WISCONSIN
DEPT. OF NATURAL RESOURCES

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Scott McCallum, Governor
Darrell Bazzell, Secretary
Ronald W. Kazmierczak, Regional Director

Oshkosh Service Center
625 East County Road Y, Suite 700
Oshkosh, WI 54901-9731
TELEPHONE 920-424-3050
FAX 920-424-4404

September 4, 2003

Mr. Jackson Kinney, Community Development
City of Oshkosh
215 Church Avenue / P.O. Box 1130
Oshkosh, WI 54902-1130

SUBJECT: Closure of ***WDNR BRRTS #03-71-252972*** with **NR 140 PAL Exemption**
Universal Foundry – East UST Area, 495 Pearl Avenue, Oshkosh

Unconditional Closure of ***WDNR BRRTS #03-71-114218***
Universal Foundry – West UST Area, 495 Pearl Avenue, Oshkosh

Conditional Closure of ***WDNR BRRTS #02-71-171604***
Universal Foundry – Lead & Solvent Areas, 495 Pearl Avenue, Oshkosh

Dear Mr. Kinney

The Department's Case Closeout Committee in the Northeast Regional Headquarters completed a review of the above referenced contamination cases and has approved them for closure. Your case closure letter has the following significant parts:

1. General case closure criteria.
2. Exemption issued to State Groundwater Quality Standard (NR 140)
3. Soil Deed Restriction Criteria

Please read this entire letter carefully. It addresses each of these topics with subtitled indented paragraphs.

The former Universal Foundry Property has been investigated and remediated within the Voluntary Party Liability Exemption (VPLE) Program.

General Case Closure
The case closure panel reviews environmental remediation cases for compliance with state laws, standards, and guidelines to maintain consistency in the closeout of cases. At the present time it appears that actions have been taken to the extent practicable to restore the environment and minimize the harmful effects from this discharge to the air, lands, and waters of this state. Please be aware that this letter does not absolve the current or any future owner of this property from future decisions regarding this site or impacts which may be discovered and/or traced back to improper maintenance of the caps or future activities at this site. I am currently working on the final Certificate of Completion for the property and its final approval by the Department is dependent upon meeting the following closure conditions.

Groundwater Quality Exemption
The most recent groundwater monitoring data at this site indicates an exceedance of the NR 140 preventive action limit (PAL) for Tetrachloroethylene (PCE) and Trichloroethene (TCE) of 0.94 and 0.66

micrograms per liter (ug/l) respectively at Monitoring Well # 104 but compliance with the NR 140 enforcement standard. The Department may grant an exemption pursuant to s. NR 140.28(2), Wis. Adm. Code, if the following criteria are met:

a) The anticipated increase in the concentration of PCE & TCE will be minimized to the extent technically and economically feasible.

b) Compliance with the PAL is either not technically or economically feasible.

c) The enforcement standard for PCE & TCE will not be attained or exceeded at the point of standards application.

d) Any increase in the concentration of PCE & TCE above background does not present a threat to public health or welfare.

The Department believes that the above criteria have been or will be met because of the remediation that has occurred at this site. Therefore, pursuant to NR 140.28, an exemption for the PCE & TCE PAL is granted to MW-104. This letter serves as your exemption. At this time the Department is not requiring any further investigation or other action concerning this specific site.

Soil Deed Restriction Criteria

Contaminated soils remain at the site and are covered with impermeable caps (fabric/soil barrier and asphalt parking area). A Deed Restriction (copy attached) is required as part of the conditions of closure. I have emailed the final restriction format and discussed the filing of this restriction with both Darryn Burich, Oshkosh Planning Department and also with Andrew Mott, STS Consultants. As soon as it is filed with the Winnebago County Registar of Deeds, a copy of the stamped restriction should be sent to me for the Department's file. After submittal of the documentation, the final VPLE Certificate of Closure can be granted.

The Department appreciates the actions you have undertaken to restore the environment at this site. If you have questions regarding this letter please do not hesitate to contact me at (920) 424-0399.

Sincerely,

Kathleen M. Sylvester, Hydrogeologist
Bureau for Remediation & Redevelopment

cc: Case File – OSH
Rick Stoll – NER/DG
Bill Phelps – DG/2
Bruce Urben – NER/RR
Michael Prager – RR/3
Kristi Bales, City of Oshkosh, 215 Church Avenue / P.O. Box 1130, Oshkosh, WI 54902-1130
Andrew Mott, STS Consultants, Ltd., 558 North Main Street, Oshkosh, WI 54901
Paul Killian, STS Consultants, Ltd., 1035 Kepler, Green Bay, WI 54311

1276643

REGISTER'S OFFICE
WINNEBAGO COUNTY, WI
RECORDED ON

09/11/2003 09:47AM

SUSAN WINNINGHOFF
REGISTER OF DEEDS

RECORDING FEE 23.00
TRANSFER FEE
OF PAGES 7

Document Number | DEED RESTRICTION

Recording Area

Name and Return Address

City Attorney's Office
P.O. Box 1130
Oshkosh, WI 54903-1130

Chg

90102430000

Parcel Identification Number

Declaration of Restrictions

In Re: See **Attachment 1** – Universal Foundry Legal Descriptions and **Attachment 2** – Parcel E Legal Description

STATE OF WISCONSIN)
) ss
COUNTY OF WINNEBAGO

WHEREAS, the City of Oshkosh is the owner of the above-described property.

WHEREAS, Fill soil has been disposed of on the property which is identified in **Figure 1**. As of December 2000, January 2001 and May 2001, when soil samples were collected on this property, the fill soil has been found to be contaminated with lead in concentrations which exceed ch. NR 720, Wisconsin Administrative Code, Direct Contact Residual Contaminant Levels for non-industrial land use at the locations identified on **Figure 2**. Soil samples that were collected on this property indicate lead contaminated soil remains on this property at the following locations: Court yard between Parcel E Building Nos. 3 through 5 and Building No. 5 northeast parking lot. Sampling locations and results are shown on Figure 2.

WHEREAS, it is the desire and intention of the property owner to impose on the property restrictions which will make it unnecessary to conduct further soil remediation activities on the property at the present time.

NOW THEREFORE, the owner hereby declares that all of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied and improved subject to the following limitation and restrictions:

The 18 inch soil cover with geotextile non-woven fabric barrier and asphalt barrier that existed on the above-described property on the date that this restriction was signed form a barrier that must be maintained in order to prevent direct contact with residual soil contamination that might otherwise pose a threat to human health.

The barriers that exists on the above-described property in the location shown on the attached map, Figure 1 (Site Location diagram) on the date that this restriction was signed shall be maintained in compliance with the "Engineering Controls Maintenance Plan" (**Attachment 3**), dated May 13, 2003 that was submitted to the Wisconsin Department of Natural Resources by the City of Oshkosh, as required by section NR 724.13(2), Wis. Adm. Code (1999).

In addition, the following activities are prohibited on any portion of the above-described property where the cap has been placed or where impervious surfaces exist (Figure 1), unless prior written approval has been obtained from the Wisconsin Department of Natural Resources or its successor or assign: (1) Excavating or grading of the land surface; (2) Filling on capped areas and areas with impervious surfaces; (3) Plowing for agricultural cultivation; and (4) Construction or installation of a building or other structure with a foundation that would sit on or be placed within the cap or impervious surface.

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described property whether by descent, devise, purchase or otherwise. This restriction inures to the benefit of and is enforceable by the Wisconsin Department of Natural Resources, its successors or assigns. The Department, its successors or assigns, may initiate proceedings at law or in equity against any person or persons who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

Any person who is or becomes owner of the property described above may request that the Wisconsin Department of Natural Resources or its successor issue a determination that one or more of the restrictions set forth in this covenant is no longer required. Upon the receipt of such a request, the Wisconsin Department of Natural Resources shall determine whether or not the restrictions contained herein can be extinguished. If the Department determines that the restrictions can be extinguished, an affidavit, attached to a copy of the Department's written determination, may be recorded by the property owner or other interested party to give notice that this deed restriction, or portions of this deed restriction, are no longer binding.

By signing this document, Richard A. Wollangk asserts that he or she is duly authorized to sign this document on behalf of City of Oshkosh.

IN WITNESS WHEREOF, the owner of the property has executed this Declaration of Restrictions, this 8 day of September, 2003

Signature: _____

Printed Name: Richard A. Wollangk

Title: City Manager

Subscribed and sworn to before me
this 8 day of September, 2003.

Barbara J. Brandt

Notary Public, State of Wisconsin
My commission 7/10/06

This document was drafted by the Wisconsin Department of Natural Resources based on information provided by STS Consultants, Ltd.

ATTACHMENT 1

UNIVERSAL FOUNDRY PROPERTY

LEGAL DESCRIPTIONS

DESCRIPTION PARCEL NO. 1

All of Lots 7, 8, 9, 10, 11, 16 and 17 and a part of Lots 6, 12, 13, 14, 15 and 18 of Block L; all of Lots 1, 2 and 3 and a part of Lots 4, 5 and 30 in Block G; all of vacated Dawes Street for the southwesterly line of Pearl Avenue to the centerline of the C & NW Railroad track; all in Western Additon to Oshkosh, in the First Ward, City of Oshkosh, Winnebago County, Wisconsin containing 3.0417 acres of land and being described by: Commencing at the Northwesterly corner of Lot 1 of Block G in Western Addition and being the true point of beginning; running thence S.51°-20'-07"E. 150.34 feet, along the southwesterly line of Pearl Avenue to its intersection with the Northwest corner of Lot 1 of Certified Survey Map No. 1579; thence S.38°-56'-25"W. 120.80 feet, along the westerly line of Lot 1 of said Certified Survey Map No. 1579; thence S.38°-51'-01"W. 30.00 feet along the westerly line of said Certified survey Map No. 1579; thence S.51°-47'-29"E.30.00 feet; thence S.38°-51'-01"W. 85.51 feet, along the westerly line of Lot 1 of said Certified Survey Map No. 1579 to its southwesterly corner thereof; thence N.51°-43'-23"W. 457.33 feet, along the centerline of the C & NW Railroad track; thence Northwesterly 54.12 feet, along the arc of a curve to the left being the centerline of the C & NW Railroad track having a radius of 17.29.28 feet and the chord of which bears N.52°-37'-11"W. 54.12 feet; thence S.38°-48'-58"W. 3.12 feet; thence N.51°-32'-06"W. 152.37 feet, along the Northeasterly line of Warren Road to the Southeasterly corner of Lot 1 of Certified Survey Map No. 1584; thence N.38°-16'-26"E. 120.31 feet, along the easterly line of Lot 1 of Certified Survey Map No. 1584 to its Northeasterly corner thereof; thence S.51°-33'-59"E. 179.04 feet, along the Northerly line of Lots 18, 17, 16 and 15 of said Block L; thence N.38°-50'-26"E. 123.75 feet, along a line 5 feet westerly of the easterly line of Lot 6 of said Block L to a point on the southwesterly line of Pearl Avenue; thence S.51°-11'-59"E. 305.83 feet, along the southwesterly line of Pearl Avenue to the true point of beginning.

DESCRIPTION PARCEL NO. II

A part of Lots 12, 13, 14 and 15 of Block L; a part of Lots 4, 30, 29, 28, 27, 26, 25 and 24 of Block G; a part of Lots 1 and 2 of block E; a part of Lots 6 and 15 and all of Lots 7, 8, 9, 10, 11, 12, 13 and 14 of Block M; a portion of vacated Warren Road, vacated Dawes Street and vacated Hancock Street all in Western Addition to Oshkosh, in the First Ward, City of Oshkosh, Winnebago County, Wisconsin containing 4.786 acres of land and being described by: Commencing at the southeasterly corner of Lot 1 of Certified Survey Map No. 1584; thence S.51°-32'-06"E. 152.37 feet, along the northeasterly line of Warren Road to its intersection with the mid line of Lots 6 and 15 of said Block M extended northeasterly and being the true point of beginning; running thence N.38°-48'-58"E. 3.12 feet; thence southeasterly 54.12 feet, along the arc of a curve to the right being the centerline of the C & NW Railroad track having a radius of 1729.28 feet and the chord of which bears S.52°-37'-11"E. 54.12 feet; thence S.51°-43'-23"E. 787.51 feet, along the centerline of the C & NW Railroad track; thence S.39°-00'-09"W. 34.14 feet; thence N.51°-47'-37"W. 30.29 feet; thence S.38°-52'-22"W. 7.40 feet, along the south line of Lot 2 in said Block E to the southwesterly corner of said Lot 2; thence N.38°-49'-58"E. 149.70 feet, along the southeasterly line of Dawes Street to its intersection with the centerline of vacated Hancock Street; thence N.51°-57'-24"W. 106.27 feet, along the centerline of vacated Hancock Street; thence N.58°-47'-16"W. 75.66 feet; thence N.51°-57'-24"W. 150.00 feet; thence N.38°-48'-58"E. 343.52 feet, along the mid line of Lots 6 and 15 of Block M and its extension to the northeasterly line of Warren Road and being the true point of beginning.

ATTACHMENT 2
Parcel E
Legal Description

That part of vacated Dawes Street, Warren Road, Hancock Street and Blocks E, F and M of Western Addition, a platted subdivision, located in the Southeast ¼ of the Northeast ¼ of Section 23, Township 18 North, Range 16 East, City of Oshkosh, Winnebago County, Wisconsin, bounded and described as follows:

Commencing at the southeast corner of said Northeast ¼ Section; thence North 01°17'08" West, 233.67 feet along the east line of said Northeast ¼ Section to the centerline of Pearl Avenue as established from the centerline of the existing pavement between Dawes Street and Jackson Street; thence North 53°02'34" West, along said centerline, 617.70 feet; thence South 37°14'47" West, 50.19 feet to the southerly right of way line of the proposed Warren Road and a point of curve to the left; thence northwesterly, 86.60 feet along the arc of said curve, whose radius is 160.00 feet and whose chord bears North 71°20'18" West, 85.55 feet; thence North 86°50'42" West, 402.97 feet to the point of beginning;

Thence South 00°00'00" West, 294.07 feet to the northerly right of way line of the abandoned Wisconsin Central Railroad and the point of curve to the left; thence southwesterly, 248.61 feet along the arc of said curve, whose radius is 618.11 feet and whose chord bears South 64°59'54" West, 246.93 feet; thence North 53°47'54" West, 37.39 feet; thence North 36°58'17" East, 119.70 feet; thence North 53°42'04" West, 265.66 feet to the southeasterly right of way line of the proposed Marion Street; thence North 36°45'11" East, along said southeasterly right of way, 265.89 feet to the southwesterly right of way line of Warren Road; thence South 53°14'49" East along said southwesterly right of way, 42.24 feet to the point of curve to the left; thence southeasterly, 186.18 feet along the arc of said curve, whose radius is 317.50 feet and whose chord bears South 70°02'45" East, 183.62 feet; thence South 86°50'42" East along said southwesterly right of way line of Warren Road, 30.69 feet to the point of beginning

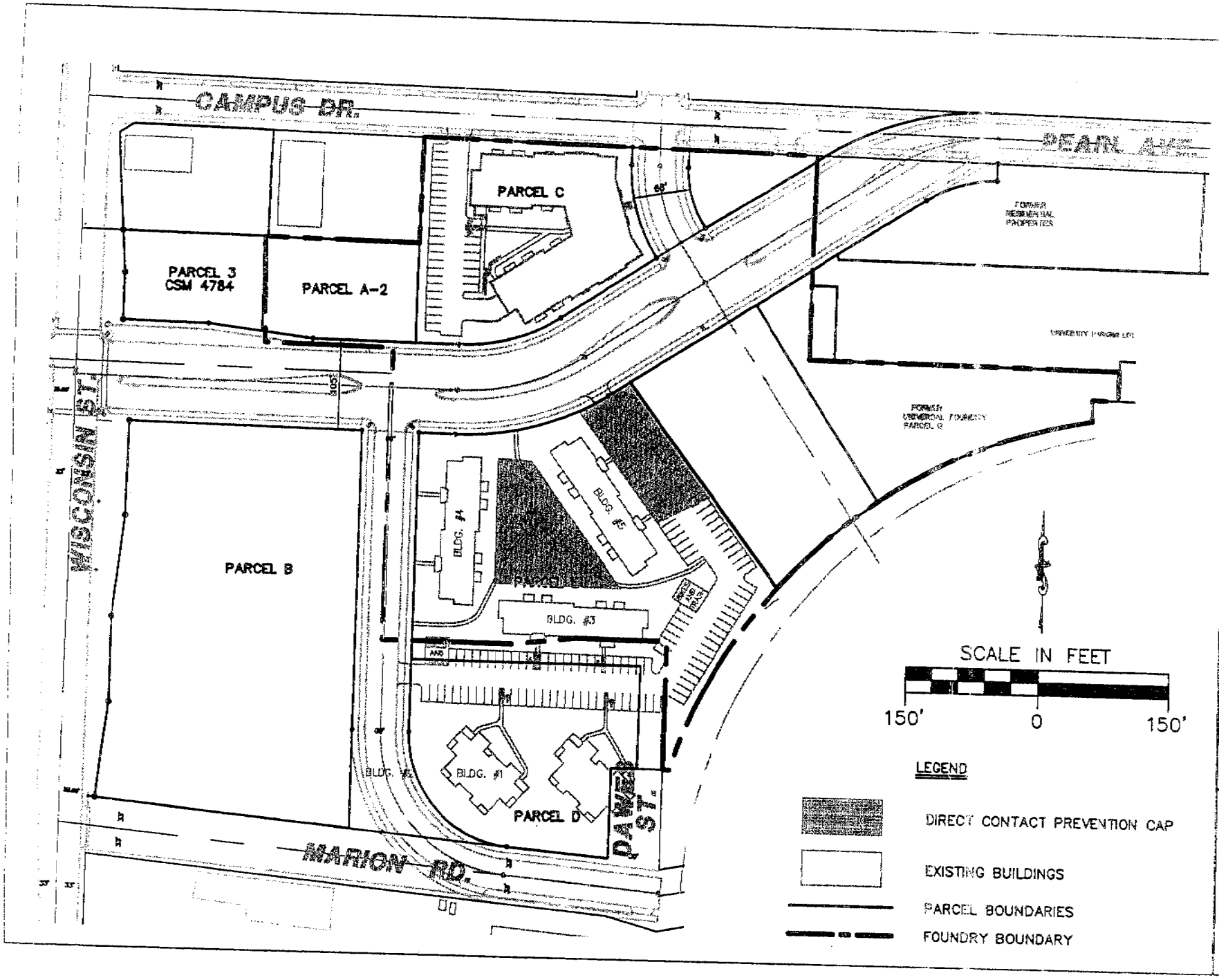
Above described parcel of land having an area of 110,705 square feet or 2.5414 acres.

ATTACHMENT 3
ENGINEERING CONTROLS MAINTENANCE PLAN
The Former Universal Foundry Company
Oshkosh, Wisconsin

To obtain environmental closure and a Certificate of Completion for the Former Universal Foundry Company property, engineering controls have been installed to limit the threat to public health and safety by essentially eliminating the direct-contact potential. For areas identified on Figure 1, which has a defined future residential land use, engineering controls, including: asphaltic concrete barrier with a crushed gravel base course and soil cover with geotextile fabric, were identified in the property deed restriction imposed by the Wisconsin Department of Natural Resources. The engineered cover shall be inspected and maintained by the property owner on an annual basis to ensure its long-term effectiveness as a barrier to the covered soil and concrete direct contact.

The following is a list of annual maintenance checks to assess the integrity of engineered cover on the soil:

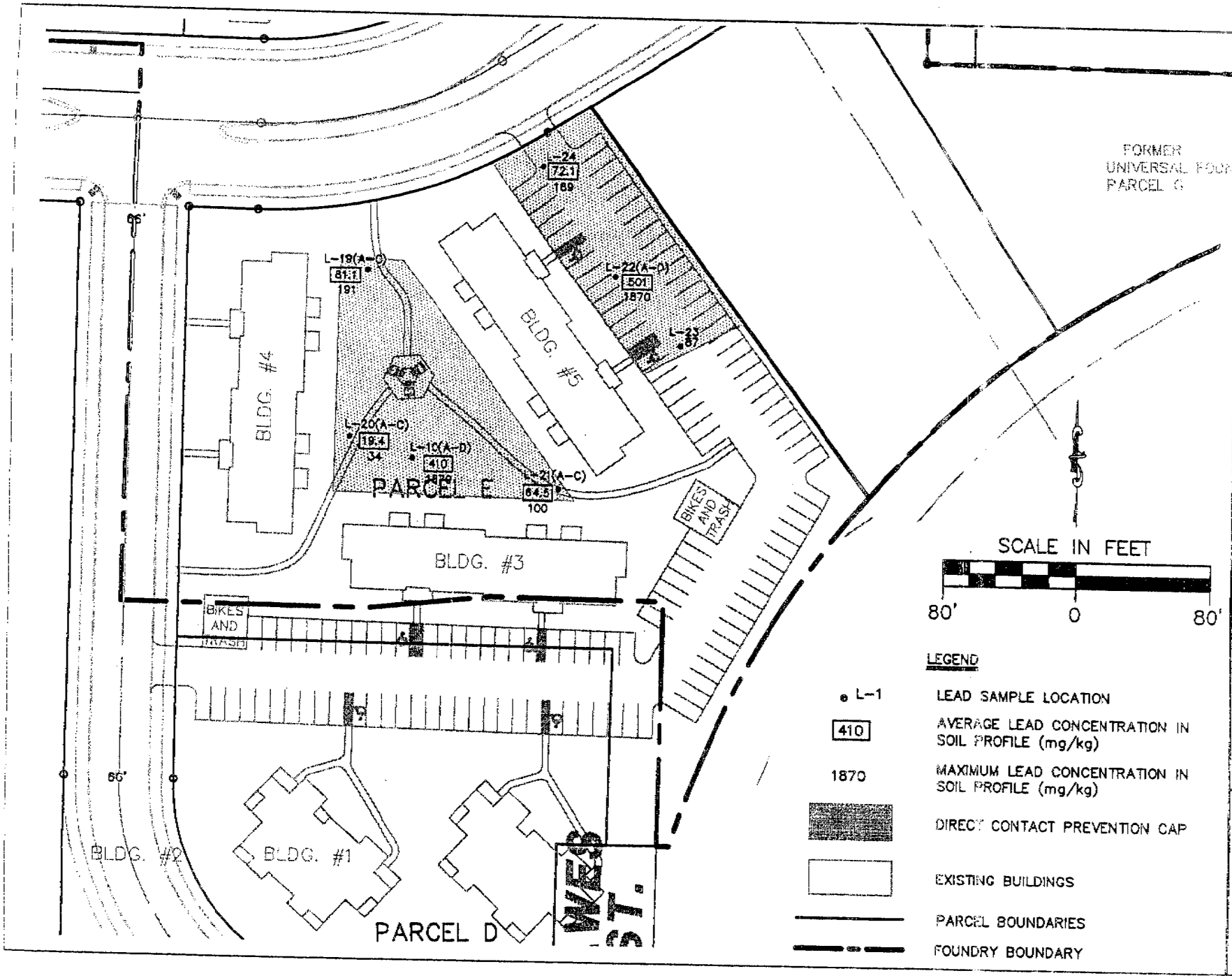
1. A geotextile non-woven fabric was placed at the base of the Parcel E Court Yard cap to provide a visual barrier between the lead-impacted soil and the direct contact cover. Exposure of the geotextile fabric will require maintenance to the soil cover.
2. The direct contact cover generally consisting of soil and grass within the court yard of Parcel E shall be maintained to a thickness of 18 inches to limit the direct contact potential and provide positive drainage on the site.
3. A layer of asphaltic concrete was placed over crushed aggregate base course in an area depicted on the Figure 1. Periodic inspection of the asphalt concrete will be required as any cracks should be sealed on an annual basis.



DESIGNED BY	CDH	4/05/03
DRAWN BY	AGM	4/05/03
APPROVED BY		
CADFILE	SCALE	1" = 150'
122/67980/Universal foundry.dwg	FIGURE NO.	1
STS PROJECT NO.		
27666XA		

SITE LOCATION DIAGRAM
FORMER UNIVERSAL FOUNDRY PROPERTY
OSHKOSH, WISCONSIN

STS Consultants Ltd.
Consulting Engineers
563 North Main Street
Oshkosh, WI 54901
920.235.0270



DESIGNED BY	CDH	4/05/03
DRAWN BY	AGM	4/05/03
APPROVED BY		
CADFILE 1224679000\lines\sof foundry.dwg	SCALE 1" = 80'	FIGURE NO. 2
STS PROJECT NO. 27666XA		

LEAD SAMPLING LOCATION DIAGRAM
UNIVERSAL FOUNDRY
OSHKOSH, WISCONSIN

STS Consultants Ltd.
Consulting Engineers
550 North Main Street
Oshkosh, WI 54901
920 235 0270