

After Recording Return To: 9802230224
David F. Bartz, Jr.
Schwabe, Williamson & Wyatt, P.C.
1211 SW Fifth Avenue, Suite 1700
Portland, OR 97204

RESTRICTIVE COVENANT

DATED: 2/20, 199⁸₇

GRANTOR: PORT OF VANCOUVER
a Washington municipal corporation

GRANTEE: None

ABBREVIATED LEGAL DESCRIPTION: SEC 20 T2N R1E

FULL LEGAL DESCRIPTION LOCATED ON: PAGE 1

ASSESSOR'S PROPERTY TAX PARCEL OR ACCOUNT NUMBER: 059117-882.0

REFERENCE NUMBERS OF RELATED DOCUMENTS: None

RESTRICTIVE COVENANT

On the former Carborundum Fill Site
3309 N.W. Lower River Road, Vancouver, WA 98660

The Port of Vancouver is the fee owner of real property in the County of Clark, State of Washington (the "Site") which has been the subject of an independent remedial action under Chapter 70.105D RCW. The Site is legally described as follows:

That portion of the Henry Van Alman Donation Land Claim lying in the Northeast Quarter of Section 20, Township 2 North, Range 1 East, Willamette Meridian, City of Vancouver, Clark County, Washington, described as follows:

Beginning at a 2 inch iron pipe marking the Northwest corner of the Amos Short Donation Land Claim, as shown in Book 39 of Surveys at Page 125, records of said county; thence along the Northerly extension of the West line of said Short Donation Land Claim North $02^{\circ} 19' 42''$ East, 2093.23 feet; thence North $87^{\circ} 40' 18''$ West, 4062.04 feet to the intersection of the South right of way line of SR 501 (Lower River Road) with the West line of the Bonneville Power Administration right of way line as shown in Book 29 of Surveys at Page 161, records of said county; thence along said South right of way line South $64^{\circ} 04' 18''$ East, 100.00 feet to the True Point of Beginning; thence continuing along said South right of way line South $64^{\circ} 04' 18''$ East, 360.00 feet; thence leaving said South right of way line South $25^{\circ} 55' 42''$ West, 210.00 feet; thence North $64^{\circ} 04' 18''$ West, 360.00 feet; thence North $25^{\circ} 55' 42''$ East, 210.00 feet to the True Point of Beginning.

This Restrictive Covenant is required by Ecology as defined in WAC 173-340-440 because the remedial actions undertaken to clean up the Site (the "Cleanup Actions") resulted in residual concentrations of carcinogenic polycyclic aromatic hydrocarbons (CPAHs) which exceed Model Toxics Control Act Method A cleanup levels for soil and groundwater established under WAC 173-340-720(2).

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

The Standard Oil Company Technical Service Response No. 5427, October 7, 1984.

The Standard Oil Company Technical Service Response No. 5554, Project 1196-02, Vancouver SIC Plant Baghouse Slurry Pond Evaluation, April 14, 1986.

Hart Crowser, Inc., Fill Site Removal Report, Port of Vancouver, Washington, December 24, 1992.

Hart Crowser, Inc., Soil Cover Construction Report, Former Carborundum Waste Disposal Ponds, Port of Vancouver, Washington, November 9, 1993.

CH2M Hill Port of Vancouver, Former Carborundum Facility, Vancouver, Washington, Groundwater Assessment, November 1994.

CH2M Hill Alternatives Assessment Report Remediation of Contaminated Soils, Port of Vancouver, Former Carborundum Facility Port of Vancouver, USA, March 1995.

CH2M Hill, Independent Remedial Action Close-out Report, Former Carborundum Site, December 1995.

CH2M Hill, December 1995 Groundwater Sampling Results, January 25, 1996.

CH2M Hill, Port of Vancouver Former Carborundum Facility Test Pit Results, November 8, 1996.

CH2M Hill, Port of Vancouver Former Carborundum Facility Railroad Soil Remediation Alternatives, February 4, 1997.

CH2M Hill, Port of Vancouver Former Carborundum Facility Quarterly Groundwater Sampling Results, June 11, 1997.

Restrictive Covenant (Carborundum Fill Site)
December 17, 1997
Page 3

CH2M Hill, Port of Vancouver Former Carborundum
Facility Groundwater Assessment Summary, June 17,
1997.

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

The Cleanup Action meets the Model Toxics Control Act
Method C cleanup levels for industrial soil and groundwater
established under WAC 173-340-700(3)(c) and 720(4) in
conformity with the criteria established in WAC 173-340-745.
Soil with CPAH concentrations greater than MTCA Industrial
cleanup levels is not present on the Site. The soil with
elevated CPAH concentrations is covered by several feet of
engineered fill, pavement and a building. Because the Site is
located within the Port marine industrial area, access is
limited. The Site is fenced and patrolled by Port security on
a 24 hour basis.

The undersigned, Port of Vancouver, is the fee owner
of the real property described above and makes the following
declarations as to limitations, restrictions, and uses to which
the Site may be put, and specifies that such declaration 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.

Section 2: The current structures on the Site include a
building covering approximately one half of the Site. It is
anticipated that some disturbances of the soil may be necessary
for further use of the property consistent with the Port of
Vancouver's industrial purposes. Any significant disturbance
will be conducted in accordance with a Health and Safety Plan
consistent with then current Ecology regulations. Any removal
of contaminated soil will be reported to Ecology.

Section 3: The owner of the property must give written notice
to Ecology, or a successor agency, of the owner's intent to
convey any interest in the property.

Section 4: 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 compliance with this Deed Restriction. 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 5: The owner shall provide authorized representatives of Ecology, or its successor agency, the right to enter the property at a reasonable time, after prior notice to owner, for the purpose of evaluating the Cleanup Action, taking samples, inspection remedial actions conducted at the property, and inspecting records that are related to the Cleanup Action.

Section 6: No wells shall be hereafter installed on the subject property for the extraction of potable water for human ingestion.

Section 7: 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 8: The owner of the Site and the owner's assigns and successors in interest reserve the right under WAC 173-340-440(7) to record an instrument which 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 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.

PORT OF VANCOUVER

Date: February 20, 1998

By: 
Title: 6 Brian O.

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8-4-97

NJB/ed

Mackay & Sposito Inc.



ENGINEERS

SURVEYORS

PLANNERS

1703 MAIN STREET VANCOUVER, WASHINGTON 98660

WASHINGTON
(360) 695-3411

FAX
(360) 695-0833

OREGON
(503) 289-6726

EMAIL
msinc@e-z.net

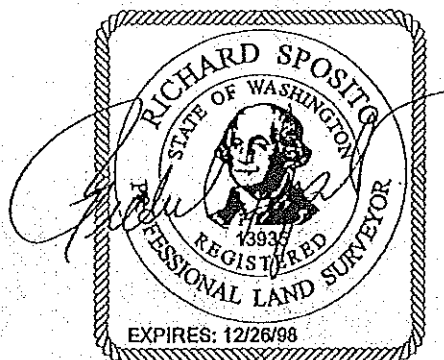
LEGAL DESCRIPTION

"FILL SITE" AREA OF FORMER CARBORUNDUM COMPANY PORT OF VANCOUVER VANCOUVER, WASHINGTON

That portion of the Henry Van Alman Donation Land Claim lying in the Northeast Quarter of Section 20, Township 2 North, Range 1 East, Willamette Meridian, City of Vancouver, Clark County, Washington, described as follows:

Beginning at a 2 inch iron pipe marking the Northwest corner of the Amos Short Donation Land Claim, as shown in Book 39 of Surveys at Page 125, records of said county; thence along the Northerly extension of the West line of said Short Donation Land Claim North 02° 19' 42" East, 2093.23 feet; thence North 87° 40' 18" West, 4062.04 feet to the intersection of the South right of way line of SR 501 (Lower River Road) with the West line of the Bonneville Power Administration right of way line as shown in Book 29 of Surveys at Page 161, records of said county; thence along said South right of way line South 64° 04' 18" East, 100.00 feet to the True Point of Beginning; thence continuing along said South right of way line South 64° 04' 18" East, 360.00 feet; thence leaving said South right of way line South 25° 55' 42" West, 210.00 feet; thence North 64° 04' 18" West, 360.00 feet; thence North 25° 55' 42" East, 210.00 feet to the True Point of Beginning.

Containing 1.74 acres or 75,600 sq ft.



8/5/97

