

After Recording Return to:
Patti Carter
Department of Ecology
4601 N. Monroe Street
Spokane, WA 99205-1295

696137

Covenants Rec Fee: \$ 66.00
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Eunice L. Coker, Whitman County Auditor



Environmental Covenant

WA3028

Grantor: Michael D. and Terry L. Wagoner and Jack and Debbie Willey

Grantee: State of Washington, Department of Ecology

Legal: Tract A of Pullman Joint Venture Property Lines Adj./Short Plat, recorded under Recording No 495966, being a portion of Lot 2, Block 2, North Campus Heights Addition, according to plat thereof, recorded under Recording No. 388868, in Whitman County, WA.

Tax Parcel Nos.: 1-1190-00-02-02-0003

Grantor, Michael D. and Terry L. Wagoner and Jack and Debbie Willey, hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this 9th day of September, 2009 in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Michael D. and Terry L. Wagoner and Jack and Debbie Willey, its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

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

- Tesoro Site No. 62174, 1960 NE Terre View Drive, Pullman, Washington; Kleinfelder letter dated March 15, 2006.



- Groundwater Monitoring Report and Model Toxics Control Act (MTCA) Evaluation, Tesoro Site No. 62174, 1960 NE Terre View Drive, Pullman, Washington: Kleinfelder, Inc., February 2005.
- UST Closure and Site Assessment Report, Tesoro Site No. 62174, 1960 NE Terre View Drive, Pullman, Washington: Kleinfelder, Inc., March 17, 2003.

These documents are on file at Ecology's Eastern Regional Office (ERO).

This Covenant is required because the Remedial Action resulted in residual concentrations of gasoline, benzene, ethylbenzene, xylenes, EDB and MTBE which exceed the Model Toxics Control Act Method A Cleanup Levels for groundwater established under WAC 173-340-720.

The undersigned, Michael D. and Terry L. Wagoner and Jack and Debbie Willey, are the fee owners of real property (hereafter "Property") in the County of Whitman, State of Washington that is subject to this Covenant. The Property is legally described as follows:

Tract A of Pullman Joint Venture Property Lines Adj./Short Plat, recorded under Recording No 495966, being a portion of Lot 2, Block 2, North Campus Heights Addition, according to plat thereof, recorded under Recording No. 388868, in Whitman County, WA.

Michael D. and Terry L. Wagoner and Jack and Debbie Willey make the following declaration as to limitations, restrictions, and uses to which the Property may be put and specify 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 (hereafter "Owner").

Section 1. No groundwater from the contaminated zone may be taken for any use from the Property. This zone includes all groundwater extracted from the upper 32 feet of the subsurface.



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

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this 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.

Michael D. Wagoner


Owner

Dated: 9/8/09

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Eunice L. Coker, Whitman County Auditor



Terry L. Wagoner

Terry L. Wagoner
Owner

Dated: 9/8/09

Jack Willey

Jack Willey
Owner

Dated: 9/9/09

Debbie Willey

Debbie Willey
Owner

Dated: 9/09/09

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Michael A. Hibbler

Michael A. Hibbler
Section Manager, Toxics Cleanup Program

Dated: 10/12/09

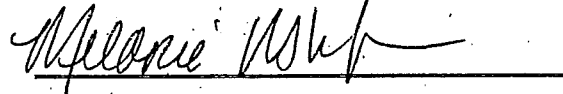
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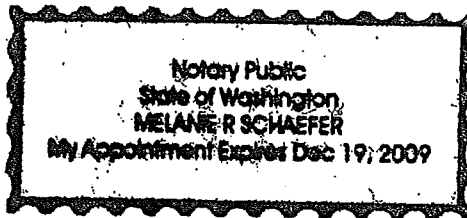
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STATE OF WASHINGTON
COUNTY OF WHITMAN

On this 9th day of September, 2008⁰⁹, I certify that Michael D. Wagoner, Terry L. Wagoner, Jack Willey, and Debbie Willey personally appeared before me, and acknowledged that they are the individuals described herein and who executed the within and foregoing instrument and signed the same at their free and voluntary act and deed for the uses and purposes therein mentioned.





Notary Public in and for the State of
Washington, residing at Pullman
My appointment expires 12-19-2009.

Exhibit A
Legal Description

Tract A of Pullman Joint Venture Property Lines Adjustment/Short Plat, recorded under Recording No. 495966, being a portion of Lot 2, Block 2, North Campus Heights Addition, according to plat thereof, under Recording No. 388868, in Whitman County, Washington