

9804090180

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

Stephen W. Horenstein, Attorney
Horenstein & Duggan, P.S.
P.O. Box 694
Vancouver, WA 98666

FILED FOR RECORD
CLARK CO. WASH
Horenstein & Duggan
98 APR -9 PM 3:11

AUDITOR
ELIZABETH A. LUCE

RESTRICTIVE COVENANT

Grantors:	Leichner Brothers Land Reclamation Corporation
Grantees:	The Public
Abbreviated Legal:	Section 4, T2N, R2E and Section 23, T3N, R2E W.M.
Assessor's Tax Parcel #	199843; 199845; 199846; 199847; 199848; 199856; 199857; 199858; 199859; 199860; 199863; 199865; 199866; 199869; 199871; 105740
Other Reference Nos:	N/A

The property that is the subject of this Restrictive Covenant is the subject of remedial action under Chapter 70.105D RCW. The work done to clean up the property (hereafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington v. Leichner Brothers Land Reclamation Corporation, Clark County Superior Court No. 96-2-03081-7 and in exhibits to the Consent Decree. This Restrictive Covenant is required by the State of Washington Department of Ecology pursuant to WAC 173-340-440 because contaminants will be left in place on the property. This Restrictive Covenant is necessary to assure the continued protection of human health and the environment and the integrity of the Cleanup Action.

The undersigned, Leichner Brothers Land Reclamation Corporation, is the fee owner of real property in the County of Clark, State of Washington (legal description attached hereto as Exhibit "A"), hereafter referred to as the "Property." The Property encompasses both surface and subsurface estates. Leichner Brothers Land Reclamation Corporation makes the following declarations 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.

623
RESTRICTIVE COVENANT - 1
S:\Clients\00143\00143001\00143001 D01.doc

HORENSTEIN & DUGGAN, P.S.,
ATTORNEYS AT LAW
900 Washington Street, Suite 900
P.O. Box 694
Vancouver, Washington 98666
(360) 699-4771 • (503) 289-2643

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

Section 2. Any activity on the Property that may interfere with the Cleanup Action is prohibited. Any activity on the Property that may result in the release of a hazardous substance that was contained as a part of the Cleanup Action is prohibited, unless allowed under the terms of an NPDES or state waste discharge permit.

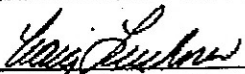
Section 3. The owner of the Property must give written notice to the Department of Ecology, or to a successor agency, of the owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property may be consummated by the owner without adequate and complete provision for the continued operation, maintenance, and monitoring of the Cleanup Action.

Section 4. The owner of the Property must notify and obtain approval from the Department of Ecology, or from a successor agency, prior to any use of the Property that is 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 opportunity for comment, and only if the proposed use will not threaten human health or the environment.~~

Section 5. The owner of the Property shall allow authorized representatives of the Department of Ecology, or of a successor agency, the right to enter the Property in accordance with the terms set forth in Section IX of the Consent Decree for the purposes of evaluating compliance with the terms of the Consent Decree and the Cleanup Action Plan, to take samples, to inspect Cleanup Action taken at the Property, and to inspect records that are related to the Cleanup Action.

Section 6. The owner of the Property and the owner's assigns and successors in interest reserve the right under WAC 173-340-440 to record an instrument providing 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 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, and only if all of Leichner Brothers Land Reclamation Corporation's obligations under the Consent Decree have been satisfactorily completed.

LEICHTNER BROTHERS LAND RECLAMATION CORPORATION

By: 
Craig Leichner, President

Date: April 9, 1998

RESTRICTIVE COVENANT - 2
S:\Clients\00143\00143001\00143001 D01.doc

HORENSTEIN & DUGGAN, P.S.,
ATTORNEYS AT LAW
900 Washington Street, Suite 900
P.O. Box 694
Vancouver, Washington 98666
(360) 699-4771 • (503) 289-2643

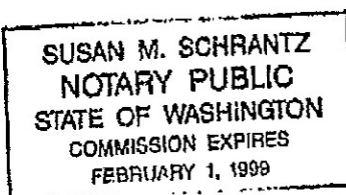
STATE OF WASHINGTON)

: ss.

County of Clark)

I certify that Craig Lechner appeared personally before me and that I know or have satisfactory evidence that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of Lechner Brothers Land Reclamation Corporation to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 9th day of April, 1998.



Susan Schrantz
NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: Feb 1, 1999

RESTRICTIVE COVENANT - 3
S:\Clients\00143\00143001\00143001 D01.doc

HORENSTEIN & DUGGAN, P.S.,
ATTORNEYS AT LAW
900 Washington Street, Suite 900
P.O. Box 694
Vancouver, Washington 98666
(360) 699-4771 • (503) 289-2643

LEGAL DESCRIPTION FOR LEICHNER
Perimeter Description

July 27, 1993

A parcel of property in the James McAllister and in the William Goldbeck Donation Land Claim and in a portion of the Newton Addition as recorded in Book A of Plats at page 60 of Clark County records, in Section 4, Township 2 North, Range 2 East and in the South half of Section 33, Township 3 North, Range 2 East of the Willamette Meridian described as follows:

BEGINNING at the Southeast corner of the McAllister Donation Land Claim;

THENCE North 88° 29' 04" West along the South line of said McAllister Donation Land Claim 227.44 feet to the Northeast corner of the Northwest quarter of Lot 1 of the Newton Addition;

THENCE South 01° 43' 50" West along the East line of said Northwest quarter 473.72 feet to that line established by boundary agreement as recorded under Auditor's File # 9108090260 of Clark County records;

THENCE North 88° 16' 04" West along said boundary agreement line 981.21 feet;

THENCE South 01° 43' 50" West along said boundary agreement line 0.41 feet to the South line of the North half of Lot 3 of said Newton Addition;

THENCE North 88° 16' 06" West along said South line and the South lines of the North half of Lot 4 and the North half of Lot 5 of said Newton Addition 1119.46 feet to the centerline of NE 94th Ave;

THENCE North 02° 10' 22" East along said centerline 466.22 feet to the Southwest corner of said McAllister Donation Land Claim;

THENCE North 02° 09' 58" East along the West line of said McAllister Donation Land Claim 236.55 feet to the Southwest corner of that tract conveyed to Arvid E Koski by deed recorded under Auditor's File # G 18438 of Clark County records;

THENCE South 88° 29' 04" East along the South line of said Koski tract 90.00 feet to the Southeast corner thereof;

THENCE North 02° 09' 58" East along the East line of said Koski tract 80.01 feet to the Northeast corner thereof;

THENCE North 88° 29' 04" West along the North line of said Koski tract 90.00 feet to the West line of said McAllister Donation Land Claim;

EXHIBIT A

THENCE North 02° 09' 58" East along said West line 60.00 feet to the South line of that tract conveyed to Felix F. Fleischer by deed recorded under Auditor's File # 8403160018 of Clark County records;

THENCE South 88° 29' 04" East along said South line 1157.05 feet to a fence line and the Boundary Line Agreement as recorded under Auditor's File # 9302170319 of Clark County records;

THENCE North 01° 43' 14" East along said fence and Boundary Line Agreement 376.53 feet to the North line of said Fleisher tract;

THENCE North 88° 29' 04" West along said North line 1154.13 feet to said West line of the McAllister Donation Land Claim;

THENCE North 02° 09' 58" East along said West line 205.37 feet to the North line of that tract conveyed to Lorry Leichner by deed recorded under Auditor's File # G 336779 of Clark County records;

THENCE South 88° 29' 04" East along said North line 122.00 feet to the most Southerly Southwest corner of that tract conveyed to Lorry Leichner by deed recorded under Auditor's File # G 730682 of Clark County records;

THENCE North 02° 09' 58" East along the West line of said Leichner tract 102.00 feet;

THENCE North 88° 29' 04" West along the South line of said Leichner tract 122.00 feet to said West line of said McAllister Donation Land Claim;

THENCE North 02° 09' 58" East along said West line 1023.14 feet to the Westerly extension of the South line of the Kuhnhausen parcel as described in Exhibit D of the Boundary Line Agreement as recorded under Auditor's File # 9108090261 of Clark County records;

THENCE South 87° 10' 13" East along said South line 390.06 feet;

THENCE South 87° 51' 35" East along said South line 756.61 feet to the East line of said Kuhnhausen parcel;

THENCE North 02° 21' 36" East along said East line 380.79 feet to the Northeast corner of said Kuhnhausen parcel;

THENCE North 87° 48' 39" West along the North line of said Kuhnhausen parcel 1147.93 feet to the West line of said McAllister Donation Land Claim;

THENCE North 02° 09' 58" East along said West line 169.75 feet, more or less, to the South line of that tract conveyed to B. Charles Dorsey by deed recorded under Auditor's File # 8704210088 of Clark County records;

THENCE South 88° 28' 27" East along said South line 464.03 feet to the East line of said Dorsey tract;

THENCE North 02° 09' 58" East along said East line 25.11 feet;

THENCE North $02^{\circ} 02' 17''$ East along said East line 162.90 feet to the South line of that tract conveyed to J.E. O'Flaherty by deed recorded in Book 72 at page 382 of Clark County records;

THENCE South $88^{\circ} 28' 27''$ East along said South line 716.94 feet, more or less, to the East line of said O'Flaherty tract;

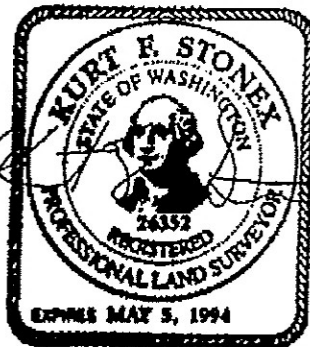
THENCE North $02^{\circ} 04' 21''$ East along said East line 188.10 feet, more or less, to the North line of the South half of said McAllister Donation Land Claim;

THENCE South $88^{\circ} 28' 27''$ East along said North line 1140.56 feet, more or less, to the East line of said McAllister Donation Land Claim;

THENCE South $02^{\circ} 04' 21''$ West along said East line 673.42 feet;

THENCE South $02^{\circ} 07' 55''$ West along said East line 1839.88 feet to the Northwest corner of the Napoleon McGilvery Donation land Claim;

THENCE South $01^{\circ} 59' 43''$ West along said East line 492.82 feet to the POINT OF BEGINNING.



7/27/93