

4971334 COV

RecFee - \$162.00 Pages: 41 - WASHINGTON STATE DEPARTMENT
Clark County, WA 05/14/2013 11:36



RETURN ADDRESS

Thomas Middleton L.H.G
Washington State Dept of Ecology SWRO
PO Box 47775
Olympia, WA 98504-7440

Please print neatly or type information
Document Title(s)

Environmental Covenant

Reference Numbers(s) of related documents:

Additional Reference #'s on page _____

Grantor(s) (Last, First and Middle Initial)

Border Express LLC

Additional grantors on page _____

Grantee(s) (Last, First and Middle Initial)

State of Washington Department of Ecology

Additional grantees on page _____

Legal Description (abbreviated form: i.e. lot, block plat or section, township, range, quarter/quarter)

#263 SEC 26 T3N R1E WM .60A

Additional legal is on page _____

Assessor's Property Tax Parcel/Account Number

186754000

Additional parcel #'s on page _____

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the Indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Justin T. [Signature]

Signature of Requesting Party

RECEIVED

APR 05 2013

WA State Department
of Ecology (SWRO)

After Recording Return to:
Thomas Middleton L.H.G.
Washington State Department of Ecology
Southwest Regional Office
P.O. Box 47775
Olympia, Washington 98504-7440

RECEIVED

MAY 16 2013

WA State Department
of Ecology (SWRO)

Environmental Covenant

Grantor: Border Express LLC
Grantee: State of Washington, Department of Ecology
Legal: #263 SEC 26 T3N R1EWM .60A
Tax Parcel Nos.: 186754000
Cross Reference: N/A

Grantor, Border Express LLC., hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this 14th day of February 2013 in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Border Express LLC, 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 Covenant. The Remedial Action conducted at the property is described in the following documents:

Cardno ERI. October 25, 2012. *Corrective Action Plan – Environmental Covenant Submittal, Former Exxon Station 73594, 13204 Northeast Highway 99, Vancouver, Washington.*

Cardno ERI. October 25, 2012. *Feasibility Study/Disproportionate Cost Analyses, Former Exxon Station 73594, 13204 Northeast Highway 99, Vancouver, Washington.*

Cardno ERI. August 25, 2011. *Groundwater Potability Evaluation – Request for Closure, Former Exxon Station 73594, 13204 Northeast Highway 99, Vancouver, Washington.*

Cardno ERI. January 7, 2011. *ExxonMobil Environmental Services Aquifer Test Report, Former Exxon Station 73594, 13204 Northeast Highway 99, Vancouver, Washington.*

Cardno ERI. June 13, 2011. *ExxonMobil Environmental Services Groundwater Monitoring Report, Former Exxon Station 73594, 13204 Northeast Highway 99, Vancouver, Washington.*

CH2M HILL Companies Ltd. (CH2M Hill). July 22, 1988. *Sensitive Receptor Risk Assessment and Divestment Environmental Investigation, Exxon Company USA, Store 7-3594, 13204 N.E. Highway 99, Vancouver, Washington.*

CH2M HILL Companies Ltd. (CH2M Hill). September 26, 1988. *Site Environmental Investigation, Exxon Company USA, R/S 7-3594, 13204 N.E. Highway 99, Vancouver, Washington.*

BA Engineering, Science, and Technology (BA). October 17, 1995. *Soil Vapor Extraction and Air Sparging System Installation at Former Exxon Station RS 7-3594, 13204 NE Highway 99, Vancouver, Washington.*

Enviro-Logic, Inc. (ELI). February 25, 1992. *Hydrocarbon Delineation Investigation, Former Exxon Service Station No. 7-3594, 13204 NE Highway 99, Vancouver, Washington.*

Enviro-Logic, Inc. (ELI). January 3, 1994. *Limited Subsurface Environmental Investigation, Former Exxon Service Station No. 7-3594, 13204 Northeast Highway 99, Vancouver, Washington.*

Environmental Resolutions, Inc. (ERI). September 19, 2002. *Confirmatory Boring and Soil Sampling Report, Former Exxon Station 7-3594, 13204 Northeast Highway 99, Vancouver, Washington.*

Environmental Resolutions, Inc. (ERI). March 18, 2003. *Monitoring Well Installation and Soil Sampling Report, Former Exxon Station 7-3594, 13204 Northeast Highway 99, Vancouver, Washington.*

Environmental Resolutions, Inc. (ERI). September 8, 2006. *Site Characterization Summary and Site Conceptual Model, Former Exxon Station 73594, 13204 Northeast Highway 99, Vancouver, Washington.*

Environmental Resolutions, Inc. (ERI). August 20, 2008. *Closure Report, Former Exxon Station 73594, 13204 Northeast Highway 99, Vancouver, Washington, Ecology VCP ID: SW 0447.*

Environmental Resolutions, Inc. (ERI). June 29, 2009. *ExxonMobil Environmental Services Sparge Well Groundwater Sampling Report, 13204 Northeast Highway 99, Vancouver, Washington.*

Environmental Resolutions, Inc. (ERI). December 3, 2009. *ExxonMobil Environmental Services Sensitive Receptor Survey, 13204 Northeast Highway 99, Vancouver, Washington.*

Environmental Resolutions, Inc. (ERI). September 14, 2010. *ExxonMobil Environmental Services Sparge Well Destruction, Installation and Groundwater Sampling Report, 13204 Northeast Highway 99, Vancouver, Washington.*

Environmental Resolutions, Inc. (ERI). January 29, 2010. *ExxonMobil Environmental Services Groundwater Monitoring Report, 13204 Northeast Highway 99, Vancouver, Washington.*

Washington State Department of Ecology (Ecology). November 24, 2008. *Letter Requiring Further Action at the following site: Former Exxon Station 7-3594, 13204 Northeast Highway 99, Vancouver, WA.*

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

This Covenant is required because the Remedial Action resulted in residual concentrations of total and dissolved lead, which exceed the Model Toxics Control Act Method A Cleanup Level for groundwater established under WAC 173-340-704. Plate 3 from the FS/DCA report is attached to illustrate the remaining extent of total and dissolved lead present at the site.

The undersigned, Border Express LLC., is the fee owner of real property (hereafter "Property") in the County of Clark, State of Washington, that is subject to this Covenant. The Property is legally described as follows: #263 SEC 26 T3N R1EWM .60A.

Border Express LLC 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 use 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 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 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, to determine compliance with this Covenant, 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 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.

Border Express LLC

Thomas M. Cook
Thomas M. Cook
President

Dated: March 26, 2013

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Rebecca S. Lawson
Rebecca S. Lawson, P.E. LHG
Section Manager
Toxics Cleanup Program
Southwest Regional Office

Dated: March 26, 2013

STATE OF Washington
COUNTY OF Clark

On this 26th day of March, 2013, I certify that Thomas M. Cook
personally appeared before me, acknowledged that he/she signed this instrument, on
oath stated that he/she was authorized to execute this instrument, and acknowledged it as the
President [type of authority] of Border Express LLC [name of
party being represented] to be the free and voluntary act and deed of such party for the uses
and purposes mentioned in the instrument.

VONDA K. LARA
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
APRIL 9, 2013

Vonda K. Lara
Notary Public in and for the State of
Washington, residing at Vancouver
My appointment expires April 9, 2013.

Exhibit A

Legal Description

Abbreviated Legal Description from the Clark County Property Information Center:#263 SEC 26 T3N
R1EWM .60A