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BRUCE PERKINS
Recorded in Clark County, WA

After Recording Return
Original Signed Covenant to:

Panjini Balaraju
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

RECEIVED

JUN 26 2017

**WA State Department
of Ecology (SWRO)**

AMENDED ENVIRONMENTAL COVENANT

Grantor: 2424 East 2nd LLC

Grantee: State of Washington, Department of Ecology

Short Legal Description: 1. BLUROCK HD LOTS #13 LOTD 3 & 4
Clark County, Washington

2. Complete legal description is on Exhibit A of the document

Tax Parcel Numbers: 033828-000

Cross Reference: Original Restrictive Covenant #3748239, Date: 11/05/2003, Clark County.
Ecology No Further Action Opinion Letter: November 25, 2002.

RECITALS

- a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70.105D RCW, and Uniform Environmental Covenant Act ("UECA"). Chapter 64.70 RCW.
- b. The Property that is the subject of this Covenant is part or all of a site commonly known as Cascade Manufacturing, Facility Site ID #46118215. The Property is legally described in Exhibit A, which is attached (hereafter "Property").
- c. The Property is the subject of remedial action conducted under MTCA. This Covenant is required because residual petroleum contamination remains on the Property after completion of remedial actions. Specifically, the following principle contaminants remain on the Property;

Medium	Principal Contaminants Present
Soil	Total Petroleum Hydrocarbons-Diesel and Oil, Chromium

d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and remedial actions conducted are available through Ecology. This include the following documents:

1. Terracon. Comprehensive Groundwater Monitoring Report, Former Cascade Manufacturing Facility, 2424 East 2nd Avenue, Vancouver, Washington. March 29, 2016.
2. Terracon. Second and Third Rounds of 2015 Groundwater Monitoring Data Package, Former Cascade Manufacturing Facility, 2424 East 2nd Avenue, Vancouver, Washington. December 1, 2015.
3. Terracon. First Quarter 2015 Groundwater Monitoring Data Package, Former Cascade Manufacturing Facility, 2424 East 2nd Avenue, Vancouver, Washington. March 31, 2015.
4. Tetra Tech. Catch Basin Characterization and Cleaning, Assessment of Petroleum Hydrocarbon Soil Contamination, Former Cascade Manufacturing Facility, 2424 East 2nd Avenue, Vancouver, Washington. January 2001
5. Tetra Tech. Source Characterization Investigation, Former Cascade Manufacturing Facility, 2424 East 2nd Avenue, Vancouver, Washington. April 2000.
6. Department of Ecology. Opinion Letter, Former Cascade Manufacturing Facility, 2424 East 2nd Avenue, Vancouver, Washington. November 25, 2002. Prepared by Mr. Chuck Cline, Washington State Department of Ecology, Southwest Regional Office, Voluntary Cleanup Program Coordinator.
7. Department of Ecology. Opinion Letter, Former Cascade Manufacturing Facility, 2424 East 2nd Avenue, Vancouver, Washington. June 29, 2000. Prepared by Ms. Tammy Hall, Washington State Department of Ecology, Southwest Regional Office, Voluntary Cleanup Program.
8. AGRA Earth and Environmental, Inc. Phase II Environmental Site Assessment, Former Cascade Manufacturing Facility, 2424 East 2nd Avenue, Vancouver, Washington. July 1999.

9. AGRA Earth and Environmental, Inc. Phase I Environmental Assessment, Former Cascade Manufacturing Facility, 2424 East 2nd Avenue, Vancouver, Washington. May 21, 1999.

- e. The Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a Holder of this Covenant under UECA, Ecology has an interest in real property, however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq. The rights of Ecology as an "agency" under UECA, other than its' right as a holder, are not an interest in real property.
- f. This Covenant supersedes and replaces the existing Environmental (Restrictive) Covenant, which is recorded with Clark County as #3748239, dated November 5, 2003.

COVENANT

2424 East 2nd LLC, as Grantor and owner of the Property hereby grants to the Washington State Department of Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the GRANTOR has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

Section 1. **General Restrictions and Requirements.**

The following general restrictions and requirements shall apply to the Property:

- a. **Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection or monitoring of that remedial action without prior written approval from Ecology.
- b. **Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. **Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with this Covenant.
- d. **Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.

Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

a. Land Use: The remedial action for the Property is based on a cleanup designed for industrial property. As such, the Property shall be used in perpetuity only for industrial uses, as that term is defined in the rules promulgated under Chapter 70.105D RCW. Prohibited uses on the Property include but are not limited to residential uses, childcare facilities, K-12 public or private schools, parks, grazing of animals, growing of food crops, and non-industrial commercial uses.

b. Containment of Soil: The remedial action for the Property is based on containing petroleum contaminated soil under a cap consisting of concrete flooring inside the building and asphalt pavement just outside the building as illustrated on Figure 1 in Exhibit A. The primary purpose of this caps is to eliminate any infiltration of water and direct human contact with the contaminated soil. As such, the following restrictions shall apply within the approximate area illustrated on Figure 1 in Exhibit A:

(i) Any activity on the Property that will compromise the integrity of the caps including: drilling; digging; piercing the cap/building flooring with sampling device, post, stake or similar device; grading; excavation; installation of underground utilities; removal of the cap; or, application of loads in excess of the cap load bearing capacity, is prohibited without prior written approval by Ecology. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to the cap/building flooring. Unless an alternative plan has been approved by Ecology in writing, the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

(ii) The Grantor shall not alter or remove the existing structures on the Property in any manner that would expose contaminated soil, result in a release to the environment of contaminants, or create a new exposure pathway, without prior written approval of Ecology. Should the Grantor propose to remove all or a portion of the existing structures illustrated on Figure 1 in Exhibit A so that access to the underlying petroleum contamination is feasible, Ecology may require treatment or removal of the underlying petroleum contaminated soil.

Section 3. Access.

a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor and maintain the remedial action.

b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.

c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

Section 4. Notice Requirements.

- a. **Conveyance of Any Interest.** The Grantor, when conveying any interest in any part of the Property, including but not limited to title, easement, leases, and security or other interests, must:
- i. Provide written notice to Ecology of the intended conveyance at least thirty (30) days in advance of the conveyance.
 - ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON AND RECORDED WITH THE CLARK COUNTY AUDITOR UNDER RECORDING NUMBER USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.
- b. **Reporting Violations.** Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.
- c. **Emergencies.** For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.
- d. **Notification procedure.** Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first class mail, such as e-mail or other electronic means, may be used for these communications.

2424 East 2 nd LLC Attention: Mr. Bruce Perkins, President 2424 East 2 nd Street Vancouver, WA 98661 Telephone: (360) 737-8235 E-mail: bruce@instafab.com	Environmental Covenants Coordinator Washington State Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000 ToxicsCleanupProgramHQ@ecy.wa.gov
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Section 5. Modification or Termination.

a. Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant.¹ For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the site:²

i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and

ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.

b. If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.

c. By signing this agreement, per RCW 64.70.100, the original signatories to this agreement, other than Ecology, agree to waive all rights to sign amendments to and termination of this Covenant.³

Section 6. Enforcement and Construction.

a. This Covenant is being freely and voluntarily granted by the Grantor.

b. Within ten (10) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.

c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is

¹ Example of inconsistent uses are using the Property for a use not allowed under the covenant (i.e. mixed residential and commercial use on a property restricted to industrial uses), OR drilling a water supply well when use of the groundwater for water supply is prohibited by the covenant.

² An example of an activity that is unlikely to be considered a permanent modification is a proposal to disturb a cap to repair an existing underground utility that passes through the site. However, installing a new underground utility within a capped area would be a permanent change.

³ As time passes, the original grantor and other signers of the Covenant may no longer exist as viable entities. This provision is intended to allow future amendments or termination of the Covenant without Ecology having to seek court authorization, as provided by RCW 64.70.100.

not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.

- d. The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.
- e. This Covenant shall be liberally construed to meet the intent of MTCA and UECA.
- f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.
- g. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

The undersigned Grantor warrants he/she holds the title to the Property and has authority to execute this Covenant.

EXECUTED this 2nd day of May, 2017.

The undersigned further acknowledges Environmental Covenant #3748239 filed in Clark County, is hereby terminated and replaced with the above Environmental Covenant.

2424 East 2nd Limited Liability Company.

By:

BRUCE PERKINS
Printed Name

By:


Signature

Title:

PRESIDENT

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 20____, I certify that _____ personally appeared before me, 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.

Notary Public in and for the State of Washington

Residing at _____

My appointment expires _____

CORPORATE ACKNOWLEDGMENT

STATE OF Wa.

COUNTY OF Clark

On this 5th day of May, 2017, I certify that Bruce Perkins personally appeared before me, acknowledged that **he/she** is the President of the corporation that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that **he/she** was authorized to execute said instrument for said corporation.



Brenda Panage
Notary Public in and for the State of Washington

Residing at Vancouver Wa.

My appointment expires 07/01/2020