

9302020332

DECLARATION OF RESTRICTIVE COVENANT

ORIGINAL

The property that is the subject of this Restrictive Covenant is the subject of remedial action under Chapter 70.150D RCW. The work that will be done to clean up the property (hereinafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington, Department of Ecology v. Defendants, Pierce County Superior Court No. 92-2-11351-7, and in attachments to the Decree and in documents referenced in the Decree. This Restrictive Covenant is required by WAC 173-340-440 (1991 ed.) because the Cleanup Action on the Site will result in residual concentrations of arsenic and lead which exceed Ecology's Methods A and B cleanup levels for soil established under WAC 173-340-740.

The undersigned, ELF ATOCHEM North America, Inc., is the fee owner of real property known as the 3009 Taylor Way Site in the County of Pierce, State of Washington hereinafter referred to as the "Site."

As a result of the Cleanup Action, the Site will include a pile of woodwaste, soil, slag and other materials which have been covered by the a multilayer impermeable cap system. The Site also includes: a perimeter fence with locked gate for restriction of public access; a system of monitoring wells; and a methane gas handling system. This area is hereafter referred to as the Remedial Action Area ("RAA") and is depicted in Exhibit 1 attached hereto.

ELF ATOCHEM North America, Inc. makes the following declaration as to limitations, restrictions, and uses to which the RAA 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 having an interest in any portion of the RAA.

Section 1. Any activity on the RAA that may interfere with or reduce the effectiveness of the Cleanup Action or any operation, maintenance, monitoring or other activity required by the Decree is prohibited. Any activity on the RAA that may result in the release of a hazardous substance that was contained as a part of the Cleanup Action is prohibited. Some examples of prohibited activities in the capped area include: drilling; digging; placement of any objects which deform or stress the surface; driving on the surface with a vehicle that weighs more than 100 lbs.; piercing the surface with a rod, spike, etc.; damaging or plugging a wall or gas vent; bulldozing; earthwork; deposition of additional waste or other materials. The Ecology project coordinator must be informed in writing two (2) weeks prior to any proposed activity occurring with the RAA.

Margaret A. Furster
1201 34th Ave Suite 1700
Sea 98101

Auditor's Note:
Legal description omitted.

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Section 2. ELF ATOCHEM must give written notice to the Department of Ecology, or to a successor agency, of his intent to convey any interest in the RAA. No conveyance of title, easement, lease or other interest in the RAA shall be consummated by ELF ATOCHEM without adequate and complete provisions for the continued operation, maintenance and monitoring of the Cleanup Action.

Section 3. ELF ATOCHEM must notify and obtain approval from the Department of Ecology, or from a successor agency, prior to any use of the RAA that may be inconsistent with the terms of this Restrictive Covenant. The Department of Ecology or its successor agency may approve such a use only after public notice and comment.

Section 4. ELF ATOCHEM shall allow authorized representatives of the Department of Ecology, or of a successor agency, the right to enter the RAA or the Site at reasonable times for the purpose of evaluating compliance with the Cleanup Action Plan and the Consent Decree, to take samples, to inspect Cleanup Actions conducted at the RAA or the Site, and to inspect records that are related to the Cleanup Action.

Section 5. ELF ATOCHEM, its assigns and successors in interest, reserve the right under WAC 173-340-720 and WAC 173-349-440 (1991 ed.) to record an instrument which provides that this Restrictive Covenant shall no longer limit use of the RAA or be of any further force or effect. However, such an instrument may be recorded only with the consent of the Department of Ecology, or of a successor agency. The Department of Ecology or a successor agency may consent to the recording of such an instrument only after public notice and comment.

Robert DeBlanc
ELF ATOCHEM North America, Inc.

1/18/93
Date

STATE OF PENNSYLVANIA

COUNTY OF Philadelphia

I certify that I know or have satisfactory evidence that Robert DeBlanc is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and

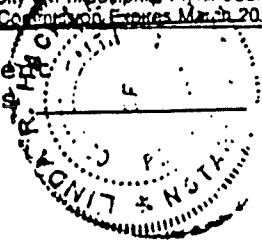
acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 1/18/93

Genia R. Hackley
(Signature)

NOTARIAL SEAL
LINDA P. WALKER, Notary Public
City of Philadelphia, Phila. County
My Commission Expires March 20, 1995

Title _____
My appointment expires _____



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RECORDED
CATHERINE PEARSALL-SIPEX
AUDITOR PIERCE CO. WASH.

