

RETURN ADDRESS:
MONTGOMERY LAW FIRM
P. O. Box 269
Colville, Washington 99114
File No. 3075

DOCUMENT TITLE: Environmental Covenant

GRANTOR (S):

Last, First, Middle Initial

1. Colville Post & Poles, Inc.
- 2.
- 3.

Etc. Additional names on page ____ of document

GRANTEE (S):

Last, First, Middle Initial

1. Washington State Department of Ecology
- 2.
- 3.

LEGAL DESCRIPTION:

Abbreviated form (lot, block, plat name, section-township-range)

That part of the NE 1/4 of the NE 1/4, S. 36, T. 36 N, R. 38 E, W.M., in Stevens County, WA, lying S and W of the right of way for Primary State Hwy. No. 3. Except the 100 foot right of way of the Great Norther Railway Company.

Additional legal description is on page ____ of document

ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBER (S):

1. 1948900

REFERENCE NUMBERS OF RELATED DOCUMENTS:

(IF APPLICABLE)

1. **AUDITOR'S FILE NUMBER(S):**
2. **BOOK (S) AND PAGE (S):**

Auditor File #: 2012 0005974

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STEVENS COUNTY, WASHINGTON
TIM GRAY, AUDITOR

AALLEN

AFTER RECORDING RETURN TO:
Michael A. Hibbler
Toxics Cleanup Program, Section Manager
Washington State Department of Ecology
4601 North Monroe Street
Spokane, WA 99205

GRANTOR: Colville Post & Poles, Inc.
369 Highway 395 N.
Colville, WA 99114

GRANTEE (HOLDER): Washington State Department of Ecology ("Ecology")

LEGAL DESCRIPTION: That part of the Northeast ¼ of the Northeast ¼, Section 36, Township 36 North, Range 38 East, W.M., in Stevens County, Washington, lying South and West of the right of way for Primary State Highway No. 3. Except the 100 foot right of way of the Great Northern Railway Company

TAX PARCEL NUMBER: 1948900

ENVIRONMENTAL COVENANT

I. Purpose and Background

Grantor, Colville Post & Poles, Inc., hereby binds Grantor and its successors and assigns to the land use restrictions identified herein and grants other such rights under this Environmental Covenant made this 2 day of July, 2012. This instrument grants a valid and enforceable Environmental Covenant pursuant to the Washington State Uniform Environmental Covenant Act, RCW Chapter 64.70 *et seq.*, (UECA) to the Washington State Department of Ecology and its successors and assigns (hereafter "Ecology," "Grantee" or "Holder"), imposing certain conditions and restrictions on real property located in Stevens County, Washington. The real property subject to this Environmental Covenant is identified by Stevens County Auditor's Office parcel No. 1948900 ("Property") owned by the Grantor and legally described above.

The covenants granted in this instrument are required conditions of an Administrative Settlement Agreement effective March 29, 2012, CERCLA Docket No. 10-2012-0026 between Colville Post & Poles, Inc. and the U.S. Environmental Protection Agency. The Administrative Settlement Agreement was entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, by the Colville Post & Poles, Inc. ("the Grantor"), Eugene Spring, and the U.S. Environmental Protection Agency ("EPA"). Ecology is not a party to the settlement. Ecology reserves all of its rights under the law, including but not limited to its rights to require different or additional remedial action under the Model Toxics Control Act, Chapter 70.105D (MTCA).

Colville Post & Poles, Inc. operated on the Property, a 23-acre parcel surrounded by generally rural and semi-rural properties, located approximately four miles northwest of Colville, Washington. The Colville Post and Poles Facility, or Site, as defined in RCW 70.105D.020(5) and WAC 173-340-200 respectively, extends beyond the property subject to this Covenant, onto adjacent property due to

respectively, extends beyond the property subject to this Covenant, onto adjacent property due to groundwater contamination. The Property was operated as a wood-treating facility from the late -1950s until January 2005. Elevated concentrations of pentachlorophenol (PCP) and diesel range organics (DRO) were found in the surface and subsurface soil, shallow groundwater, surface water and sediments and drainage features. In addition, 2,3,7,8- polychlorinated dibenzodioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs), commonly referred to as dioxins, were found in the surface and subsurface soils. These chemicals are hazardous substances pursuant to CERCLA.

The EPA has conducted a removal action at the Site in multiple phases. The removal action decisions are set forth in the December 22, 2004 and September 11, 2006 Action Memoranda and the supporting administrative record. These documents are on file with EPA Region 10 or its successor agency. The current regional office is located at 1200 Sixth Avenue, Seattle, Washington 98101.

The Action Memoranda provided for removal of spent product, waste sludge, wastewater and debris from the above-ground storage tanks, thermal treatment tanks, sumps and piping in the process area. In addition, buildings and structures in the process area were demolished so that contaminated soil could be excavated. Soil was also excavated from areas where treated wood had been stored and wood-treating chemicals contaminated the soil. Clean soil was placed in the North Stockpile Area and the Process Area Capping Area, as defined in the Action Memoranda and depicted in Exhibit A, and comprises the Soil Cap. Groundwater monitoring wells were installed on the Property and an adjacent property. Those wells have since been abandoned.

To address the residual concentrations of contaminants remaining in the soil and groundwater, the EPA is requiring the imposition of certain conditions and restrictions to protect human health and the environment. Pursuant to the Administrative Settlement Agreement, the EPA is requiring Grantor, and Grantor agreed, to grant this Environmental Covenant as an institutional control to protect human health and the environment and to ensure the integrity of the removal action.

II. Conveyance and Covenant

This instrument is an Environmental Covenant executed pursuant to UECA, concerning the Property. Grantor covenants to and with the Holder and its successors and assigns, that Grantor is lawfully seized in fee simple of the Property, that the Grantor has good and lawful right and power to sell and convey the Property or any interest therein, that the Property is free and clear of encumbrances, except those reviewed and approved by the EPA as documented by a title commitment dated November 2, 2011, and that Grantor will forever warrant and defend the title thereto and the quiet possession thereof.

With this Environmental Covenant, Grantor hereby binds Grantor, its successors, and assigns, to the restrictions and conditions set forth herein and conveys to the Holder such restricted property interests. The EPA and Ecology have the full rights provided by law including but not limited to CERCLA and UECA to enforce the restrictions, conditions or other rights set forth herein. Ecology shall further have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D (MTCA).

Grantor makes the following covenant as to limitations, restrictions and uses to which the Property may be put and specifies that such covenants shall 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 (hereinafter "Owner"):

1. Any activity on the Property that damages or disturbs the integrity of the Soil Cap, or otherwise results in the release of or exposure to any hazardous substances beneath the Soil Cap, is prohibited.

Some examples of activities that are prohibited in the areas covered by the Soil Cap include the following: drilling, digging, excavating (including but not limited to underground utility work), placement of any objects or use of any equipment which damages the Soil Cap, bulldozing or earthwork. The areas covered by the Soil Cap are the North Stockpile Capping Area and the Process Area Capping Area depicted on Exhibit C (Site Figure), attached hereto and incorporated herein.

2. Any activity on the Property that may interfere with the integrity or operation or maintenance of the Soil Cap or the continued protection of human health and the environment is prohibited without prior written approval from Ecology.
3. The Owner must maintain the Soil Cap, including preserving the minimum 6-inch cover of topsoil and vegetation.
4. Access to and use of the shallow groundwater beneath the Property, except when such access and use is approved in writing by Ecology, is prohibited. Shallow groundwater or the shallow aquifer is defined as the portion of the subsurface that has unconfined groundwater characteristics and is bounded on the bottom by the Colville Valley confining unit, a relatively impermeable confining unit characterized by blue clays at depths across the Site beginning from approximately 13 to 17 feet below ground surface and with an average regional thickness of 150 feet.
5. Any activity that may disturb or remobilize residual contaminants in the groundwater beneath the Property, including but not limited to drilling and/or construction of new groundwater wells or installation of a septic system, is prohibited without prior written approval from Ecology.
6. Any routing, application or disposal of storm water, or any type of waste water that may cause a release or exacerbate existing releases, is prohibited without prior written approval by Ecology.
7. The Owner shall not use the Property for residential or child-care purposes. The Owner may request a modification to the land use restriction in accordance with Section VII. Termination and Modification of this Environmental Covenant. A request for modification of the land use restriction shall include a showing by the Owner to Ecology that the Property does not exceed cleanup levels for soil or groundwater established by WAC 173-340, the Model Toxics Control Act.
8. The Owner must restrict leases to uses and activities consistent with this Environmental Covenant and notify all lessees of the restrictions on the use of the Property.
9. The Owner must provide thirty (30) days advance written notice to EPA and Ecology of the Owner's intent to convey or transfer any interest in the Property.
10. The Owner must notify and obtain written approval from EPA and Ecology prior to any proposed use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve inconsistent use only after public notice and comment.
11. The Owner shall allow authorized representatives of EPA and Ecology the right to enter the Property at reasonable times to evaluate, improve or conduct any work affecting the CERCLA removal action, including the monitoring wells, recovery wells and the cap, to take samples, to inspect any other response actions or remedial actions conducted at the Property and to inspect records that are related to the CERCLA response action. This access shall include but not be limited to maintenance of a clear route of access to the monitoring wells and the recovery wells on the Property.

III. Reservation of Rights

Grantor hereby reserves unto itself, its representatives, heirs, assigns and successors all rights accruing from ownership of the Property that are not conditioned, restricted or prohibited by this Environmental Covenant.

IV. Enforcement

Compliance with this Environmental Covenant may be enforced pursuant to all applicable laws, including but not limited to CERCLA, MTCA and UECA. The EPA and Ecology shall have full enforcement rights as provided by law. Failure by any party to enforce compliance with this Environmental Covenant in a timely manner shall not be deemed a waiver of the party's right to take subsequent enforcement actions. This Covenant shall not be construed as a compromise or waiver of any of Ecology's rights under the law, including but not limited to its rights under MTCA.

V. Recordation

Grantor shall record this instrument in the official records of Stevens County, Washington, and shall pay the costs associated with recording.

VI. General Provisions

Agency's Interest. Pursuant to RCW 64.70.030, the rights granted to EPA by this Environmental Covenant are not interests in real property.

Liberal Construction. This Environmental Covenant shall be construed in favor of effectuating the purpose of this Environmental Covenant. If any provision is found to be ambiguous, an interpretation consistent with the purposes of this Environmental Covenant that would render the provision valid shall be favored over any interpretation that would render it invalid.

Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

VII. Termination and Modification

This Environmental Covenant may only be amended or terminated in accordance with the procedures and process contained in the amendment and termination provisions of UECA, RCW 64.70.090 and RCW 64.70.100, and with the provisions of WAC 173-340-440. Ecology may approve inconsistent uses (as described in Section II, paragraph 12 above), and/or termination only after public notice and opportunity for comment.

VIII. Signature and Acknowledgements

Grantor covenants that it is authorized to grant this Environmental Covenant and shall warrant and defend the same against all claims and demands challenging such authority. The undersigned parties represent and certify that they are authorized to execute this Environmental Covenant.

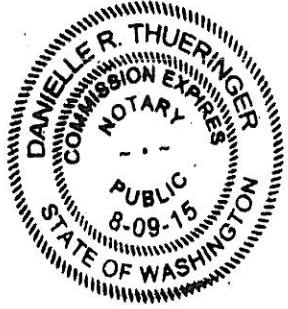
IN WITNESS WHEREOF, the authorized representative of Colville Post & Poles, Inc. has executed this Environmental Covenant on this 2nd day of July, 2012.

Signatory's printed name Eugene R. Spring

Signature Eugene R. Spring
For the Colville Post & Poles, Inc., Grantor

STATE OF Washington
COUNTY OF Stevens

The foregoing instrument was acknowledged and signed in my presence on the 2nd day of July, in the year 2012, by the person(s) who appeared before me and who acknowledged it to be his/her/their free and voluntary act.



Name (signature) [Signature]

Notary Public for the state of Washington

My Commission expires on 8-9-15

Printed Name Danielle Thueringer

The forgoing Environmental Covenant is hereby approved and certified.

By: [Signature] 6/11/2012
Daniel D. Opalski, Director
Office of Environmental Cleanup
United States Environmental Protection Agency
Region 10

Holder:
By: [Signature] 6/18/2012
Michael A. Hibbler
Toxics Cleanup Program, Section Manager
Washington State Department of Ecology
4601 North Monroe Street
Spokane, WA 99205