

**RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:**

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KING COUNTY, WA

**RESTRICTIVE COVENANT**

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Grantor	Pioneer Towing Company, Inc
Grantee	Owners of property described, commonly known as Kenmore Industrial Park
Legal Description	A portion of Government Lots 1 and 2 of Section 11, Township 26 North, Range 4 East, W M in King County, Washington, and Second Class Shorelands Additional legal description on page 6
Assessor's Tax Parcel No	1126049001, 1126049020; 1126049158
Reference Nos of Document Released/Assigned/Amended	NA

**RESTRICTIVE COVENANT**

**KENMORE INDUSTRIAL PARK  
N E BOTHELL WAY AND JUANITA DRIVE N E  
KENMORE, WASHINGTON**

This Restrictive Covenant is made pursuant to RCW 70 105D 030(l)(f) and (g) and WAC 173-340-440 by the Pioneer Towing Company Inc

A remedial action (hereafter "Remedial Action") is to be conducted on the property that is the subject of this Restrictive Covenant The Remedial Action includes cleanup actions appropriate for mixed residential/commercial use of the property (hereafter the "Residential/Commercial Remedial Action") and/or cleanup actions appropriate for continued industrial use of the property (hereafter the "Continued Industrial Use Remedial Action"). The Residential/Commercial Remedial Action and the alternative Continued Industrial Use Remedial Action are both described in (1) the Cleanup Action Plan for Kenmore Industrial Park ("CAP"), dated August 8, 2001 and (2) Consent Decree No 01-2-22187-6SEA, entered as of August 14, 2001. The CAP and the Consent Decree are on file at Ecology's Northwest Regional Office located at 3190 160th Avenue S E Bellevue, Washington

This Restrictive Covenant is required because residual concentrations of lead, arsenic, barium, selenium, and petroleum hydrocarbons remain in soil and/or groundwater below the subsurface of the property in concentrations that exceed Washington Department of Ecology ("Ecology") residential cleanup standards This Restrictive Covenant is also required because a conditional point of compliance has been established for groundwater

The undersigned, Pioneer Towing Company, Inc ("Owner"), is the fee owner of real property (hereafter "Property") in the County of King, State of Washington, that is subject to this Restrictive Covenant The Property is legally described in Attachment A of this Restrictive Covenant and made a part hereof by reference

The following covenants, conditions, and restrictions apply to the use of the Property They are intended to run with the land, and be binding on the Owner and its successors and assigns.

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**Section 1 Activity Prohibitions** The Owner shall prohibit activities on the Property that (a) interfere with either the Remedial Action or other measures to assure the integrity of the cleanup action and continued protection of human health and the environment or (b) may result in the release of a hazardous substance which was contained as a part of the cleanup Pursuant to this requirement, the Owner of the Property shall not take any action that will reduce the integrity of the soil cover or the impervious surface cap without Ecology approval, provided, however, that the completion of maintenance or construction activities at the Property that will include the replacement of portions of the soil cover or impervious surface cap located at the Property, including the construction of foundations and other structure and the installation or maintenance of dry utility, gas, stormwater, water and sewer lines, shall not constitute activities that will reduce the integrity of the soil cover or impervious surface cap at the Property if performed in accordance with the Ecology approved Health and Safety Plan, Operations and Maintenance Plan, and Engineering Design Report, including the Landfill Gas Design Report, required by the Consent Decree

**Section 2 Restriction on Use of Groundwater at the Property.** No groundwater may be taken for any use from the Property that is inconsistent with the Remedial Action unless approved by Ecology

**Section 3 Conveyance Requirement.** No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Property shall be consummated without provision for continued operation and maintenance of any containment system, treatment system, or monitoring system and for continued compliance with this restrictive covenant Owner shall notify Ecology at least thirty (30) days prior to any transfer of a fee interest in the Property, excluding any transfers of a fee interest in a condominium unit, a lease or rental of an apartment unit, or a commercial lease of less than 50,000 square feet

**Section 4. Lease Restriction.** The Owner shall restrict leases to uses and activities consistent with this restrictive covenant and notify lessees of the restrictions on the use of the Property

**Section 5 Inconsistent Use Requirement** The Owner shall notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant Ecology may approve of an inconsistent use only after public notice and opportunity for comment, however, Ecology's approval shall not be unreasonably withheld

**Section 6 Access** The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times, and after advance notice from Ecology, for the purposes of inspecting records related to the Remedial Action, reviewing the progress of remedial actions conducted at the Property, conducting tests and collecting samples, and verifying data submitted to Ecology However, Ecology need only provide advance notice if feasible

**Section 7 Allowed Residential and Commercial Uses** The Residential/Commercial Use Remedial Action contemplates and is to be carried out in conjunction with and as part of redevelopment of the Property as a mixed use property. Following implementation of the Residential/Commercial Use Remedial Action for each phase, residential and commercial uses of that portion of the Property consistent with the terms of this Restrictive Covenant shall be

permitted If the Continued Industrial Use Remedial Action alternative is implemented for all or a portion of the Property, only industrial property uses and support facilities ( e.g., facilities such as offices or restaurants that are commercial in nature but are primarily devoted to administrative functions necessary for the industrial use and/or are primarily intended to serve the industrial facility employees and not the general public ) as described under WAC 173-340-200 and WAC 173-340-745(b)(1), and/or property uses approved by Ecology, shall be permitted for those portions of the Property where the Continued Industrial Use Remedial Action alternative is implemented

**Section 8 Reservation of Rights.** The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or any portion of the Property or be of any further force or effect Such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs, however, Ecology's concurrence shall not be unreasonably withheld

PIONEER TOWING COMPANY, INC

By Gary W. Sergeant  
Its President  
Dated this 12th day of October, 2001

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this 12th day of October, 2001, before me personally appeared Gary W. Sergeant, to me known to be the President of Pioneer Towing Company, Inc., the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that was authorized to execute the said instrument, and that the seal affixed, if any, is the corporate seal of said corporation

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written

Catherine J. Bryan  
(Signature)

Catherine J. Bryan  
(Please print name legibly)

NOTARY PUBLIC in and for the State of  
Washington, residing at  
Seattle  
My commission expires 11/20/2003

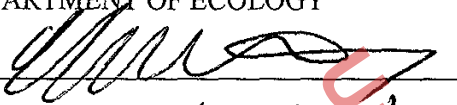
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**RECEIPT OF THIS RESTRICTIVE COVENANT IS HEREBY ACKNOWLEDGED.**

Executed this 30<sup>th</sup> day of October, 2001

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

By 

(Printed name) Ching-Pi Wang

Title Environmental Engineer

Official Copy

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Attachment A  
Property Legal Description

**KENMORE INDUSTRIAL PARK SITE LEGAL DESCRIPTION**

That portion of the Government Lots 1 and 2, of Section 11, Township 26 North, Range 4 East, W M in King County, Washington, and Second Class Shorelands, described as follows

Commencing at the northeast corner of said Government Lot 1, thence S02°33'43"W, along the east line of said Government Lot 1 a distance of 2068.94 feet; thence N87°26'17"W 30 00 feet to the west right-of-way margin of 68<sup>th</sup> Avenue NE and the POINT OF BEGINNING of the herein described tract, said point being on the south line of a tract of land conveyed by deed recorded under recording number 9601180422 records of said county; thence S02°33'43"W, along said west margin, 775 07 feet to the north line of a tract of land conveyed by deed recorded under Auditor's File Number 5113465, records of said county, thence the following three courses and distances along said north line, thence N80°49'15"W, 178 56 feet to a point of tangency with a 1,600 00 foot radius curve to the left, thence westerly along said curve, through a central angle of 27°00'00", a distance of 753 98 feet, thence S72°10'45"W 1,017 10 feet to the Inner Harbor Line of Lake Washington as shown on Sheet 2 of State of Washington Commissioner of Public Lands Maps of Lake Washington Shore Lands, dated September 19, 1921, thence along said Inner Harbor Line N01°10'45"E, 855.17 feet; thence N59°13'08"E, 855 53 feet, thence North, 150 00 feet, thence S87°26'17"E 415 00 feet to the southwest corner of a tract of land conveyed by deed recorded under Auditor's File Number 5671305, records of said county; thence continuing S87°26'17"E 290 00 feet along the south line of said tract to a nonradial intersection with said southerly right-of-way margin of NE 175<sup>th</sup> Street as conveyed by deed recorded under Auditor's File Number 5429742, records of said county, said intersection being on the arc of a 311 48 foot radius curve concave to the north, the center of which bears N35°00'28"E, thence the following two courses and distances along said margin, thence easterly along said curve, through a central angle of 29°17'49", a distance of 159.27 feet; thence S02°33'43"W 5.01 feet to the northwest corner of a tract of land conveyed by deed recorded under recording number 8411150387, records of said county, thence the following three courses and distances along the boundary of said tract, thence S02°33'43"W 186 61 feet, thence S87°26'17"E 100 00 feet, thence N02°33'43"E 96.52 feet to the southwest corner of a tract of land conveyed by deed recorded under recording number 9312220199, records of said county, thence S87°26'17"E, along the south line of said tract, 60 00 feet to the northwest corner of a tract of land conveyed by deed recorded under recording number 9601180422, records of said county, thence the following two courses and distances along the boundary of said tract, thence S02°33'43"W 150 00 feet; thence S87°26'17"E 145 00 feet to the POINT OF BEGINNING

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