

2010-007429

Klamath County, Oregon



00086039201000074290190198

06/18/2010 09:46:51 AM

Fee: \$127.00

*Space above this line for Recorder's use.*

***After recording, return to:***

Oregon DEQ  
700 SE Emigrant, Suite 330  
Pendleton, OR 97801  
Attn: Katie Robertson

**EASEMENT AND EQUITABLE SERVITUDES**

This grant of Easement and acceptance of Equitable Servitudes is made \_\_\_\_\_, 2010 between BNSF Railway Company ("***Grantor***") and the State of Oregon, acting by and through the Oregon Department of Environmental Quality ("***DEQ***" or "***Grantee***").

**RECITALS**

A. Grantor is the owner of certain real property located at 1800 Laverne Avenue in Klamath County, Oregon (the "***Property***") the location of which is more particularly described in Attachment A to this Easement and Equitable Servitudes, and referenced under the name BNSF Midland Market Railyard, ECSI #1732 in the files of DEQ's Environmental Cleanup Program at 700 SE Emigrant, Suite 330, Pendleton, Oregon. Interested parties may contact the Pendleton office to review a detailed description of the residual risks present at the Property and found in the Record of Decision dated July 21, 2006.

B. On July 21, 2006, the Director of the Oregon Department of Environmental Quality or delegate selected the remedial action for the Property set forth in the Record of Decision (ROD) for the Property. The remedial action selected requires, among other things: a deed restriction will be recorded to limit and/or prohibit groundwater use at the Property.

C. On April 1, 2010, Grantor entered into an Consent Judgment (***Agreement***) with DEQ, under which Grantor agreed to implement the selected remedial action, including the required institutional controls. The Consent Judgment includes several additional obligations related to the implementation of the remedy not fully set forth herein, including without limitation, a Contaminated Media Management Plan that provides guidance on the proper handling of potentially-contaminated soil and/or groundwater, an oil recovery system with periodic evaluations of the performance of the system, and long-term groundwater monitoring to confirm whether the remedy is achieving the site-specific remedial action objectives in the ROD.

D. The provisions of this Easement and Equitable Servitudes are intended to further the implementation of the selected remedial action and thereby protect human health and the environment.

## **1. DEFINITIONS**

- 1.1 "Acceptable risk level" has the meaning set forth in Oregon Revised Statute (ORS) 465.315 and Oregon Administrative Rule (OAR) 340-122-0115.
- 1.2 "Beneficial use" has the meaning set forth in OAR 340-122-0115.
- 1.3 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.
- 1.4 "Ecological receptor" has the meaning set forth in OAR 340-122-0115.
- 1.5 "Engineering control" has the meaning set forth in OAR 340-122-0115.
- 1.6 "Hazardous substance" has the meaning set forth in ORS 465.200
- 1.7 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.
- 1.8 "Property" means the real property described in Exhibit A to this Easement and Equitable Servitudes.

## **2. GENERAL DECLARATION**

Grantor, in consideration of Grantee's issuance of a Consent Judgment, grants to DEQ an Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property described in Attachment A to this Easement and Equitable Servitudes, is now subject to and shall in future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this Easement and Equitable Servitudes. Each condition and restriction set forth in this Easement and Equitable Servitudes touches and concerns the Property and the equitable servitudes granted in paragraph 3 and easement granted in paragraph 4 below, shall run with the land for all purposes, shall be binding upon all current and future owners of the Property as set forth in this Easement and Equitable Servitudes, and shall inure to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this Easement and Equitable Servitudes.

### **3. EQUITABLE SERVITUDES (RESTRICTIONS ON USE)**

3.1 **Groundwater Use Restrictions:** Owner shall not extract through wells or by other means or use the groundwater at the Property for consumption or other beneficial use, as long as the hazardous substance concentrations exceed the acceptable risk level for such use. This prohibition shall not apply to extraction of groundwater associated with groundwater treatment or monitoring activities approved by DEQ or to temporary dewatering activities related to construction, development, or the installation of sewer or utilities at the Property. Owner shall conduct a waste determination on any groundwater that is extracted during such monitoring, treatment, or dewatering activities and handle, store and manage waste water according to applicable laws.

3.2 **Use of the Property:** Owner shall not occupy or allow other parties to occupy the Property unless the controls listed in this Paragraph 3 are maintained and soil and groundwater are managed as outlined in the Contaminated Media Management Plan included as Attachment B. :

3.3 **Notice of Transfer.** Owner shall notify DEQ at least ten (10) days before the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Owner's interest in or occupancy of the Property, or the start of any development activities or change in use of the Property that might expose human or ecological receptors to hazardous substances at the Property. Notwithstanding the foregoing, Owner shall not commence any development inconsistent with the conditions or restrictions in this Paragraph 3 without prior written approval from DEQ or removal of the condition or restriction as provided in Paragraph 5.1 below.

3.4 **Zoning Changes.** Owner shall notify DEQ no less than thirty (30) days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the City of Klamath Falls zoning code or any successor code. As of the date of this Easement and Equitable Servitudes, the base zone of the Property is industrial.

### **4. EASEMENT (RIGHT OF ENTRY)**

During reasonable hours and subject to reasonable security requirements, DEQ shall have the right to enter upon and inspect any portion of the Property to determine whether the requirements of this Easement and Equitable Servitudes have been or are being complied with. DEQ shall have the right, privilege, and license to enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in this Easement and Equitable Servitudes, provided DEQ first gives written notice of the violation to Owner describing what is necessary to correct the violation and Owner fails to cure the violation within the time specified in such notice. DEQ will follow the applicable procedures and protocols in the health and safety plan approved by DEQ pursuant to the Agreement. Any such entry by DEQ shall not be deemed a trespass, and DEQ shall not be subject to liability to Owner for such entry and any action taken to abate, mitigate, or cure a violation.

## 5. GENERAL PROVISIONS

5.1 Each condition and restriction contained in this Easement and Equitable Servitudes shall be recited in any deed conveying the Property or any portion of the Property, and shall run with the land so burdened until such time as the condition or restriction is removed by written certification from DEQ, recorded in the Deed Records of the County in which the Property is located, certifying that the condition or restriction is no longer required in order to protect human health or the environment.

5.2 Upon the recording of this Easement and Equitable Servitudes, all future Owners, as defined in Paragraph 2.2 above, shall be conclusively deemed to have consented and agreed to every condition and restriction contained in this Easement and Equitable Servitudes, whether or not any reference to this Easement and Equitable Servitudes is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

5.3 Upon any violation of any condition or restriction contained in this Easement and Equitable Servitudes, DEQ, in addition to the remedies described in Paragraph 4 above, may enforce this Easement and Equitable Servitudes as provided in the Order on Consent No. LQVC-ER-06-08, or may seek any other available legal or equitable remedy to enforce this Easement and Equitable Servitudes.

5.4 By signing this Covenant, Grantor does not intend to affect the scope of existing preemption under federal law.

IN WITNESS WHEREOF Grantor and Grantee have executed this Easement and Equitable Servitudes as of the date and year first set forth above.

**GRANTOR: BNSF RAILWAY COMPANY**

By: B. Sheppard Date: 6-4-10  
Bruce Sheppard, Manager Environmental Remediation, BNSF Railway Company

STATE OF WASHINGTON )  
County of King ) ss.

The foregoing instrument is acknowledged before me this 4 day of June 2010, by Bruce Sheppard of BNSF Railway Company, on its behalf.

**NOTARY PUBLIC**  
**STATE OF WASHINGTON**  
**LAURIE L BRIGGS**  
My Appointment Expires March 27, 2011

Laurie L Briggs  
NOTARY PUBLIC FOR WASHINGTON  
My commission expires: 3-27-2011

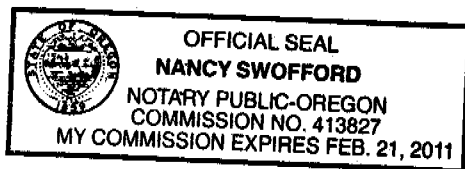
GRANTEE: State of Oregon, Department of Environmental Quality

By: *Linda Hayes-Gorman*  
Linda Hayes-Gorman, Administrator, Eastern Region

Date: 6/14/10

STATE OF OREGON           )  
  ) ss.  
County of Deschutes )

The foregoing instrument is acknowledged before me this 14<sup>th</sup> day of June, 2010, by Linda Hayes-Gorman of the Oregon Department of Environmental Quality, on its behalf.



*Nancy Swofford*  
NOTARY PUBLIC FOR OREGON  
My commission expires: Feb. 21, 2011

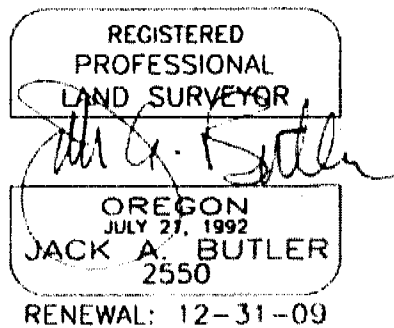
**ATTACHMENT A  
LEGAL DESCRIPTION OF THE PROPERTY**

A TRACT OF LAND LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 9, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

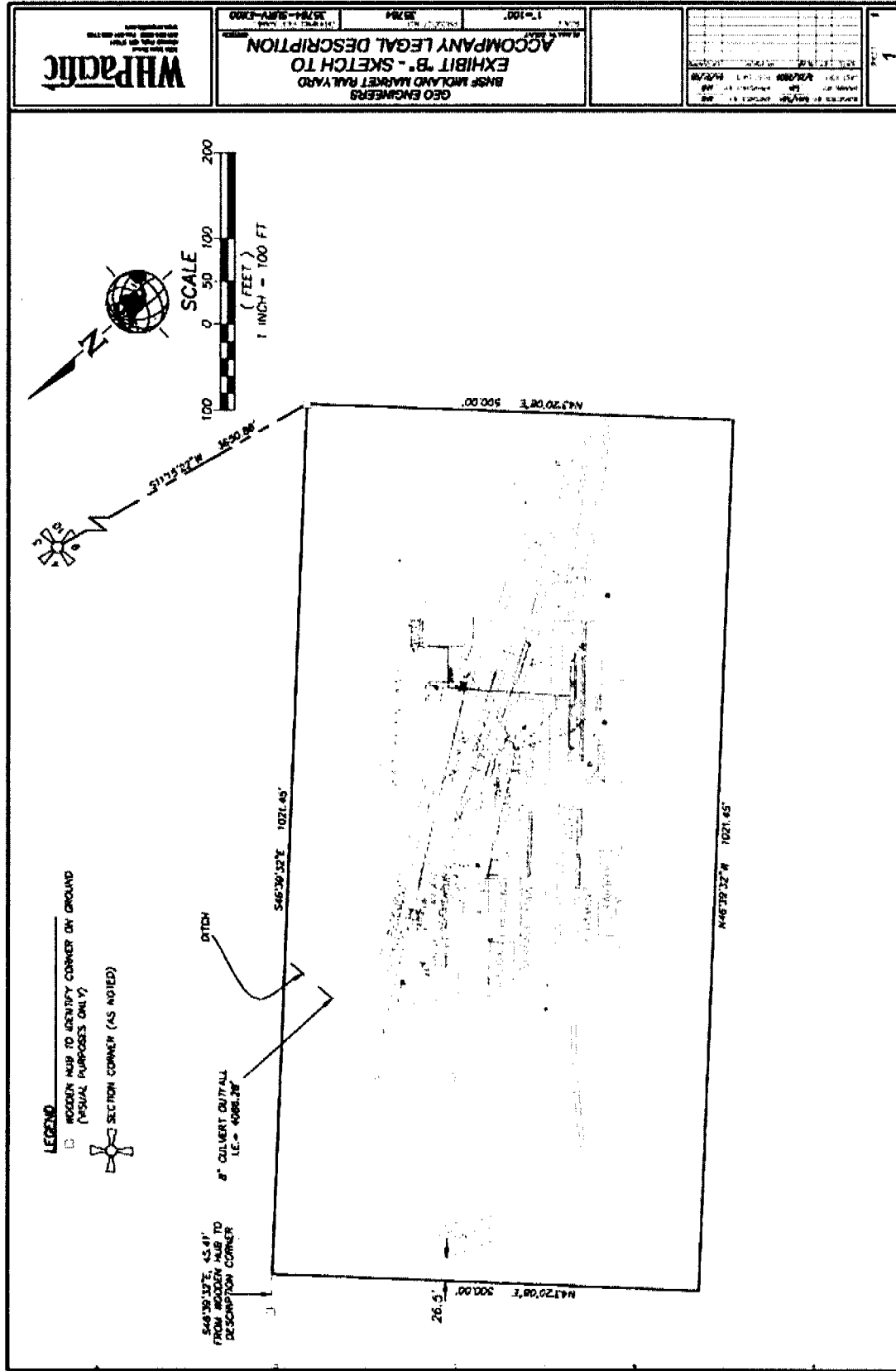
COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 9, THENCE SOUTH  $11^{\circ}15'22''$  WEST, 3650.86 FEET TO THE POINT OF BEGINNING. THENCE SOUTH  $43^{\circ}20'08''$  WEST, 500.00 FEET; THENCE NORTH  $46^{\circ}39'32''$  WEST, 1021.45 FEET; THENCE NORTH  $43^{\circ}20'08''$  EAST, 500.00 FEET; THENCE SOUTH  $46^{\circ}39'32''$  EAST, 1021.45 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS APPROXIMATELY 510.726 OR 11.72 ACRES, MORE OR LESS.

BEARINGS BASED ON GPS OBSERVATION



# ATTACHMENT A MAP SHOWING THE LEGAL DESCRIPTION



**ATTACHMENT B**  
**CONTAMINATED MEDIA MANAGEMENT PLAN**



**CONTAMINATED MEDIA MANAGEMENT PLAN  
MIDLAND MARKET RAIL YARD  
KLAMATH FALLS, OREGON  
DEQ ECSI SITE #1732**

**MAY 4, 2009**

**FOR  
BNSF RAILWAY COMPANY**

**Contaminated Media Management Plan  
Midland Market Rail Yard  
Klamath Falls, Oregon  
File No. 0506-013-07**

**May 4, 2009**

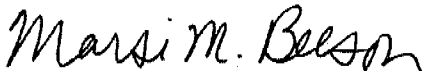
**Prepared for:**

**BNSF Railway Company  
2454 Occidental Avenue South, Suite 1A  
Seattle, Washington 98134-1451**

**Attention: Mr. Bruce A. Sheppard**

**Prepared by:**

**GeoEngineers, Inc.  
15055 SW Sequoia Parkway, Suite 140  
Portland, Oregon 97224  
(503) 624-9274**



---

**Marsi M. Beeson  
Project Manager**



---

**John H. Biggane  
Principal**

MB2:JHB:gaw  
P:\0\0506013\07\Finals\050601307CMMP.doc

**cc: Katie Robertson  
Oregon DEQ – Eastern Region**

Disclaimer: Any electronic form, facsimile or hard copy of the original document (email, text, table, and/or figure), if provided, and any attachments are only a copy of the original document. The original document is stored by GeoEngineers, Inc. and will serve as the official document of record.

## TABLE OF CONTENTS

	<u>Page No.</u>
1.0 INTRODUCTION.....	1
2.0 BACKGROUND .....	1
2.1 HISTORICAL PETROLEUM STORAGE AND HANDLING ACTIVITIES .....	1
2.2 CURRENT PETROLEUM STORAGE AND HANDLING ACTIVITIES .....	1
3.0 SOIL CONDITIONS .....	2
4.0 CONTAMINANT INFORMATION .....	2
5.0 HANDLING AND DISPOSITION PLAN FOR CONTAMINATED SOIL/GROUNDWATER .....	2
5.1 DEFINITION OF CONTAMINATED SOIL AND GROUNDWATER .....	3
5.2 IDENTIFICATION OF POTENTIALLY CONTAMINATED SOIL AND GROUNDWATER .....	3
5.3 HANDLING OF CONTAMINATED SOIL, GROUNDWATER, AND CLEAN OVERBURDEN .....	4
5.4 DISPOSITION OPTIONS FOR CONTAMINATED SOIL AND GROUNDWATER, AND CLEAN OVERBURDEN .....	5
6.0 COMMUNICATIONS.....	5
7.0 PROJECT CONTACTS.....	6
8.0 REFERENCES.....	6

### List of Figures

Figure 1. Site Plan

Figure 2. Former and Current Site Features

**CONTAMINATED MEDIA MANAGEMENT PLAN  
MIDLAND MARKET RAIL YARD  
KLAMATH FALLS, OREGON**

**1.0 INTRODUCTION**

This management plan outlines procedures for handling contaminated soil and groundwater at BNSF Railway Company's (BNSF) Midland Market Rail Yard (the site) in Klamath Falls, Oregon. The site is currently developed with an active rail yard. The focus of this plan is the locomotive maintenance and fueling area (LMFA). The site is recorded in the Oregon Department of Environmental Quality (DEQ) Environmental Cleanup Site Information (ECSI) system as ECSI #1732. The general layout of the site is presented in Figure 1.

This plan is intended for use by BNSF and their contractors to minimize risks to worker health and the environment and outlines procedures for the handling and disposal of contaminated soil and groundwater that may be encountered during earthwork-related construction activities.

**2.0 BACKGROUND**

The Midland Market Rail Yard has been active since 1935. Investigations of soil and groundwater have been ongoing since approximately 1989. Several operable units have been identified and investigated, and petroleum-related contaminant releases to the site's soil and groundwater have been documented. The site's well network consists of 26 monitoring wells and three product recovery wells that are located as shown in Figure 2. All of the monitoring wells are located within the LMFA and define the lateral extent of impacted site groundwater.

**2.1 HISTORICAL PETROLEUM STORAGE AND HANDLING ACTIVITIES**

Five petroleum storage tanks were formerly used at the site. Two ASTs, constructed of wood, were used at the site before approximately 1960. The wooden ASTs, originally used to store water and later diesel, were removed sometime between 1956 and 1960. A 12,000-gallon UST (connected to the oil/water separator and used to store diesel recovered from the fueling area) was decommissioned in July 1998. A 10,000-gallon gasoline aboveground storage tank (AST) was located northwest of the former engine maintenance facility. This tank was removed from the site prior to October 1989. An abandoned 17,000-gallon lube oil underground storage tank (UST) is located near the northeast corner of the former engine maintenance facility. This tank was abandoned in place in the mid-1970s. The approximate locations of the former ASTs and USTs are shown in Figure 2.

An engine maintenance facility, formerly located within the LMFA, was demolished in May 1990. A 12,000-gallon underground fuel oil sump, located near the northeast corner of the former engine maintenance facility, was removed in the mid-1970s. The approximate locations of these former facilities are also shown in Figure 2.

**2.2 CURRENT PETROLEUM STORAGE AND HANDLING ACTIVITIES**

There are eight steel ASTs containing refined petroleum products in service at the site. Five of these ASTs are located in a single containment area, located east of the former engine maintenance facility as shown on Figure 2. The five ASTs consist of two 35,000-gallon and two 25,000-gallon diesel ASTs, and a 15,000-gallon lube oil AST.

Two smaller double-wall ASTs containing gasoline and diesel are used for fueling BNSF vehicles. These ASTs are located south of the Maintenance Shop as shown in Figure 2.

A 16,000-gallon underground oil/water separator is located northeast of the former engine maintenance facility. The oil/water separator is used to separate recovered oil and water collected from drain pans located in the locomotive refueling area. Recovered oil removed by the oil/water separator is temporarily stored in a 5,000-gallon AST located near the oil/water separator, and is regularly transferred off-site to a recycling facility. The locations of these facilities are shown in Figure 2.

### **3.0 SUBSURFACE CONDITIONS**

Native soils at the site consist of silt and sand based on previous subsurface investigations. Groundwater has been encountered at depths of approximately 0.5 to 15 feet below ground surface (bgs) depending on location and seasonal fluctuation. Groundwater flows to the northeast at the site.

### **4.0 CONTAMINANT INFORMATION**

Soil contaminants observed at the Midland site consist primarily of petroleum hydrocarbons and related compounds including volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs), and select metals. There is the potential for encountering impacted soil throughout the LMFA. The following is a general description of known impacted areas based on investigations to date.

Gasoline-range hydrocarbons are generally present in soil at depths between 1.5 and 10 feet bgs. The highest concentrations of gasoline-range hydrocarbons are located in the area northeast of the fueling area, adjacent to monitoring well MW-2 at a depth of approximately 10 feet bgs (Figure 2).

Diesel-range hydrocarbons are present in soil beneath the site at depths between 1.5 and 18 feet bgs. The highest concentrations of diesel-range hydrocarbons were detected at approximately 9 feet bgs in the vicinity of the AST containment area (Figure 2).

Oil-range hydrocarbons are present in soil beneath the site at depths between 1 and 10 feet bgs. The highest concentrations of oil-range hydrocarbons were detected at approximately 3 feet bgs northeast of the removed fuel oil sump and lube oil UST (Figure 2).

Groundwater contaminants of concern also include petroleum hydrocarbons, VOCs and SVOCs. The lateral extent of groundwater contamination is defined by the Locality of Facility (LOF) as shown in Figure 1.

Contaminated soil and groundwater, no matter what concentration, that is removed from the subsurface during construction must be treated and disposed of in accordance with DEQ regulations. Additional information regarding recognition and management of contaminated soil and groundwater is presented within this plan.

### **5.0 HANDLING AND DISPOSITION PLAN FOR CONTAMINATED SOIL/GROUNDWATER**

This plan is intended to provide guidance to BNSF and their contractors regarding: 1) identification; 2) characterization; 3) handling; and 4) disposal of contaminated soil and groundwater that may be encountered during construction activities at the site. This plan assumes that a BNSF representative or designate will be on-site or readily available to receive Contractor notification of potential contaminated media encountered during construction.

## 5.1 DEFINITION OF CONTAMINATED MEDIA

Contaminated media is defined as soil and/or groundwater with concentrations of petroleum and/or hazardous substances greater than background conditions. Hazardous substances that may be encountered at the site include gasoline-, diesel- and heavy oil-range petroleum hydrocarbons and related compounds identified in Section 4.0, the DEQ risk-based concentrations (RBCs) and the U.S. Environmental Protection Agency (EPA) Region 6 list of screening level values.

The background concentration of petroleum-related substances is assumed to be zero. Any material removed from the subsurface that has detectable concentrations of petroleum-related substances will be handled as contaminated media.

The background concentrations for metals in soil are site-specific. However, for the purpose of the site, background concentrations for metals in soil shall be defined as the concentrations presented in the DEQ memorandum to "Cleanup Project Managers" dated October 28, 2002 with the subject heading "Default Background Concentrations for Metals." Soil with metals at concentrations exceeding background values will be considered hazardous media.

Metals in groundwater are not present at concentrations exceeding applicable screening level values, and are not likely to be present in groundwater unless petroleum-based compounds are also present, based on groundwater data collected to date from the site. Therefore, groundwater will be considered contaminated if evidence of petroleum hydrocarbons is noted (refer to Section 5.2).

## 5.2 IDENTIFICATION OF POTENTIALLY CONTAMINATED SOIL AND GROUNDWATER

- Contractor personnel will review this plan to familiarize themselves with the locations of current and former site features, including the locations of USTs, ASTs, and areas of contamination, prior to beginning the construction activities.
- A BNSF representative or designate will be present on site when the contractor is excavating in identified areas of contamination to assist in the identification of potentially contaminated soil and groundwater. Contaminated media will be identified by laboratory testing or applicable field screening methods.
- A BNSF representative should be contacted immediately if contamination is encountered outside of the known impacted area.
- If the contractor observes media that exhibits one or more of the following field screening characteristics, the soil and groundwater shall be identified as potentially contaminated and will be handled and characterized as described below. Note that the absence of these physical characteristics does not necessarily imply that the media does not contain contaminants.
  - staining
  - chemical or petroleum odors
  - a sheen on groundwater
  - a sheen on soil when placed in contact with water
- The contractor shall notify BNSF or their designate to assist the contractor in segregating contaminated media.
- Observation and field screening will be used to advise the contractor regarding segregation of contaminated media. Field screening techniques including visual, sheen and headspace vapor

screening methods, will be used to classify or segregate the soil and/or to select samples for chemical analyses.

- Previously obtained chemical analytical results can be used to obtain approval for off-site disposal of the soil at a BNSF-approved Resource Conservation and Recovery Act (RCRA) Subtitle D landfill facility.

### **5.3 HANDLING OF CONTAMINATED SOIL, GROUNDWATER, AND CLEAN OVERBURDEN**

1. Any media that is contaminated shall require special handling and disposal. The contractor shall be responsible for monitoring the health and safety of his or her own employees. A health and safety plan (HASP) will be required to perform excavation within contaminated areas. The HASP shall be prepared in accordance with the contaminant information identified above. Occupational Safety and Health Administration (OSHA) regulation 29 Code of Federal Regulations (CFR) Part 1910.120 includes the provision for Hazardous Waste Site Operations and Emergency Response (HAZWOPER) training, including a health and safety program, for employees working in hazardous waste cleanup areas. The Contractor should develop and be responsible for implementation of their site-specific HASP in accordance with these and any other applicable requirements, as well as comply with all BNSF safety requirements.
2. The contractors shall work closely with BNSF or their designate in identifying potentially contaminated media, if encountered during work at the site, and shall be responsible for appropriately handling contaminated material pursuant to the methods and procedures outlined in this document.
3. Potentially clean overburden soil will be segregated from contaminated soil. Care should be taken to avoid sending clean overburden soil to the permitted landfill for disposal without prior authorization by BNSF.
4. If required by the receiving facility, potentially clean overburden soil will be sampled by a BNSF designate. Soil samples will be submitted for chemical analyses to identify reuse or disposal options. The frequency of sampling and selected chemical analyses will be in accordance with DEQ regulations and guidance.
5. Contaminated soil can be loaded directly into trucks for transport to a BNSF-approved RCRA Subtitle D landfill under permit. Alternatively, soil can be stockpiled on-site in accordance with the instructions below.
6. Contaminated soil will be segregated and can be secured on-site by placing it either: 1) in a designated stockpile area that is lined and covered by durable plastic sheeting and bermed to control runoff; or 2) in labeled roll-off containers, or other covered containers. Access to the secured soil will be restricted by fencing or other physical barriers to prevent unauthorized personnel from contacting the soil. On-site storage of soils will be managed in accordance with the project-specific, contractor-prepared Construction Storm Water Pollution Prevention Plan. The Contractor will comply with Best Management Practices (BMP) for erosion and sediment control.
7. BNSF will inform DEQ of any significant release of contaminated material (i.e. runoff to the storm sewer).
8. BNSF will inform DEQ if any new areas of contamination are found during construction.
9. The extent of excavation of contaminated soil will be determined in the field based on field screening and/or analytical testing.

10. Soil sample analysis will be performed on a 24-hour turnaround time unless it is determined a 24-hour turnaround time is not necessary. It is important to note that the laboratory may not be able to meet the 24-hour turnaround time in all cases due to volume, quality control issues or equipment issues.

#### **5.4 DISPOSAL OPTIONS FOR CONTAMINATED SOIL AND GROUNDWATER, AND CLEAN OVERBURDEN**

1. Clean overburden soil can be reused on-site if suitable for construction, or taken off-site for disposal at a permitted, landfill facility.
2. Soil with detected contaminant concentrations will be transported off-site for permitted disposal at a BNSF-approved RCRA Subtitle D landfill facility. Soil profiling and approval from the landfill will be required prior to disposal. Transport of soil shall be in accordance with local, state, and federal regulations.
3. Trucks shall be loaded in a manner that prevents the spilling or tracking of clean and contaminated soil. Loose material falling onto the exterior of the truck shall be removed before the truck leaves the loading area. On-site truck routes shall be established to minimize or prevent movement of trucks over contaminated areas. If there is a potential for blowing dust or debris from the trucks, they shall be covered before leaving the loading area.
4. Possible options for handling contaminated groundwater include: 1) containment in storage tanks and off-site disposal at a permitted facility for treatment or recycling; 2) containment in storage tanks followed by on-site treatment; and 3) only if authorized by BNSF and other regulatory agencies, discharge of treated water into a nearby sanitary or storm sewer system. If applicable, BNSF shall apply for an Industrial Stormwater General Permit in order to discharge construction dewatering generated wastewater to the sanitary or storm sewer system. Once dewatering activities have commenced, the Contractor shall perform daily inspection of the effluent to confirm the effectiveness of treatment and determine the water's cleanliness, in accordance with the permit.
5. BNSF, as owner of the property, will be considered the hazardous material generator for only those hazardous materials encountered during construction that were in-place within the project limits prior to the award of the contract, and are not a result of the contractor's operation or negligence. BNSF will be presented with waste authorization forms and bills of lading for signature.

#### **6.0 COMMUNICATIONS**

Contractor shall notify BNSF or their environmental consultant a minimum of 48 hours before beginning excavation activities. In the event that suspect contaminated media is encountered, the Contractor shall stop work immediately and contact the environmental consultant and BNSF. Please refer to project contacts below for contact information.



## 7.0 PROJECT CONTACTS

Role	Name and Company	Contact Numbers
BNSF Manager of Environmental Remediation	Bruce Sheppard BNSF	Office: (206) 625-6035
DEQ Project Manager	Katie Robertson DEQ Eastern Region	Office: (541) 276-4063
GeoEngineers, Inc. - Environmental Consultant	Marsi Beeson GeoEngineers, Inc.	Office: (503) 624-9274 Cell: (503) 502-1854

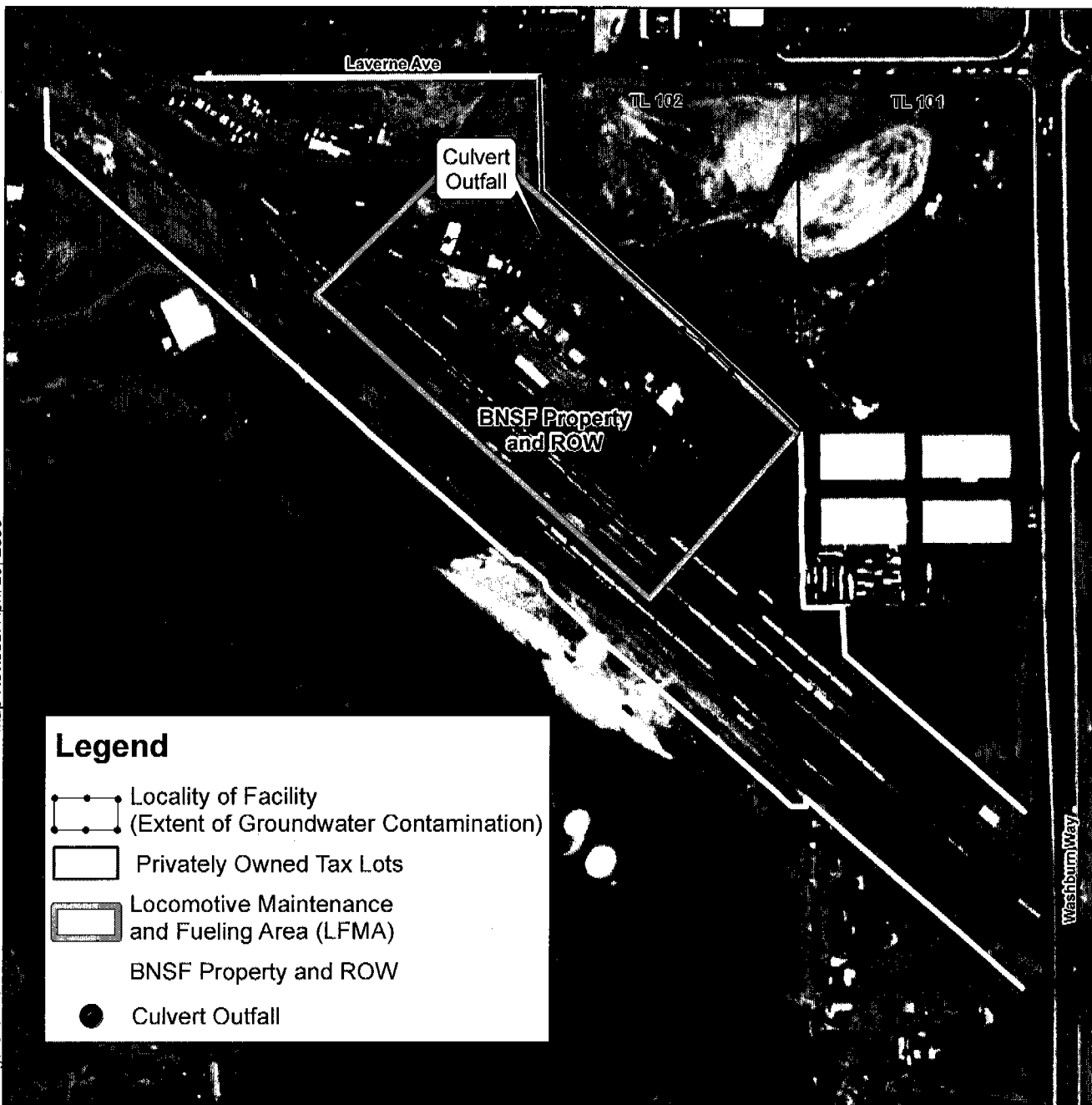
## 8.0 REFERENCES

GeoEngineers, Inc. Supplemental Remedial Investigation Report, Midland Market Rail Yard, Klamath Falls, Oregon, August 4, 2004.

GeoEngineers, Inc. Semiannual Report – September 2008 Free Product Recovery and Groundwater Monitoring: Midland Market Rail Yard, Klamath Falls, Oregon, November 2008.

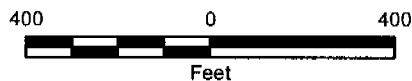
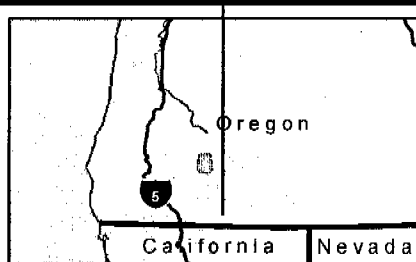
Oregon Department of Environmental Quality (DEQ) – Eastern Region Office. Record of Decision for Burlington Northern Santa Fe Railroad Company, Midland Market Rail Yard, Klamath Falls, Oregon, July 21, 2006.

Oregon Department of Environmental Quality (DEQ) – Toxicology Workgroup. Default Background Concentration for Metals (Oregon), October 28, 2008.



### Legend

- Locality of Facility  
(Extent of Groundwater Contamination)
- Privately Owned Tax Lots
- Locomotive Maintenance and Fueling Area (LFMA)
- BNSF Property and ROW
- Culvert Outfall



#### Notes:

1. The locations of all features shown are approximate.
2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. can not guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.
3. It is unlawful to copy or reproduce all or any part thereof, whether for personal use or resale, without permission.

Data Sources: Tax Lots digitized from ORMAP.  
2005 NAIP imagery from United States Department of Agriculture.  
Transverse Mercator, Zone 10 N North, North American Datum 1983  
North arrow oriented to grid north

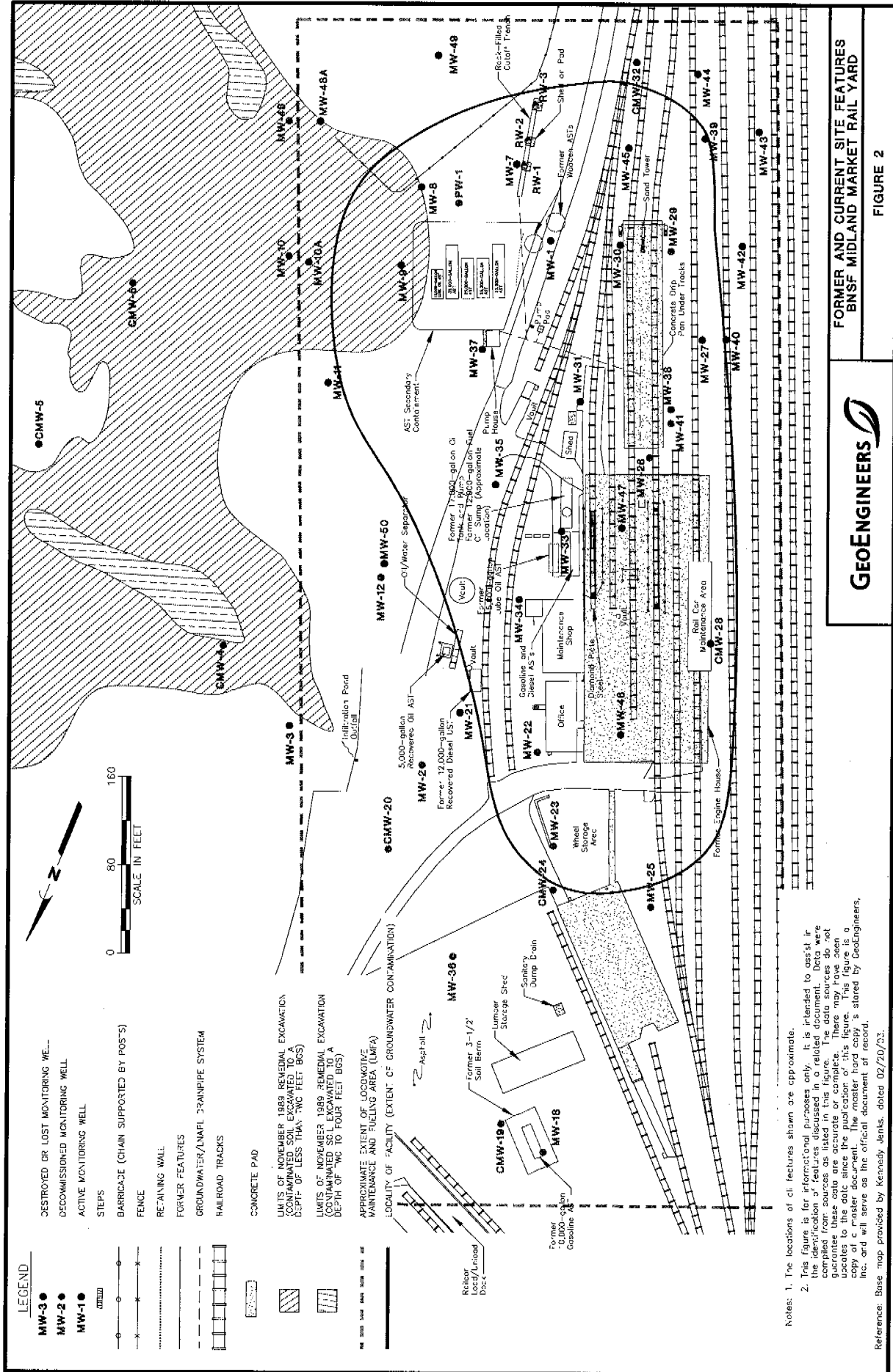
### Site Plan

BNSF Midland  
Market Rail Yard

**GEOENGINEERS**



Figure 1



# FORMER AND CURRENT SITE FEATURES BNSF MIDLAND MARKET RAIL YARD

**GEOENGINEERS**

FIGURE 2