

*Recorded & Sent
to Ecology*

October 4, 2004

1524 Slater Road
Ferndale, WA 98248
(360) 384-1057 Tel
(360) 384-5738 Fax

Mr. John Keeling
Toxics Cleanup Program
Washington State Dept. of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452

**RECOMP
OF
WASHINGTON**

Dear Mr. Keeling:

Re: Independent Remedial Action
Recomp of Washington, 1524 Slater Road, Ferndale, WA 98248

Per your letter of September 20, 2004, enclosed please find a copy of the Recomp of Washington, Inc. Restrictive Covenant. The Restrictive Covenant was filed with Whatcom County on October 1, 2004.

As a Notary Public in and for the State of Washington residing in Ferndale, I certify that the enclosed copy of the Restrictive Covenant is a true copy of the original. My Notary expiration date is 09-28-2006. *Thomas J. Bubanich* Thomas J. Bubanich 10-04-04.



Sincerely,

Thomas J. Bubanich

Thomas J. Bubanich
Administrator

Cc: Frank Moscone, President, Recomp of Washington, Inc. (via email)
Dave Bader, Environmental Health Services (via email)





2041000167

Page: 1 of 5
10/01/2004 2:44 PM
D/RC \$29.00
Whatcom County, WA

Request of: RECOMP OF WASHINGTON INC

RETURN DOCUMENT TO:

Recomp of Washington, Inc.
1524 Slater Road
Ferndale, WA 98248

Use dark black ink and print legibly. Documents not legible will be rejected per RCW 65.04.045 & 65.04.047

DOCUMENT TITLE(S):

RESTRICTIVE COVENANT

**AUDITOR FILE NUMBER & VOL. & PG. NUMBERS OF DOCUMENT(S)
BEING ASSIGNED OR RELEASED:**

Four Pages

Additional reference numbers can be found on page _____ of document.

GRANTOR(S)

RECOMP OF WASHINGTON, INC.

Additional grantor(s) can be found on page _____ of document.

GRANTEE(S):

Additional grantee(s) can be found on page _____ of document.

**ABBREVIATED LEGAL DESCRIPTION: (Lot, block, plat name OR; qtr/qtr, section,
township and range OR; unit, building and condo name.)**

LOT 4 RECOMP SHORT PLAT AS RECORDED BOOK 21 SHORT PLATS
PG 93

Additional legal(s) can be found on page _____ of document.

ASSESSOR'S 16-DIGIT PARCEL NUMBER:

390233 183094 0000

Additional numbers can be found on page _____

The Auditor/Recorder will rely on the information provided on this form. The responsibility for the accuracy of the indexing information is that of the document preparer.

Section 5. The Owner of the Property must give thirty (30) days advance written notice to Ecology of the Owner's intent to convey 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 6. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 7. The Owner must 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 any inconsistent use only after public notice and comment.

Section 8. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times, and upon reasonable notice unless an emergency prevents such notice, for the purposes of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the Remedial Action.

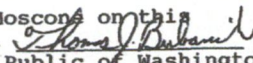
Section 9. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.



Sept 30-04

Recomp of Washington, Inc.

Date

Signed before me by Frank Moscone on this 30th Day of September 2004. 
Thomas J. Bubanich, Notary Public of Washington State. My Notary expire 09-28-2006, I reside in Ferndale, Washington





2041000167

Page: 1 of 5
10/01/2004 2:44 PM
D/RC \$23.00
Whatcom County, WA

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1524 Slater Road

Ferndale, WA 98248

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<p>DOCUMENT TITLE(S): RESTRICTIVE COVENANT</p>
<p>AUDITOR FILE NUMBER & VOL. & PG. NUMBERS OF DOCUMENT(S) BEING ASSIGNED OR RELEASED:</p> <p style="text-align: center;">Four Pages</p> <p>Additional reference numbers can be found on page _____ of document.</p>
<p>GRANTOR(S)</p> <p>RECOMP OF WASHINGTON, INC.</p> <p>Additional grantor(s) can be found on page _____ of document.</p>
<p>GRANTEE(S):</p> <p>Additional grantee(s) can be found on page _____ of document.</p>
<p>ABBREVIATED LEGAL DESCRIPTION: (Lot, block, plat name OR; qtr/qtr, section, township and range OR; unit, building and condo name.)</p> <p>LOT 4 RECOMP SHORT PLAT AS RECORDED BOOK 21 SHORT PLATS PG 93</p> <p>Additional legal(s) can be found on page _____ of document.</p>
<p>ASSESSOR'S 16-DIGIT PARCEL NUMBER:</p> <p>390233 183094 0000</p> <p>Additional numbers can be found on page _____</p>

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Recomp of Washington, Inc.
1524 Slater Road
Ferndale, WA 98248

RESTRICTIVE COVENANT

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g), and WAC 173-340-440 by Recom of Washington, Inc., its successors and assigns, and the Washington State Department of Ecology, its successors and assigns.

Legal Description: LOT 4 RECOMP SHORT PLAT AS RECORDED
 BOOK 21 SHORT PLATS PG 93

Tax Parcel I.D. #: 390233 183094 0000

RESTRICTIVE COVENANT

Recomp of Washington, Inc., 1524 Slater Road, Ferndale, Washington

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-44- by Recomp of Washington, Inc., its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

An independent remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the property is described in the following documents:

- Voluntary Cleanup Program Application and Report by Environmental Health Services, Inc., April 29, 2003.
- 1999 Annual Report, by Recomp of Washington, Inc., March 2000.
- Quarterly Groundwater Monitoring Reports by Vasey Engineering, from September 10, 1993 to December 18, 1996.
- Quarterly Groundwater Monitoring Reports by Environmental Health Services, Inc., from September 23, 1997 to September 16, 2001.
- Engineering Report Landfill Closure and Temporary Ash Storage Facility Construction by Harper Owes, June 28, 1989.
- Geotechnical Design Report Proposed Temporary Ash Storage Facility by Golder Associates, Inc.
- Technical Memorandum to Thermal Reduction Company Preliminary Hydrological Investigation, Bellingham, Washington by Golder Associates, June 1988, includes Appendix B (Groundwater) by Berryman and Henigar.
- Ecology's NFA letter of July 7, 2004.

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

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of Lead and Cadmium which exceed the Model Toxics Control Act Method B Residential Cleanup Levels for Soil established under WAC 173-340-740.

The undersigned, Recomp of Washington, Inc., is the fee owner of real property (hereafter "Property") in the County of Whatcom, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described as follows: LOT 4 RECOMP SHORT PLAT AS RECORDED BOOK 21 SHORT PLATS PG 93 and located approximately within the SW ¼ of the SW ¼ of section 33 township 39N range 2E.

Recomp of Washington, Inc. 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 Property (hereafter "Owner").

Section 1. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in the capped areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

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. Any unpermitted activity on the property that may result in the release of contaminants remaining on the Property as part of the Remedial Action that may expose the City of Ferndale water sewer or storm water systems to contamination is prohibited without prior written approval from Ecology.

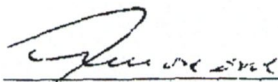
Section 5. The Owner of the Property must give thirty (30) days advance written notice to Ecology of the Owner's intent to convey interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

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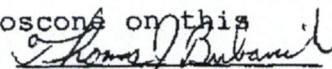
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Sept 30-04

Recomp of Washington, Inc.

Date

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30th Day of September 2004. 
Thomas J. Bubanich, Notary Public of Washington
State. My Notary expire 09-28-2006, I reside in
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