

9406270308

DECLARATION OF RESTRICTIVE COVENANT

The property that is the subject of this Restrictive Covenant is the subject of remedial action under Chapter 70.105D RCW, excepting that portion of the property addressed by proposed federal consent decree for the Commencement Bay Nearshore/Tideflats Superfund site; Sitcum Waterway Problem Area. Exhibit F. The work done to clean up the property (hereafter the "Cleanup Action") is described in Washington State Department of Ecology Consent Decree No. 93 2 086844, and in attachments to the Decree. This Restrictive Covenant is required by WAC 173-340-440 because the Cleanup Action at the Site will result in residual concentrations of arsenic and lead which exceed Ecology's Method A cleanup levels for Industrial soil established under WAC 173-340-745.

The Port of Tacoma is the fee owner of real property known as the Wasser-Winters log sort yard in the county of Pierce, state of Washington (legal description attached in Exhibit B), hereafter referred to as the "Site".

As a result of the Cleanup Action, the Site will include a woodwaste, soil, and slag mixture which will be covered with a cap system equipped with a surface water collection system. The Site will also include monitoring wells. The portion of the property remaining uncontained by the cap will meet Method A Industrial soil standards but may exceed Method A residential soil standards for arsenic and lead.

The Port of Tacoma makes the following declaration as to limitations, restrictions, and uses to which the Site 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 Site.

Section 1 The Site may be used only for Industrial uses as defined in and allowed under the City of Tacoma's Zoning Regulations codified in the Tacoma City Code as of the date of this Restrictive Covenant.

Section 2 Any activity on the Site that would interfere with or reduce the effectiveness of the Cleanup Action or any operation, maintenance, monitoring, or other activity required by the Order (or any Ecology-approved modification or amendment to the Order) is prohibited. Any activity on the Site that would result in the release of a hazardous substance that was contained as a part of the Cleanup Action is prohibited. It is understood that disturbance of the cap may be required in the future for installation of utilities or other activities associated with future industrial use of the site. The Port or future owner shall obtain approval from Ecology prior to initiating any disturbance of the cap stormwater drainage and/or monitoring system. Ecology shall not deny approval if the Port or future owner can show: (1) that no releases of hazardous materials will occur; (2) Integrity of the cap and stormwater drainage and monitoring systems will be restored to their original condition in a timely manner; and (3) that material will be handled and disposed of in accordance with State law.

Section 3 The Port or future owner shall maintain the cap and stormwater collection system in accordance with the Cleanup Action Plan and Ecology-approved Remedial Design Documents.

Section 4 The owner of the Site 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 Site. No conveyance of title, easement, lease or other interest in the Site shall be consummated by the owner without adequate and complete provision for the continued operation, maintenance and monitoring of the Cleanup Action.

Section 6 The owner shall allow authorized representatives of the Department of Ecology, or of a successor agency, the right to enter the Site at reasonable times for the purpose of evaluating compliance with the Cleanup Action Plan and the Order, to take samples, to inspect Cleanup Actions conducted at the Site, and to inspect records that are related to the Cleanup Action.

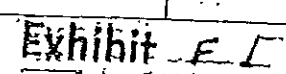
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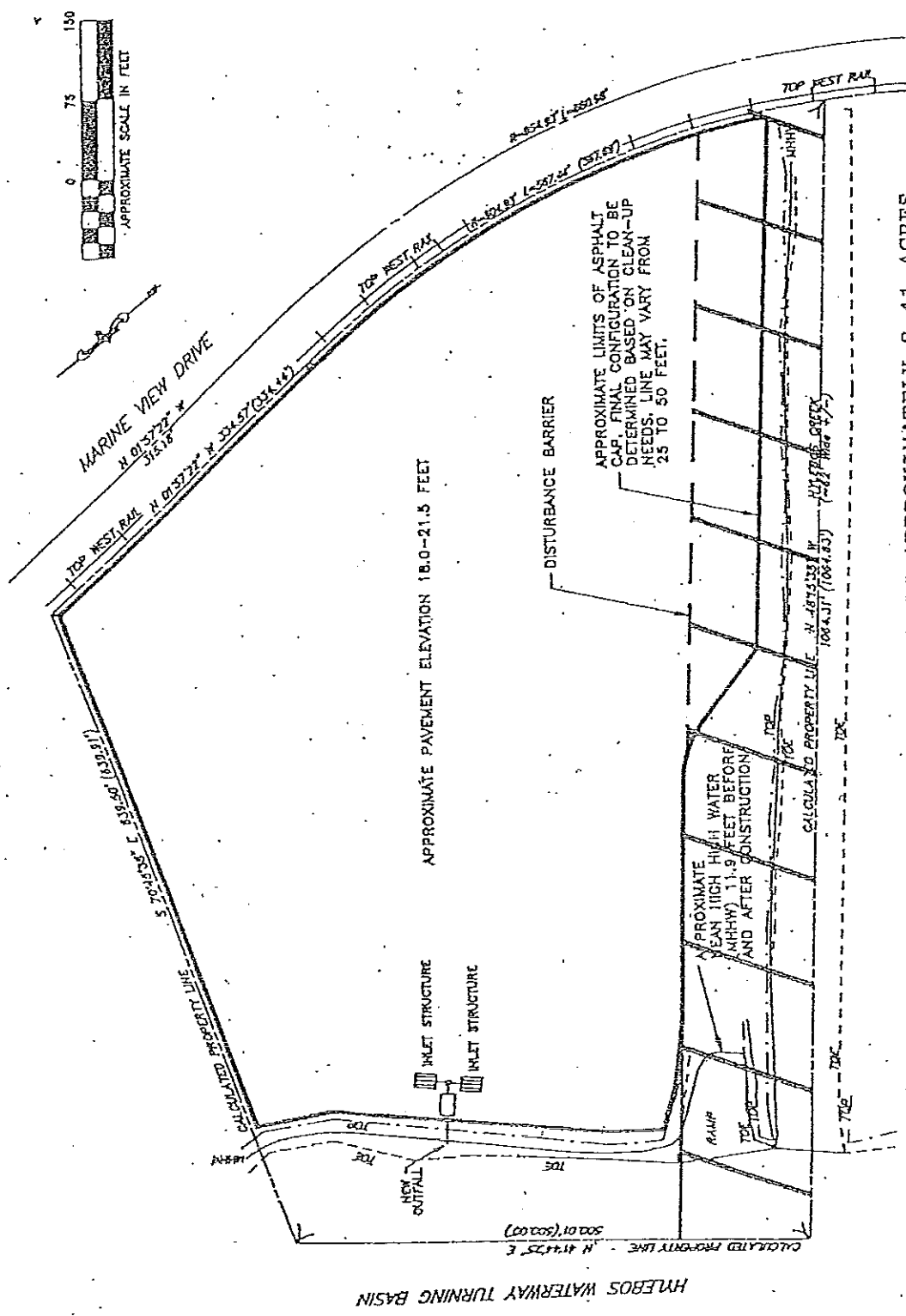
The Port of Tacoma agrees to file this Restrictive Covenant in the Site property deed with the Pierce County Auditor and provide the Department of Ecology with a filed copy.

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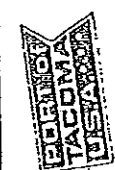
Port of Tacoma 6/27/94  
Date

PT017799





TOTAL AREA OF DISTURBANCE BARRIER IS APPROXIMATELY 2.41 ACRES.



**PORT OF TACOMA**  
 P.O. BOX 1837 TACOMA, WA 98401  
 (206) 383-5841

**WASSER WINTERS SITE  
 PARCEL 47  
 PROPOSED PLAN**

DWG: SWA047.DWG  
 DATE: 3-30-93  
 DRAWN BY: DAH  
 CHECKED BY: CLR