

6.10 Restrictive Covenant

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DI PAR. MNT OF ECOLOGY
SW REGIONAL OFFICE

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Gary E. Zandell, Lewis County Auditor, Chehalis, Washington

Model Restrictive (Environmental) Covenant

After Recording Return to:
Guy Barrett
Department of Ecology
Southwest Regional Office
POB 47775
Olympia, Washington 98504-7775

Environmental Covenant

Grantor: Cowlitz River Valley Historical Society, Jan's Lost and Found Thrift Shop
Grantee: State of Washington, Department of Ecology
Legal: Section 02, Township 12N, Range 04E, PT Pt NW4 NE4, B Bla 3329234
Section 02, Township 12N, Range 04E, Pt NW4 NE4, A Bla 3329234
Tax Parcel Nos.: 008492002000, 008492004000
Cross Reference: N/A

Grantor, Cowlitz River Valley Historical Society and Jan's Lost and Found Thrift Shop, 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 _____ day of _____, 2010 in favor of the State of Washington Department of Ecology (hereinafter "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, RCW 64.70.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Cowlitz River Valley Historical Society, Jan's Lost and Found Thrift Shop, 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 document[s]:

Cleanup Action Plan, Chevron Site No. 30-2095, Former Chevron Bulk Terminal, 149 and 167 Main Avenue, Morton, Washington, July 2006.

Soil Management Plan, Wolfe & Parks Site, Former Chevron Bulk Plant No. 30-2095, 149 & 167 Main Street, Morton, Washington, February 28, 2011.
These documents are on file at Ecology's Southwest Regional Office.

SCENARIO 1:

This Covenant is required because the Remedial Action resulted in residual concentrations of gasoline, diesel, and benzene which exceed the Model Toxics Control Act Method A Cleanup Level(s) for SOIL and GROUNDWATER established under WAC 173-340-704.

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The undersigned, **Cowlitz River Valley Historical Society, Jan's Lost and Found Thrift Shop**, is the fee owner of real property (hereafter "Property") in the County of Lewis, State of Washington, that is subject to this Covenant. The Property is legally described IN ATTACHMENT A OF THIS COVENANT AND MADE A PART HEREOF BY REFERENCE.

Cowlitz River Valley Historical Society, Jan's Lost and Found Thrift Shop

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 the Property (hereafter "Owner").

Section 1.

1. No groundwater may be taken for DOMESTIC, AGRICULTURAL, OR ANY USE from the Property.
2. If the soil contains hazardous substances above cleanup levels, then describe prohibited activities as follows:
 - a. A portion of the Property contains gasoline, diesel, and benzene contaminated soil located under part or all of Cowlitz River Valley Historical Society, Jan's Lost and Found Thrift Shop. On Jan's Lost and Found Thrift Shop parcel, contaminated soil exists beneath and adjacent to the existing building, and under asphalt pavement. On the Cowlitz River Valley Historical Society parcel, contaminated soil exists beneath asphalt and a planter box located in the northwest corner of the

parcel. The Owner shall not alter, modify, or remove the existing structure[s] in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology (Figure 1).

- b. 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. 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.

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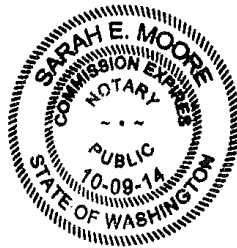
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STATE OF Washington
COUNTY OF Lewis

[INDIVIDUAL ACKNOWLEDGMENT]

On this 14th day of April, 2011, I certify that Lori Powell personally appeared before me, and acknowledged that he/she is the individual described herein and who executed the within and foregoing instrument and signed the same at his/her free and voluntary act and deed for the uses and purposes therein mentioned.



Sarah E. Moore
Notary Public in and for the State of
Washington,
residing at Morton, WA.
My appointment
Expires: 10/09/2014.

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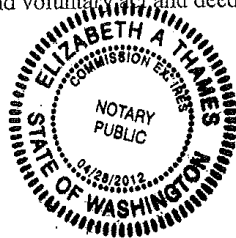
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[INDIVIDUAL ACKNOWLEDGMENT]

STATE OF Washington
COUNTY OF Sevier

On this 20th day of May, 2011, I certify that MARC FISHER personally appeared before me, and acknowledged that he/she is the individual described herein and who executed the within and foregoing instrument and signed the same at his/her free and voluntary act and deed for the uses and purposes therein mentioned.



Elizabeth A. Thomas
Notary Public in and for the State of
Washington,
residing at 4 Norton
My appointment
Expires: 4.28.11

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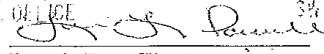
Cowlitz River Valley Historical Society JUL 26 11:01 AM
JAN'S Lost and Found Thrift Shop MAY 23 10:17



Marc Fisher
President

Dated: 5-20-2011

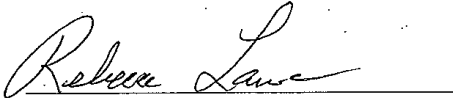
DEPARTMENT OF ECOLOGY
SW REGIONAL OFFICE



Laurie Powell, Lori L.
President

Dated: April 14, 2011

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY



Rebecca Lawson, P.E., LHG
SWRO Section Manager

Dated: 5/31/2011

Exhibit A
Legal Description

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DEPARTMENT OF ECOLOGY
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Section 02, Township 12N, Range 04E, PT Pt NW4 NE4, B Bla 3329234
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