

6.5 Restrictive Covenant

CATHY PEARSALL-STIFEK, PIERCE COUNTY AUDITOR

9607150463 JUL 15 1996

RESTRICTIVE COVENANT

On the former Bertolini Property located at 1222 46th Avenue East, City of Fife, Washington.

The property that is the subject of this Restrictive Covenant has been the subject of an independent remedial action under Chapter 70.105D RCW and is legally described as below:

PARCEL A:

LOTS 1 AND 2 OF PIERCE COUNTY SHORT PLAT RECORDED JANUARY 5, 1984 UNDER RECORDING NO. 8401050179, RECORDS OF PIERCE COUNTY;

PARCEL B:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1 TOWNSHIP 20 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN;
THENCE WEST ALONG THE NORTH LINE OF SAID SUBDIVISION 93.677 FEET;
THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SUBDIVISION 480 FEET;
THENCE EAST PARALLEL WITH THE NORTH LINE OF SAID SUBDIVISION 93.677 FEET TO THE EAST LINE THEREOF;
THENCE NORTH ALONG THE EAST LINE OF SAID SUBDIVISION 480 FEET TO THE POINT OF BEGINNING, RECORDS OF PIERCE COUNTY; EXCEPT WARD ROAD (MARTI STREET);
ALSO EXCEPT THAT PORTION CONVEYED TO THE CITY OF FIFE, BY INSTRUMENT RECORDED UNDER AUDITORS FILE NO. 2574922;

PARCEL C:

COMMENCING AT THE NORTHEAST CORNER OF SOUTHEAST QUARTER OF SOUTHWEST QUARTER OF SECTION 1 TOWNSHIP 20 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN;
THENCE WEST ALONG THE NORTH LINE OF SAID SUBDIVISION 93.677 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUE WEST ON SAID LINE 187.357 FEET;
THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SUBDIVISION 480 FEET;
THENCE EAST PARALLEL WITH THE NORTH LINE OF SAID SUBDIVISION 187.357 FEET;
THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID SUBDIVISION 480 FEET TO THE POINT OF BEGINNING, RECORDS OF PIERCE COUNTY;
EXCEPT WARD ROAD (MARTI STREET);

ALL SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.

The remedial actions undertaken to clean up the property (hereafter the "Cleanup Actions") are described in the following reports:

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EMCON Northwest, Inc., Phase I Environmental Assessment, 1222 46th Avenue East, Fife, Washington, April 10, 1992.

EMCON Northwest, Inc., Phase II Environmental Assessment, 1222 46th Avenue East, Fife, Washington, August, 1992.

Marsh Industrial Research, Bertolini Site Assessment and Remedial Action, undated (received at Ecology January 30, 1995).

Hart Crowser, Inc., Independent Remedial Action Report, former Bertolini Property, Fife Washington, February 23, 1996.

Korea Exchange Bank, Seattle Branch, documentation regarding disposition of drummed waste, May 6, 1996.

Hart Crowser, Inc., Submittal of Additional Independent Remedial Action Information, Former Bertolini Property, Fife, Washington, May 6, 1996.

These documents are on file at the State of Washington Department of Ecology ("Ecology") Southwest Regional Office.

This Restrictive Covenant is required by Ecology as defined in WAC 173-340-440 because the Cleanup Action resulted in residual concentrations of arsenic which exceed Model Toxics Control Act Method A cleanup levels for soil established under WAC 173-340-720(2).

The cleanup action meets the Model Toxics Control Act Method C cleanup levels for industrial soil established under WAC 173-340-700(3)(c) and 720(4) in conformity with the site criteria established in WAC 173-340-745. The soil containing arsenic concentrations between the residential and industrial cleanup levels is now isolated from contact by a clean layer of gravel backfill. The contamination that is the subject of this Restrictive Covenant is described in the above referenced reports.

The undersigned, Korea Exchange Bank, Seattle Branch, is the fee owner of the real property described above and located in the County of Pierce, State of Washington, (herein referred to as the "site"), hereby, makes the following declarations 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 purposes as defined under the City of Fife's Zoning Regulations codified in the Fife City Code as of the date of this restrictive covenant.

Section 2: Fencing around the perimeter of the unpaved western area of the Site shall be maintained.

Section 3: The unpaved area and the compacted backfill for the slag removal area shall be maintained.

Section 4: The owner, or a successor owner of the property must give written notice to Ecology, or to its successor agency, of the owner's or the successor owner's intent to convey any interest in the property.

Section 5: The owner must notify and obtain approval from Ecology, or its Successor agency, prior to any use of the property that is inconsistent with the terms of this Restrictive Covenant. Ecology or its successor agency may approve any inconsistent use only after appropriate public notice and comment.

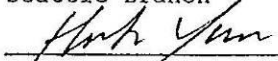
Section 6: The owner or successor shall allow authorized representatives of Ecology, or its successor agency, the right to enter the property at reasonable times for the purpose of carrying out its duties under RCW 70.105D, including the right to take samples, inspect remedial actions conducted at the property relating to the contamination identified in the above referenced reports, and to inspect records that are related to the Cleanup Action.

Section 7: The owner of the Site and the owner's assigns and successors in interest reserve the right under WAC 173-340-440 and WAC 173-340-730 to record an instrument which provides that this Restrictive Covenant shall no longer be of any further force or effect. However, such an instrument may be recorded only with the consent of Ecology, or its successor agency. Ecology, or its successor agency, may consent to the recording of such an instrument only after appropriate public notice and comment.

The Korea Exchange Bank, Seattle Branch, agrees to file this restrictive covenant with the Pierce County Auditor and provide Ecology with a filed copy.

Dated this 15 day of July, 1996

Korea Exchange Bank,
Seattle Branch



By: YUN HUH

Title: General Manager

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