

## 6.8 Environmental Covenant

PIERCE COUNTY, WA  
9808240631  
8-24-1998 03:20 PM  
Fee Amt: \$13.00

COI

Name & Return Address:

PORT OF TACOMA  
ATTN: SUSAN MOEN  
PO BOX 1838  
TACOMA WA 98401-1838  
Please print legibly or type information.

Document Title (Or transaction contained therein)
DECLARATION OF RESTRICTIVE COVENANT
Grantor(s) (Last name first, then first name, middle name)
PORT OF TACOMA ____ Additional Names on Page ____ of Document
Grantee(s) (Last name first, then first name, middle name)
DEPT OF ECOLOGY ____ Additional Names on Page ____ of Document
Legal Description (Abbreviated: i.e., lot, block, plat or section, township, range)
SW QTR SECTION 35 TOWNSHIP 21 NO RANGE 3 EA OF WILLAMETTE MERIDIAN, COUNTY OF PIERCE, STATE OF WASHINGTON
Complete Legal Description on Page <u>6</u> of Document
Auditor's Reference Number(s)
Assessor's Property Tax Parcel/Account Number(s)
03-21-35-3-016 5 - 007 - 014 - 011
The Auditor/Recorder will rely on the information provided on this cover sheet. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

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B-

**DECLARATION OF RESTRICTIVE COVENANT**

The property that is the subject of this Restrictive Covenant is the subject of remedial action under Chapter 70.105D RCW. The work done to clean up the property (hereafter the "Cleanup Action") is described in Washington State Department of Ecology Consent Decree No. 94 2 099227, and in attachments to the Decree. This Restrictive Covenant is required by WAC 173-340-440 because the Cleanup Action at the Site will result in residual concentrations of arsenic and lead which exceed Ecology's Method A cleanup levels for Industrial soil established under WAC 173-340-745.

This Restrictive Covenant shall take effect twenty days after completion of the cap paving, as required in the Consent Decree, or December 20, 1998, whichever comes first.

The Port of Tacoma is the fee owner of real property known as the Murray Pacific Log Yard No. 2 in the county of Pierce, state of Washington of which 49.5 acres are referred to as the "Site" (Exhibit B).

As a result of the Cleanup Action, the Site will include a woodwaste, soil, and slag mixture which will be covered with a cap system equipped with a surface water collection system. The Site will also include monitoring wells as per WAC 173-340-360 (8).

DECLARATION OF RESTRICTIVE COVENANT - 1

PT 440772

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The Port of Tacoma makes the following declaration 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 person 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 uses as defined in and allowed under the City of Tacoma's Zoning Regulations codified in the Tacoma City Code as of the date of this Restrictive Covenant.

Section 2 Any activity on the Site that interferes with or reduces the effectiveness of the Cleanup Action or any operation, maintenance, monitoring, or other activity required by the Decree (or any Ecology-approved modification or amendment to the Decree) is prohibited. Any activity that would threaten the structural integrity of the cap is prohibited. Any activity on the Site that would result in the release of a hazardous substance that was contained as a part of the Cleanup Action is prohibited. It is understood that disturbance of the cap may be required in the future for installation of utilities or other activities associated with future industrial use of the site. Any damage to the cap resulting from removal of the wheel stop pins shall be immediately repaired. The Port shall obtain approval from Ecology prior to initiating any disturbance of the cap storm water drainage and/or monitoring system. Ecology shall not deny approval if the Port can show (1) that no releases of hazardous materials will occur; (2) integrity of the cap and storm water drainage and monitoring systems will be restored to their original condition in a timely manner; and (3) that material will be handled and disposed of in accordance with State law.

DECLARATION OF RESTRICTIVE COVENANT - 2

PT 440772

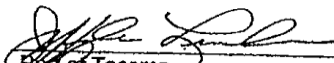
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Section 3 The owner of the Site must give written notice to the Department of Ecology, or to a successor agency, of the owner's intent to convey any interest in the Site. No conveyance of title, easement, lease or other interest in the Site shall be consummated by the owner without adequate and complete provision for the continued operation, maintenance and monitoring of the Cleanup Action.

Section 4 The owner shall allow authorized representatives of the Department of Ecology, or of a successor agency, the right to enter the Site at reasonable times for the purpose of evaluating compliance with the Cleanup Action Plan and the Order, to take samples, to inspect Cleanup Actions conducted at the Site, and to inspect records that are related to the Cleanup Action.

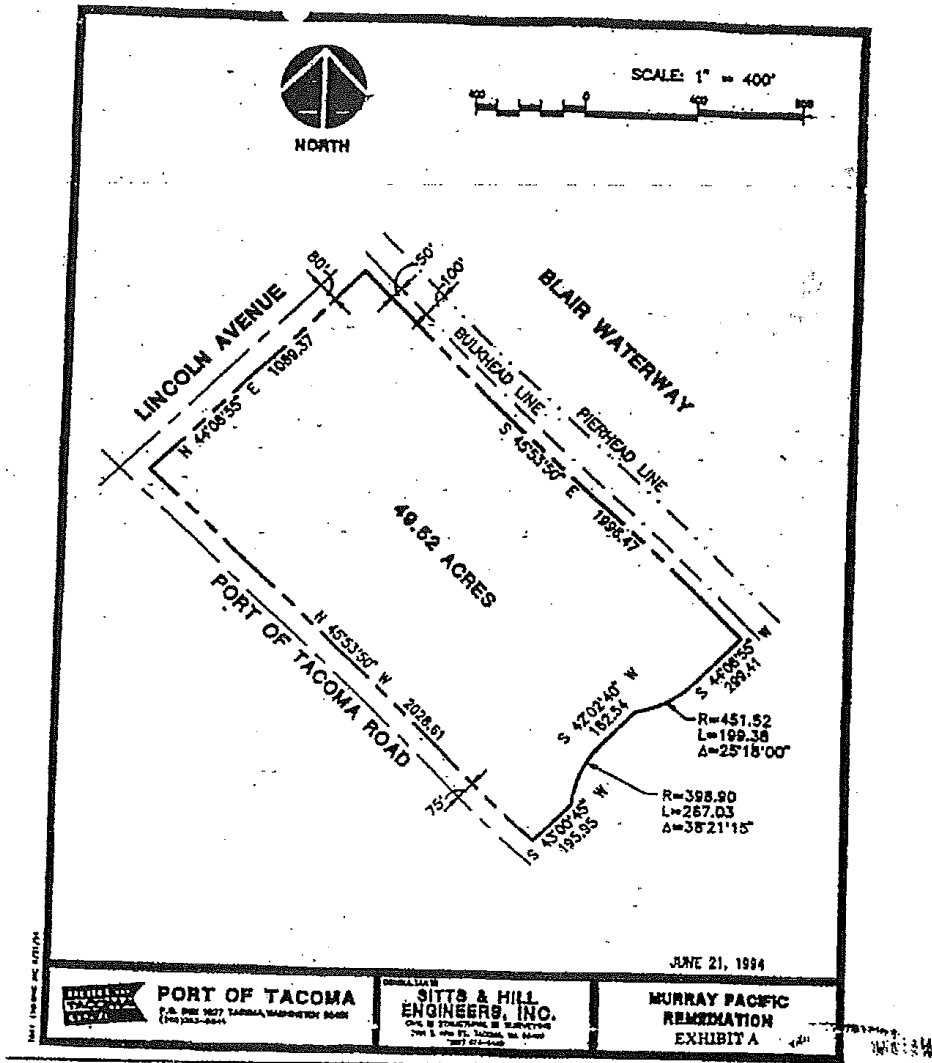
Section 5 The owner of the Site and owner's assigns and successors in interest reserve the right under WAC 173-340-730 and WAC 173-340-440 to record an instrument which provides that this Restrictive Covenant shall no longer limit the use of the Site or be of any further force or effect. However, such an instrument may be recorded only with the consent of the Department of Ecology or of a successor agency. The Department of Ecology or a successor agency may consent to the recording of such an instrument only after public notice and comment.

The Port of Tacoma agrees to file this Restrictive Covenant in the Site property deed with the Pierce County Auditor and provide the Department of Ecology with a filed copy.

  
Port of Tacoma Date 8/24/98

DECLARATION OF RESTRICTIVE COVENANT - 3

PT 440772



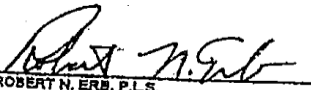
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EXHIBIT B  
DESCRIPTION  
MURRAY PACIFIC REMEDIATION

A PARCEL OF LAND SITUATE IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 21 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, COUNTY OF PIERCE, STATE OF WASHINGTON AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MONUMENT IN THE INTERSECTION OF PORT OF TACOMA ROAD AND LINCOLN AVENUE AS SHOWN ON THE PLAT OF THE PORT OF TACOMA INDUSTRIAL DEVELOPMENT DISTRICT FIRST ADDITION RECORDED MARCH 20, 1957 IN VOLUME 18 OF PLATS AT PAGE 8; THENCE SOUTH 45°53'50" EAST ALONG THE MONUMENT LINE OF SAID PORT OF TACOMA ROAD, 80.00 FEET; THENCE NORTH 44°06'55" EAST, 78.00 FEET TO THE INTERSECTION OF EASTERLY RIGHT-OF-WAY LINE OF SAID PORT OF TACOMA ROAD AND THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID LINCOLN AVENUE AND THE TRUTH POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, NORTH 44°06'55" EAST 1088.37 FEET TO A POINT LYING 50 FEET SOUTHWESTERLY OF THE SOUTHWESTERLY BULKHEAD LINE OF THE BLAIR WATERWAY; THENCE SOUTHEASTERLY AND PARALLEL WITH SAID BULKHEAD LINE, SOUTH 45°53'50" EAST 1996.47 FEET; THENCE SOUTHWESTERLY AND PARALLEL WITH SAID SOUTHERLY RIGHT-OF-WAY LINE OF LINCOLN AVENUE, SOUTH 44°06'55" WEST 299.41 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTH HAVING A RADIUS POINT WHICH BEARS NORTH 35°19'23" WEST, 461.52 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 182.38 FEET THROUGH A CENTRAL ANGLE OF 25°18'00"; THENCE SOUTHWESTERLY AND NOT TANGENT TO THE PRECEDING CURVE, SOUTH 42°02'40" WEST 182.54 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS POINT WHICH BEARS SOUTH 46°52'35" EAST 398.50 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 287.03 FEET THROUGH A CENTRAL ANGLE OF 35°21'18"; THENCE SOUTHWESTERLY AND NOT TANGENT TO THE PRECEDING CURVE, SOUTH 43°00'45" WEST 185.83 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID PORT OF TACOMA ROAD; THENCE NORTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE, NORTH 45°53'50" WEST 2028.61 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,157,237.83 SQ. FEET OR 49.52 ACRES MORE OR LESS.

  
ROBERT N. ERB, P.L.S.  
WASHINGTON REGISTRATION NO. 18082

PROJECT NO. 7897  
JUNE 21, 1994

SITTS & HILL ENGINEERS, INC.  
2901 SOUTH 40TH STREET  
TACOMA, WASHINGTON 98409  
TELEPHONE: (206) 474-8449  
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