below Ecology-identified cleanup standards. A copy of the sampling results is attached as Exhibit B. Because the Pine Village property is not contaminated, it cannot reasonably be argued that any hazardous substances were released or disposed of on or at the Pine Village site, and EHA should not be treated as a liable party under MTCA based on its ownership of Pine Village.

EHA believes that its acquisition of housing projects in or adjacent to the Everett ASARCO site does not make EHA a liable party under MTCA for the Everett ASARCO site. EHA believes that, among other things, it qualifies for the defense provided for in 70.105D.040(3)(b).

April 20, 2004
Page 3

Please contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a cursive 'R' and a horizontal line extending to the right.

Joseph E. Delaney

JED:klh

cc: Bud Alkire
Darcy Walker



5219 North Shirley
Suite 100
Ruston, WA 98407
(253) 752-1470
FAX (253) 752-7663
www.hydrometrics.com

March 4, 1999

Bud Alkire, Director of Rentals
Everett Housing Authority
P.O. Box 1547
Everett, WA 98206

RE: Soil Sample Results For 12 Pines Apartments

Dear Bud:

I have attached a data validation summary for the samples collected at the properties near Poplar and 12th Street (12 Pines Apartments) as you requested. Earlier, you were notified that visual inspection of the data did not indicate any quality control violations for the arsenic results.

Upon completion of data validation, all quality control criteria were met except that four field duplicate samples were out of control limits for lead analyses. However, it is noted that both sample results (original and duplicate) for the four sites are well below the Method A residential cleanup level of 250 mg/kg (see page 2 of the attached memorandum).

If you have any questions, please call me.

Sincerely,

Hydrometrics, Inc.

Steve Thompson
Project Manager

cc: Tom Aldrich, Asarco

Attachment

MEMORANDUM

DATE: 3/3/99
TO: Steve Thompson
FROM: Clare Bridge
SUBJECT: Validation Summary for November 1998 Soil Data for Everett Housing Authority

XRF Analysis (Ruston Laboratory):

- A total of 185 samples were analyzed for total arsenic and total lead. Of these, 150 were original field samples, and 35 were field duplicates. Exceedances on field duplicates as described in the following bullet were the only quality control problems associated with the XRF analyses.
- Four of the 35 lead field duplicates were out of control limits. Lead results from all samples collected at the same site were flagged to indicate a possible lack of reproducibility. This resulted in a total of 40 flags, or approximately 22% of the lead results.

Confirmation Sample Analysis (Aarco's Technical Services Laboratory):

- A total of 7 samples were submitted for analysis by traditional wet chemistry methods in order to confirm the XRF results.
- There were no laboratory quality control problems associated with the confirmation sample analyses.
- The agreement between results obtained by the two analysis methods was excellent:
 - All arsenic results were reported as <18 ppm by both analysis methods.
 - All lead results were less than five times the reporting level of 20 ppm. For lead, results obtained by XRF and wet chemistry were compared using relative percent differences to determine the variability. In order to determine whether there was a bias between the methods, recovery rates were also calculated (XRF result divided by the wet chemistry result).
 - Relative percent differences between the XRF and wet chemistry methods were between 1 and 12 percent, with an average of 6 percent.
 - Recoveries were all between 94 and 112 percent. Two recoveries were less than 100 percent; 5 recoveries were greater than 100 percent.

Attachments: Quality Control Violations for Everett Housing Authority Nov. 1998 XRF Data
Summary of Sample and Quality Control Completeness for XRF Analyses
Database for Everett Housing Authority November 1998 XRF Data
Database for Everett Housing Authority November 1998 Confirmation Data

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Quality Control Violations for Everett Housing Authority, November 1998 XRF Data

The PB RPD was out of range for the field replicate EVT-9811-04-B, site 04. The original value was 90, the duplicate sample EVT-9811-04-BD value was < 20, and the RPD *OUT* |70| > 40. The following results for the site 04, sample date 11/17/98, and using the first 0 characters of the sample number have been flagged with 'UJ4,FLDUP' or 'J4,FLDDUP': EVT-9811-04-A, EVT-9811-04-AD, EVT-9811-04-B, EVT-9811-04-BD, EVT-9811-04-C, EVT-9811-04-CD, EVT-9811-04-D, EVT-9811-04-DD, EVT-9811-04-E, EVT-9811-04-ED

The PB RPD was out of range for the field replicate EVT-9811-06-A, site 06. The original value was 96, the duplicate sample EVT-9811-06-AD value was 53, and the RPD *OUT* |43| > 40. The following results for the site 06, sample date 11/17/98, and using the first 0 characters of the sample number have been flagged with 'UJ4,FLDUP' or 'J4,FLDDUP': EVT-9811-06-A, EVT-9811-06-AD, EVT-9811-06-B, EVT-9811-06-BD, EVT-9811-06-C, EVT-9811-06-CD, EVT-9811-06-D, EVT-9811-06-DD, EVT-9811-06-E, EVT-9811-06-ED

The PB RPD was out of range for the field replicate EVT-9811-18-A, site 18. The original value was < 20, the duplicate sample EVT-9811-18-AD value was 73, and the RPD *OUT* |53| > 40. The following results for the site 18, sample date 11/17/98, and using the first 0 characters of the sample number have been flagged with 'UJ4,FLDUP' or 'J4,FLDDUP': EVT-9811-18-A, EVT-9811-18-AD, EVT-9811-18-B, EVT-9811-18-BD, EVT-9811-18-C, EVT-9811-18-CD, EVT-9811-18-D, EVT-9811-18-DD, EVT-9811-18-E, EVT-9811-18-ED

The PB RPD was out of range for the field replicate EVT-9811-22-B, site 22. The original value was 69, the duplicate sample EVT-9811-22-BD value was < 20, and the RPD *OUT* |49| > 40. The following results for the site 22, sample date 11/17/98, and using the first 0 characters of the sample number have been flagged with 'UJ4,FLDUP' or 'J4,FLDDUP': EVT-9811-22-A, EVT-9811-22-AD, EVT-9811-22-B, EVT-9811-22-BD, EVT-9811-22-C, EVT-9811-22-CD, EVT-9811-22-D, EVT-9811-22-DD, EVT-9811-22-E, EVT-9811-22-ED

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**SUMMARY OF SAMPLE AND QUALITY CONTROL COMPLETENESS
FOR XRF ANALYSES
EVERETT HOUSING AUTHORITY
NOVEMBER 1998**

OVERALL COMPLETENESS

Parameter	# of Samples	# Not Rejected	% Not Rejected	# Without RPA Flags	% Without RPA Flags	# Without Freq Violation	% Without Freq Violation
Arsenic	185	185	100%	185	100%	185	100%
Lead	185	185	100%	145	78%	185	100%

LABORATORY DUPLICATES

Parameter	# of Samples	# Within CL	% Within CL	1/16 Required	Frequency % of QC
Arsenic	14	14	100%	12	117%
Lead	14	14	100%	12	117%

FIELD DUPLICATES

Parameter	# of Samples	# Within CL	% Within CL	1/20 Required	Frequency % of QC
Arsenic	35	35	100%	10	350%
Lead	35	30	86%	10	350%

LABORATORY CONTROL SAMPLES

Parameter	# of Samples	# Within CL	% Within CL	1/day Required	Frequency % of QC
Arsenic	4	4	100%	4	100%
Lead	4	4	100%	4	100%

CALIBRATION VERIFICATION

Parameter	# of Samples	# Within CL	% Within CL	1/32 Required	Frequency % of QC
Arsenic	15	15	100%	6	250%
Lead	15	15	100%	6	250%

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Database for Everett Housing Authority
November 1998 XRF Data

Sample Number	Lab Number		Arsenic	Lead
EVT-9811-01-A	98R-02779		18 U	96
EVT-9811-01-B	98R-02780		18 U	58
EVT-9811-01-C	98R-02781		18 U	57
EVT-9811-01-D	98R-02782		18 U	20 U
EVT-9811-01-E	98R-02783		18 U	20 U
EVT-9811-02-A	98R-02784		18 U	114
EVT-9811-02-B	98R-02785		18 U	54
EVT-9811-02-C	98R-02786		18 U	20 U
EVT-9811-02-D	98R-02787		18 U	20 U
EVT-9811-02-E	98R-02788		18 U	20 U
EVT-9811-03-A	98R-02789		18 U	67
EVT-9811-03-B	98R-02790		18 U	33
EVT-9811-03-C	98R-02791		18 U	20 U
EVT-9811-03-D	98R-02792		18 U	20 U
EVT-9811-03-E	98R-02793		18 U	20 U
EVT-9811-04-A	98R-02794		18 U	82 J4
EVT-9811-04-AD	98R-02799	Duplicate	18 U	101 J4
EVT-9811-04-B	98R-02795		18 U	90 J4
EVT-9811-04-BD	98R-02800	Duplicate	18 U	20 U,UJ4
EVT-9811-04-C	98R-02796		18 U	20 U,UJ4
EVT-9811-04-CD	98R-02801	Duplicate	18 U	20 U,UJ4
EVT-9811-04-D	98R-02797		18 U	20 U,UJ4
EVT-9811-04-DD	98R-02802	Duplicate	18 U	20 U,UJ4
EVT-9811-04-E	98R-02798		18 U	20 U,UJ4
EVT-9811-04-ED	98R-02803	Duplicate	18 U	20 U,UJ4
EVT-9811-05-A	98R-02804		18 U	44
EVT-9811-05-B	98R-02805		18 U	20 U
EVT-9811-05-C	98R-02806		18 U	20 U
EVT-9811-05-D	98R-02807		18 U	20 U
EVT-9811-05-E	98R-02808		18 U	22
EVT-9811-06-A	98R-02809		18 U	96 J4
EVT-9811-06-AD	98R-02814	Duplicate	18 U	53 J4
EVT-9811-06-B	98R-02810		18 U	20 U,UJ4
EVT-9811-06-BD	98R-02815	Duplicate	18 U	20 U,UJ4
EVT-9811-06-C	98R-02811		18 U	20 U,UJ4
EVT-9811-06-CD	98R-02816	Duplicate	18 U	20 U,UJ4
EVT-9811-06-D	98R-02812		18 U	20 J4
EVT-9811-06-DD	98R-02817	Duplicate	18 U	20 U,UJ4
EVT-9811-06-E	98R-02813		18 U	20 U,UJ4
EVT-9811-06-ED	98R-02818	Duplicate	18 U	20 U,UJ4
EVT-9811-07-A	98R-02819		18 U	74
EVT-9811-07-B	98R-02820		18 U	52

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Page 1

Database for Everett Housing Authority
November 1998 XRF Data

Sample Number	Lab Number		Arsenic	Lead
EVT-9811-07-C	98R-02821		18 U	38
EVT-9811-07-D	98R-02822		18 U	43
EVT-9811-07-E	98R-02823		18 U	20 U
EVT-9811-08-A	98R-02824		18 U	123
EVT-9811-08-B	98R-02825		18 U	103
EVT-9811-08-C	98R-02826		18 U	20 U
EVT-9811-08-D	98R-02827		18 U	20 U
EVT-9811-08-E	98R-02828		18 U	21
EVT-9811-09-A	98R-02829		18 U	20 U
EVT-9811-09-B	98R-02830		18 U	34
EVT-9811-09-C	98R-02831		18 U	45
EVT-9811-09-D	98R-02832		18 U	20 U
EVT-9811-09-E	98R-02833		18 U	20 U
EVT-9811-10-A	98R-02834		18 U	25
EVT-9811-10-B	98R-02835		18 U	25
EVT-9811-10-C	98R-02836		18 U	20 U
EVT-9811-10-D	98R-02837		18 U	33
EVT-9811-10-E	98R-02838		18 U	20 U
EVT-9811-11-A	98R-02839		18 U	94
EVT-9811-11-AD	98R-02844	Duplicate	18 U	76
EVT-9811-11-B	98R-02840		18 U	37
EVT-9811-11-BD	98R-02845	Duplicate	18 U	22
EVT-9811-11-C	98R-02841		18 U	25
EVT-9811-11-CD	98R-02846	Duplicate	18 U	29
EVT-9811-11-D	98R-02842		18 U	20 U
EVT-9811-11-DD	98R-02847	Duplicate	18 U	20 U
EVT-9811-11-E	98R-02843		18 U	20 U
EVT-9811-11-ED	98R-02848	Duplicate	18 U	20 U
EVT-9811-12-A	98R-02849		18 U	20 U
EVT-9811-12-B	98R-02850		18 U	20 U
EVT-9811-12-C	98R-02851		18 U	20 U
EVT-9811-12-D	98R-02852		18 U	20 U
EVT-9811-12-E	98R-02853		18 U	20 U
EVT-9811-13-A	98R-02854		18 U	49
EVT-9811-13-B	98R-02855		18 U	43
EVT-9811-13-C	98R-02856		18 U	20 U
EVT-9811-13-D	98R-02857		18 U	20 U
EVT-9811-13-E	98R-02858		18 U	20 U
EVT-9811-14-A	98R-02859		18 U	29
EVT-9811-14-B	98R-02860		18 U	20 U
EVT-9811-14-C	98R-02861		18 U	20 U
EVT-9811-14-D	98R-02862		18 U	20 U

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Page 2

**Database for Everett Housing Authority
November 1998 XRF Data**

Sample Number	Lab Number		Arsenic	Lead
EVT-9811-14-E	98R-02863		18 U	20 U
EVT-9811-15-A	98R-02864		18 U	28
EVT-9811-15-AD	98R-02869	Duplicate	18 U	36
EVT-9811-15-B	98R-02865		18 U	20 U
EVT-9811-15-BD	98R-02870	Duplicate	18 U	22
EVT-9811-15-C	98R-02866		18 U	20 U
EVT-9811-15-CD	98R-02871	Duplicate	18 U	20 U
EVT-9811-15-D	98R-02867		18 U	20 U
EVT-9811-15-DD	98R-02872	Duplicate	18 U	20 U
EVT-9811-15-E	98R-02868		18 U	20 U
EVT-9811-15-ED	98R-02873	Duplicate	18 U	20 U
EVT-9811-16-A	98R-02874		18 U	39
EVT-9811-16-B	98R-02875		18 U	20 U
EVT-9811-16-C	98R-02876		18 U	20 U
EVT-9811-16-D	98R-02877		18 U	20 U
EVT-9811-16-E	98R-02878		18 U	20 U
EVT-9811-17-A	98R-02879		18 U	104
EVT-9811-17-B	98R-02880		18 U	21
EVT-9811-17-C	98R-02881		18 U	20 U
EVT-9811-17-D	98R-02882		18 U	20 U
EVT-9811-17-E	98R-02883		18 U	20 U
EVT-9811-18-A	98R-02884		18 U	20 U,UJ4
EVT-9811-18-AD	98R-02889	Duplicate	18 U	73 J4
EVT-9811-18-B	98R-02885		18 U	20 U,UJ4
EVT-9811-18-BD	98R-02890	Duplicate	18 U	20 U,UJ4
EVT-9811-18-C	98R-02886		18 U	20 U,UJ4
EVT-9811-18-CD	98R-02891	Duplicate	18 U	20 U,UJ4
EVT-9811-18-D	98R-02887		18 U	20 U,UJ4
EVT-9811-18-DD	98R-02892	Duplicate	18 U	20 U,UJ4
EVT-9811-18-E	98R-02888		18 U	20 U,UJ4
EVT-9811-18-ED	98R-02893	Duplicate	18 U	20 U,UJ4
EVT-9811-19-A	98R-02894		18 U	68
EVT-9811-19-B	98R-02895		18 U	20 U
EVT-9811-19-C	98R-02896		18 U	20 U
EVT-9811-19-D	98R-02897		18 U	20 U
EVT-9811-19-E	98R-02898		18 U	20 U
EVT-9811-20-A	98R-02899		18 U	88
EVT-9811-20-B	98R-02900		18 U	41
EVT-9811-20-C	98R-02901		18 U	33
EVT-9811-20-D	98R-02902		18 U	41
EVT-9811-20-E	98R-02903		18 U	20
EVT-9811-21-A	98R-02904		18 U	76

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Page 3

Database for Everett Housing Authority
November 1998 XRF Data

Sample Number	Lab Number		Arsenic	Lead
EVT-9811-21-B	98R-02905		18 U	25
EVT-9811-21-C	98R-02906		18 U	20 U
EVT-9811-21-D	98R-02907		18 U	20 U
EVT-9811-21-E	98R-02908		18 U	20 U
EVT-9811-22-A	98R-02909		18 U	57 J4
EVT-9811-22-AD	98R-02914	Duplicate	18 U	41 J4
EVT-9811-22-B	98R-02910		18 U	69 J4
EVT-9811-22-BD	98R-02915	Duplicate	18 U	20 U,UJ4
EVT-9811-22-C	98R-02911		18 U	20 U,UJ4
EVT-9811-22-CD	98R-02916	Duplicate	18 U	20 U,UJ4
EVT-9811-22-D	98R-02912		18 U	20 U,UJ4
EVT-9811-22-DD	98R-02917	Duplicate	18 U	20 U,UJ4
EVT-9811-22-E	98R-02913		18 U	20 U,UJ4
EVT-9811-22-ED	98R-02918	Duplicate	18 U	20 U,UJ4
EVT-9811-23-A	98R-02919		18 U	106
EVT-9811-23-B	98R-02920		18 U	118
EVT-9811-23-C	98R-02921		18 U	20 U
EVT-9811-23-D	98R-02922		18 U	20 U
EVT-9811-23-E	98R-02923		18 U	20 U
EVT-9811-24-A	98R-02924		18 U	37
EVT-9811-24-B	98R-02925		18 U	21
EVT-9811-24-C	98R-02926		18 U	20 U
EVT-9811-24-D	98R-02927		18 U	20 U
EVT-9811-24-E	98R-02928		18 U	33
EVT-9811-25-A	98R-02929		18 U	20 U
EVT-9811-25-AD	98R-02934	Duplicate	18 U	23
EVT-9811-25-B	98R-02930		18 U	22
EVT-9811-25-BD	98R-02935	Duplicate	18 U	22
EVT-9811-25-C	98R-02931		18 U	20 U
EVT-9811-25-CD	98R-02936	Duplicate	18 U	20 U
EVT-9811-25-D	98R-02932		18 U	20 U
EVT-9811-25-DD	98R-02937	Duplicate	18 U	20 U
EVT-9811-25-E	98R-02933		18 U	20 U
EVT-9811-25-ED	98R-02938	Duplicate	18 U	20 U
EVT-9811-26-A	98R-02939		18 U	28
EVT-9811-26-B	98R-02940		18	23
EVT-9811-26-C	98R-02941		18 U	20 U
EVT-9811-26-D	98R-02942		18 U	20 U
EVT-9811-26-E	98R-02943		18 U	147
EVT-9811-27-A	98R-02944		18 U	24
EVT-9811-27-B	98R-02945		18 U	20 U
EVT-9811-27-C	98R-02946		18 U	20 U

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**Database for Everett Housing Authority
November 1998 XRF Data**

<u>Sample Number</u>	<u>Lab Number</u>	<u>Arsenic</u>	<u>Lead</u>
EVT-9811-27-D	98R-02947	18 U	20 U
EVT-9811-27-B	98R-02948	18 U	20 U
EVT-9811-28-A	98R-02949	18 U	198
EVT-9811-28-B	98R-02950	18 U	121
EVT-9811-28-C	98R-02951	18 U	32
EVT-9811-28-D	98R-02952	18 U	25
EVT-9811-28-E	98R-02953	18 U	20 U
EVT-9811-29-A	98R-02954	18 U	54
EVT-9811-29-B	98R-02955	18 U	29
EVT-9811-29-C	98R-02956	18 U	24
EVT-9811-29-D	98R-02957	18 U	20 U
EVT-9811-29-E	98R-02958	18 U	20 U
EVT-9811-30-A	98R-02959	18 U	89
EVT-9811-30-B	98R-02960	18 U	20 U
EVT-9811-30-C	98R-02961	18 U	20 U
EVT-9811-30-D	98R-02962	18 U	20 U
EVT-9811-30-E	98R-02963	18 U	20 U



Phase Two Environmental Site Assessment of Shallow Soils

Pine Village
2902 13th Street
Everett, Washington

prepared for:
Everett Housing Authority
Everett, Washington

September 2003
Project #40488.000-02

130 Nickerson Street
Suite 107
Seattle, WA 98109
206.233.9639 MAIN
206.762.4780 FAX

ENGINEERING AND ENVIRONMENTAL

www.pbsenv.com

**PHASE TWO ENVIRONMENTAL ASSESSMENT
OF SHALLOW SOILS**

**Pine Village
2902 13th Street
Everett, Washington**

Prepared for

Everett Housing Authority

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Prepared by

PBS Engineering and Environmental
130 Nickerson Street, Suite 107
Seattle, WA 98109

September 2003

2902 13th Street, Everett, Washington

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PBS Engineering and Environmental
 40488.000-02

2902 13th Street, Everett, Washington

1.0 INTRODUCTION

PBS Environmental (PBS) completed a Phase Two Environmental Site Assessment of the property located at 2902 13th Street, Everett, Washington (Figure 1). The work was performed in accordance with the proposed scope of work dated August 25, 2003. The purpose of the study was to determine the concentrations arsenic in the soil on the subject property.

This report summarizes the results of the current investigation and outlines our current understanding of the site conditions.

1.1 Site Description

The subject property is located at 2902 13th Street in Everett, Washington. The site is in use as Pine Village Apartments owned by the Everett Housing Authority; and the apartment units are currently being renovated and sold as condominiums.

A Phase One Environmental Site Assessment completed for the subject property by PBS in August 2003 indicated that the subject property is within the study area and Community Protection Measures Boundary of the historic Everett Smelter Site, which operated between 1894 and 1912. The Everett Smelter Site is approximately ¼ mile north of the subject property. Some surrounding properties tested have exceeded Ecology's soil clean up level of 20 mg/kg for arsenic.

Based on the available information on the Everett Smelter Site and the data collected to-date from studies within the CPM Boundary, PBS considered this a *recognized environmental condition* and recommended that soil sampling be conducted in accordance with Ecology's recommended procedures to evaluate arsenic and lead concentrations on the subject property.

2.0 PURPOSE AND SCOPE

The purpose of this investigation was to identify potential areas of elevated concentrations of arsenic in selected areas of the complex. The scope of work consisted of the following:

- 1) Select six areas around the perimeter of the site and hand bore holes down to a depth of 24 inches below ground surface (bgs). Collect soil samples from each of the borings at 6-inch intervals and analyze each interval for arsenic concentration.
- 2) Complete a report to include a description of the field work, methods, observations, results of the analytical testing with laboratory reports and sample chain-of-custody documentation, and interpretation of the results.

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2902 13th Street, Everett, Washington

3.0 FIELD METHODS

On August 28, 2003, PBS completed the field sampling of soils on the subject property. The location of the soil sampling was determined with the assistance of Everett Housing Authority personnel (Figure 1). Each location was bored to a depth of 24 inches using a posthole digger. Each soil sample was taken as a composite between 6-inch intervals (0-6 inches, 6-12 inches, 12-18 inches, and 18-24 inches) starting from the bottom of each hole in order to eliminate sluff and possible cross-contamination from the upper intervals of the hole.

Each composite sample was placed into a 4-ounce sample jar and stored in a cooler with ice during field procedures until delivery to the project laboratory. All sampling equipment was decontaminated between each sampling interval using a detergent wash and distilled water rinse.

The samples were analyzed for arsenic in soils by Advanced Analytical Laboratory in Redmond, Washington.

Results of soil testing are discussed below, and are presented in Table 1.

4.0 FINDINGS

Eighteen (18) out of 24 soil samples analyzed by the laboratory contained detectable concentrations of arsenic at intervals ranging from 0-6 inches bgs to 18-24 inches bgs. The concentrations ranged from 2.1 mg/Kg to a maximum of 39 mg/Kg. The detected concentrations were below the Ecology cleanup level of 20 mg/Kg, with the one maximum concentration of 39 mg/Kg below the performance standard of 40 mg/Kg, based on a statistical evaluation developed in accordance with WAC 173-340-740, Compliance Monitoring in the MTCA Cleanup Regulation.

5.0 CONCLUSIONS

The shallow soils in the areas sampled were either non-detect or contained concentrations of arsenic below Ecology Method A Soil Cleanup Levels for Unrestricted (residential) Land Uses. The one sample that exceeded the cleanup level was within the performance standard, and therefore met the criteria for compliance monitoring. Based on these findings, no further investigation or remediation is recommended.

PBS Engineering and Environmental
40488.000-02

2902 13th Street, Everett, Washington

6.0 LIMITATIONS

PBS has prepared this report for use by Everett Housing Authority. This report is not intended for use by others without the written consent of PBS Engineering and Environmental. Our interpretation of subsurface conditions in this study is based on field observations and analytical data from the indicated explorations. Other regulated substances may exist in portions of the site that were not explored or analyzed.

PBS ENGINEERING AND ENVIRONMENTAL

Harry Goren 9/12/03

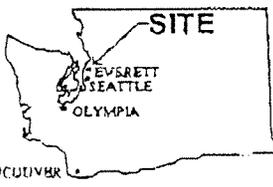
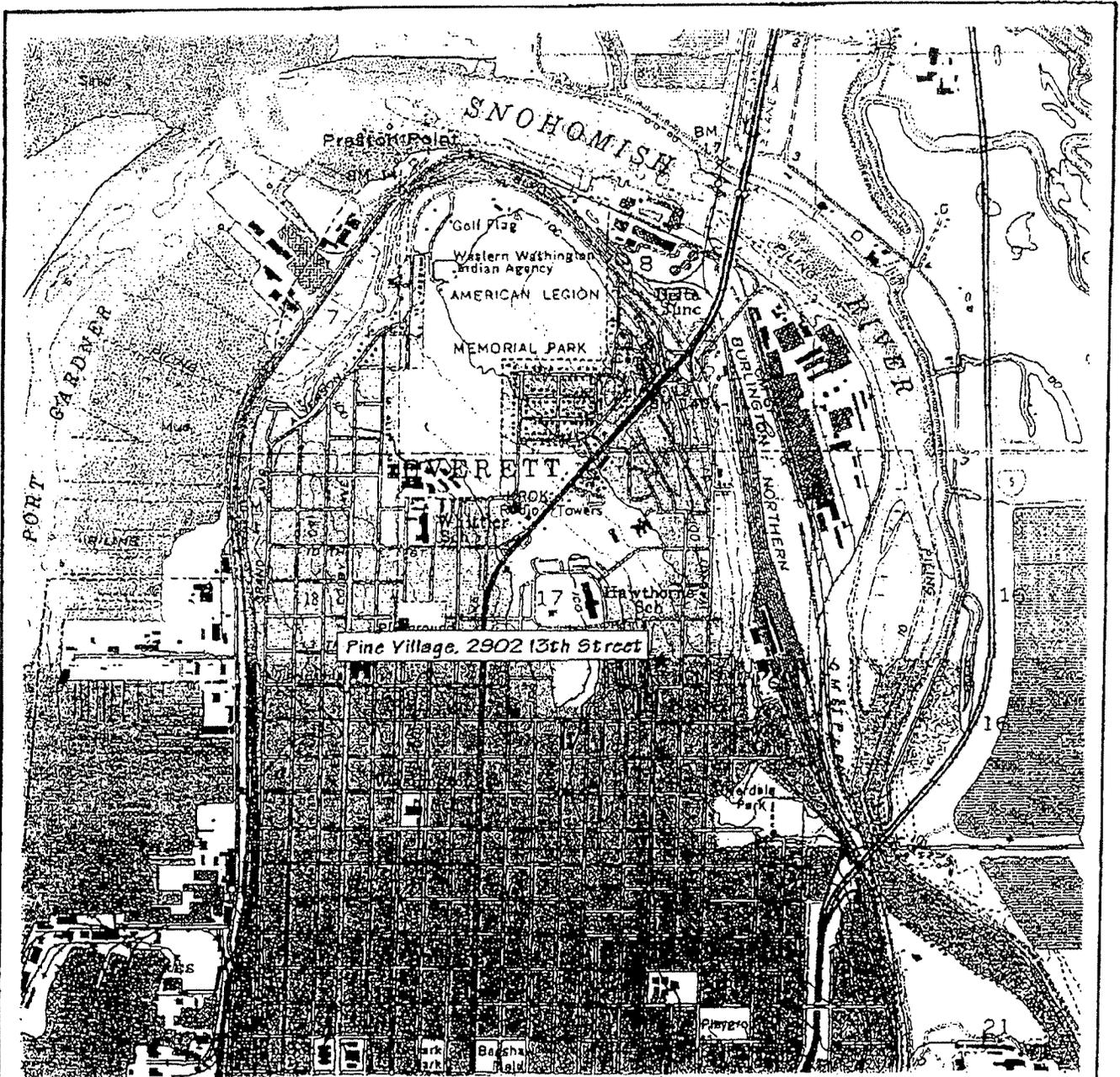
Harry Goren Date
Senior Project Manager

PBS Engineering and Environmental
40488.000-02

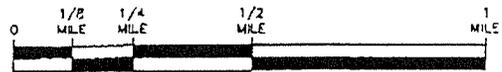
2902 13th Street, Everett, Washington

FIGURES

**PBS Engineering and Environmental
40488.000-02**



SEASBETT
SEATTLE
OLYMPIA
VANCOUVER
WASHINGTON



SOURCE: USGS MARYSVILLE QUADRANGLE WA 1933
USGS EVERETT QUADRANGLE WA 1936

Prepared for: EVERETT HOUSING AUTHORITY

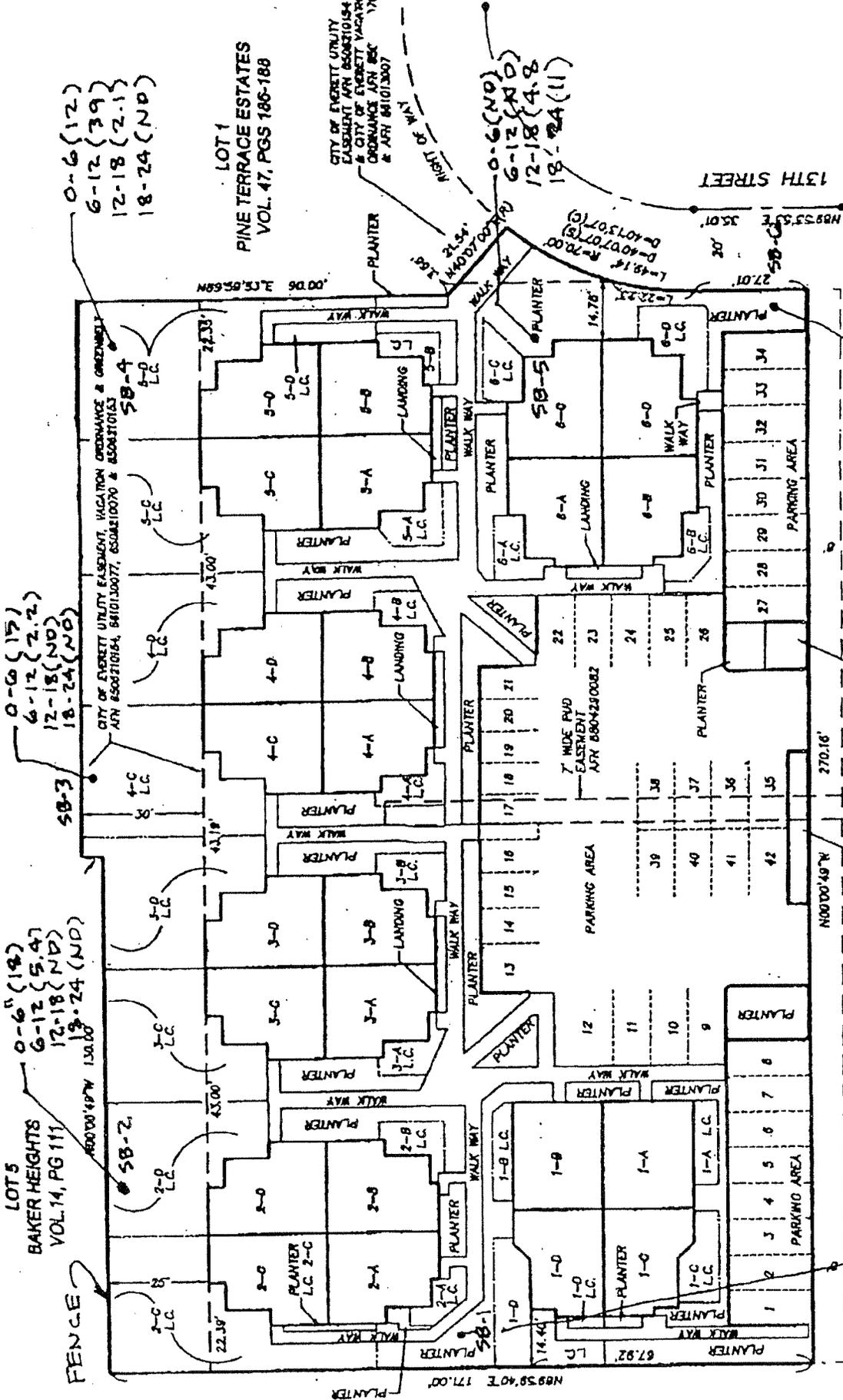


Project #
40488.000
Date:
AUGUST 2003

SITE LOCATION MAP
PINE VILLAGE
2902 13th STREET
EVERETT, WASHINGTON

FIGURE
1

A:\7043 11:47 P:\40000\10488\10488.DOC_gmml1.pgs



0-6 (16)
 6-12 (14)
 12-18 (6.6)
 18-24 (7.1)

FIG. 2 SITE PLAN
 LEGEND

0-6 (2.3) ← ARSENIC CONCENTRATION (mg/kg) IN SOILS
 SAMPLES FROM GROUND
 ND = NON-DETECT

0-6 (2.3)
 6-12 (7.0)
 12-18 (15)
 18-24 (6.4)

2902 13th Avenue, Everett, Washington

TABLES

(SEE FIG. 2)

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2902 13th Street, Everett, Washington

**APPENDIX A
LABORATORY REPORTS AND SAMPLE CHAIN-OF-CUSTODY**

**PBS Engineering and Environmental
40488.000-02**

Advanced Analytical Laboratory
 (425) 497-0110, fax (425) 497-8089

AAL Job Number: A30828-7
 Client: PBS Environmental
 Project Manager: Harry Goren
 Client Project Name: Pine Village - Everett
 Client Project Number: 40488.000, Task 02
 Date received: 08/28/03

Analytical Results

Metals (7010), mg/kg		MTH BLK	LCS	SB1 0-6	SB1 8-12	SB1 12-18
Matrix	Soil	Soil	Soil	Soil	Soil	Soil
Date extracted	Reporting	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Date analyzed	Limits	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Arsenic (As)	2.0	nd	78%	2.3	7.0	15

Data Qualifiers and Analytical Comments

nd - not detected at listed reporting limits

na - not analyzed

J - estimated value

Results reported on dry-weight basis

Acceptable Recovery limits: 70% TO 130%

Acceptable RPD limit: 30%

Advanced Analytical Laboratory
 (425) 497-0110, fax (425) 497-8089

AAL Job Number: A30828-7
 Client: PBS Environmental
 Project Manager: Harry Goren
 Client Project Name: Pine Village - Everett
 Client Project Number: 40488.000, Task 02
 Date received: 08/28/03

Analytical Results

Metals (7010), mg/kg		MTH BLK	SB1 18-24	SB2 0-6	SB2 6-12	SB2 12-18
Matrix	Soil	Soil	Soil	Soil	Soil	Soil
Date extracted	Reporting	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Date analyzed	Limits	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Arsenic (As)	2.0	nd	6.4	18	5.4	nd

Data Qualifiers and Analytical Comments

nd - not detected at listed reporting limits
 na - not analyzed
 J - estimated value
 Results reported on dry-weight basis
 Acceptable Recovery limits: 70% TO 130%
 Acceptable RPD limit: 30%

Advanced Analytical Laboratory
 (425) 497-0110, fax (425) 497-8089

AAL Job Number: A30828-7
 Client: PBS Environmental
 Project Manager: Harry Goren
 Client Project Name: Pine Village - Everett
 Client Project Number: 40488.000, Task 02
 Date received: 08/28/03

Analytical Results						Dupl
Metals (7010), mg/kg		MTH BLK	SB2 18-24	SB3 0-6	SB3 6-12	SB3 6-12
Matrix	Soil	Soil	Soil	Soil	Soil	Soil
Date extracted	Reporting	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Date analyzed	Limits	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Arsenic (As)	2.0	nd	nd	15	2.2	1.9

Data Qualifiers and Analytical Comments

nd - not detected at listed reporting limits

na - not analyzed

J - estimated value

Results reported on dry-weight basis

Acceptable Recovery limits: 70% TO 130%

Acceptable RPD limit: 30%

Advanced Analytical Laboratory
 (425) 497-0110, fax (425) 497-8089

AAL Job Number: A30828-7
 Client: PBS Environmental
 Project Manager: Harry Goren
 Client Project Name: Pine Village - Everett
 Client Project Number: 40488.000, Task 02
 Date received: 08/28/03

Analytical Results

Metals (7010), mg/kg		MTH 8LK	SB3 12-18	SB3 18-24	SB4 0-6	SB4 8-12
Matrix	Soil	Soil	Soil	Soil	Soil	Soil
Date extracted	Reporting	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Date analyzed	Limits	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Arsenic (As)	2.0	nd	nd	nd	12	39

Data Qualifiers and Analytical Comments

nd - not detected at listed reporting limits

na - not analyzed

J - estimated value

Results reported on dry-weight basis

Acceptable Recovery limits: 70% TO 130%

Acceptable RPD limit: 30%

Advanced Analytical Laboratory
 (425) 497-0110, fax (425) 497-8089

AAL Job Number: A30828-7
 Client: PBS Environmental
 Project Manager: Harry Goren
 Client Project Name: Pine Village - Everett
 Client Project Number: 40488.000, Task 02
 Date received: 08/28/03

Analytical Results

Metals (7010), mg/kg		MTH BLK	SB4 12-18	SB4 18-24	SB5 0-6	SB5 6-12
Matrix	Soil	Soil	Soil	Soil	Soil	Soil
Date extracted	Reporting	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Date analyzed	Limits	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Arsenic (As)	2.0	nd	2.1	nd	nd	nd

Data Qualifiers and Analytical Comments

nd - not detected at listed reporting limits

na - not analyzed

J - estimated value

Results reported on dry-weight basis

Acceptable Recovery limits: 70% TO 130%

Acceptable RPD limit: 30%

Advanced Analytical Laboratory
 (425) 497-0110, fax (425) 497-8089

AAL Job Number: A30828-7
 Client: PBS Environmental
 Project Manager: Harry Goren
 Client Project Name: Pine Village - Everett
 Client Project Number: 40488.000, Task 02
 Date received: 08/28/03

Analytical Results		Dupl				
Metals (7010), mg/kg		MTH BLK	SB5 12-18	SB5 18-24	SB5 18-24	SB6 0-6
Matrix	Soil	Soil	Soil	Soil	Soil	Soil
Date extracted	Reporting	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Date analyzed	Limits	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Arsenic (As)	2.0	nd	4.8	11	12	16

Data Qualifiers and Analytical Comments

nd - not detected at listed reporting limits
 na - not analyzed
 J - estimated value
 Results reported on dry-weight basis
 Acceptable Recovery limits: 70% TO 130%
 Acceptable RPD limit: 30%

Advanced Analytical Laboratory
 (425) 497-0110, fax (425) 497-8089

AAL Job Number: A30828-7
 Client: PBS Environmental
 Project Manager: Harry Goren
 Client Project Name: Pine Village - Everett
 Client Project Number: 40488.000, Task 02
 Date received: 08/28/03

Analytical Results						Dupl
Metals (7010), mg/kg		MTH BLK	SB6 6-12	SB6 12-18	SB6 18-24	SB6 18-24
Matrix	Soil	Soil	Soil	Soil	Soil	Soil
Date extracted	Reporting	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Date analyzed	Limits	08/29/03	08/29/03	08/29/03	08/29/03	08/29/03
Arsenic (As)	2.0	nd	14	6.6	7.1	6.1

Data Qualifiers and Analytical Comments

nd - not detected at listed reporting limits
 na - not analyzed
 J - estimated value
 Results reported on dry-weight basis
 Acceptable Recovery limits: 70% TO 130%
 Acceptable RPD limit 30%

Chain of Custody Record

ADVANCED ANALYTICAL

2821 152 Avenue NE
REDMOND, WA 98052
Phone: (425) 497-0110 Fax: (425) 497-8089
e-mail: sechemlab@yahoo.com

Project Name: Pine Village - Everett
Project Number: 40488.000 Task 02
Collector: Darry Doren

Client: PBS Environmental
Project Manager: Darry Doren
Address: 130 Mickelson Seattle

Phone: 206 233 9639 Fax: 762-4780

Date of collection: 8/28/03

Sample ID	Time	Matrix	Container type	8260 Volatiles	8218 Volatiles	BTEX	BTEX-NMTHOX	NMTHOX	NMTHOX	8270	8270 PAH	PCB 8082	PCB 8082	PCQA & Metals	Lead	ARSENIC	Notes, comments	# of containers
1	SB-1-0-6	1335	S	400														
2	SB-1-0-12																	
3	SB-1-12-18																	
4	SB-1-18-24																	
5	SB-2-0-6	1345																
6	SB-2-0-12																	
7	SB-2-12-18																	
8	SB-2-18-24																	
9	SB-3-0-6	140																
10	SB-3-0-12																	
11	SB-3-12-18																	
12	SB-3-18-24																	
13	SB-4-0-6	1425																
14	SB-4-0-12																	
15	SB-4-12-18																	

Sample receipt info:
Total # of containers: _____
Condition (temp, °C) _____
Seals (Intact?, Y/N) _____
Comments: _____

Relinquished by: <u>Darry Doren</u>	Date/Time	Received by: <u>P. Nawar</u>	Date/Time <u>8/28/03 16:30</u>
Relinquished by:	Date/Time	Received by:	Date/Time

Turnaround time:
Same day
24 hr
48 hr
Standard

Chain of Custody Record

ADVANCED ANALYTICAL

2821 152 Avenue NE
REDMOND, WA 98052
Phone: (425) 497-0110 Fax: (425) 497-8089
e-mail: eschemlab@yahoo.com

Client: PBS Environmental
Project Manager: Amy Boren
Address: same

Project Name: Pine Village - Everett
Project Number: ~~40488~~ 40488.000
Collector: A Boren Tank 02

Date of collection: 8/28/03

Sample ID	Time	Matrix	Container type	8260 Volatiles	8270 Volatiles	8270	8270 PAH	PCB 8082	PCPA & Metals	Lead	Notes, comments	# of containers
1 SB-4-18-24	1425	S	Appz									
2 SB-5-0-6	1440											
3 SB-5-6-12												
4 SB-5-12-18												
5 SB-5-18-24												
6 SB-6-0-6	1500											
7 SB-6-6-12												
8 SB-6-12-18												
9 SB-6-18-24												
10												
11												
12												
13												
14												
15												

Sample receipt info:

Total # of containers: 9
Condition (temp, °C):
Seals (intact?, Y/N):
Comments:

Relinquished by:	Date/Time	Received by:	Date/Time
<u>Amy Boren</u>		<u>V. Ward</u>	<u>8/28/03 16:32</u>
Relinquished by:	Date/Time	Received by:	Date/Time

Turnaround time:
Same day
24 hr
48 hr
Standard