

FILED  
03 2006  
Department of Ecology  
Tacoma, Washington

After Recording Return to:  
Marv Coleman  
Department of Ecology  
Southwest Regional Office  
P. O. Box 47775  
Lacey, WA 98504

### Restrictive Covenant

Grantor: Bryan and Kathleen Kolb  
Grantee: State of Washington, Department of Ecology  
Legal: Ptn Lts 1 & 2, Blk 4, Zenor Carlile & Luarks Addn and all Lt 1 and Ptn Lts 2, 8,  
9, Blk 4, Mace, Talbert and Magill's Addn  
Tax Parcel Nos.: 079000400100, 075300400100, 075300400801

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Bryan M. and Kathleen R. Kolb, husband and wife (hereafter "Kolb"), their successors and assigns, and the State of Washington, Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action occurred at the Property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the Property is described in the following document[s]:

- Phase I Environmental Site Assessment Survey, Associated Environmental Group, Inc., August 1998.



- Phase I and II Environmental Site Assessment - Montesano Ford, KD & S Environmental Support Services, May 2000.
- Interim Cleanup Work Plan – Twidwell/Kolb Property, Associated Environmental Group, LLC, December 2005.
- Site Remediation Conducted On Brumfield-Twidwell/Kolb Property, Associated Environmental Group, LLC, December 2005.
- Remedial Investigation Work Plan – Brumfield-Twidwell/Kolb Property, Associated Environmental Group, LLC, February 2006.
- Remedial Investigation Report Conducted on Brumfield-Twidwell Property, Associated Environmental Group, LLC, May, 2006.

These documents are on file at Ecology's Southwest Regional Office.

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of Gasoline Range Petroleum Hydrocarbons (GRPH) which exceed the Model Toxics Control Act Method A Residential Cleanup levels for soils and groundwater, established under WAC 173-340-740 and WAC 173-340-720, respectively.

The undersigned, Kolb, is the fee owner of real property (hereafter "Property") in the County of Grays Harbor, State of Washington, which is subject to this Restrictive Covenant. The Property is legally described in Exhibit A.

Kolb 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.

A. No groundwater may be taken for domestic agricultural, commercial or industrial uses from the Property.

B. A portion of the Property contains GRPH contaminated soil located under sidewalks and street rights-of-way adjacent to the site. Owner shall not alter, modify, or remove these existing structures 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.

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.

A. The six monitoring wells installed to assess the ongoing status of groundwater that has been affected by the historical releases of GRPH, shall be sampled in the locations, in the manner and according to the schedule provided in Exhibit B, at the sole cost of Owner. Upon

completion of the sampling schedule set forth in Exhibit B, Ecology will then determine whether additional monitoring is needed, based on the first round of data. If such additional monitoring is required by Ecology, Ecology and Owner shall meet to discuss the appropriate extent and schedule of such additional monitoring. Such additional sampling shall also be at the sole cost of Owner. Samples will be analyzed for gasoline and gasoline constituents in accordance with the Remedial Investigation Work Plan, AEG, LLC, February 2006, a copy of which is on file with Ecology.

B. The integrity of monitoring wells placed on or adjacent to the Property for the purpose of groundwater monitoring shall be maintained by Owner for a minimum of three years from the date the monitoring wells are constructed and commence operation, or for a longer period if required by Ecology, if deemed necessary as a consequence of monitoring results. In the event future construction activities on the Property require abandonment or removal of monitoring wells on the Property, such removal or abandonment shall not occur without the prior written approval of Ecology. If groundwater monitoring wells are constructed on the Property but later need to be replaced, the monitoring wells shall be replaced in a manner approved by Ecology.

#### Section 4.

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 5.

Owner of the Property must give thirty (30) days advance written notice to Ecology of 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 Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

Section 6.

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 7.

Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 8.

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, and to inspect records that are related to the Remedial Action.

Section 9.

Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that 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 if Ecology, after public notice and opportunity for comment, concurs.

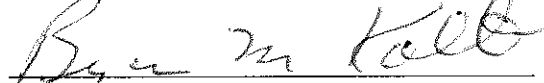
Section 10.

Pursuant to WAC 173-340-440(11), Owner shall maintain an adequate financial assurance mechanism to cover all costs associated with institutional controls, such as compliance monitoring and corrective measures at the Site.

Within sixty (60) days of the effective date of this Restrictive Covenant, Owner shall submit to Ecology for review and approval an estimate of the costs that it will incur in carrying out the terms of this Restrictive Covenant. Within sixty (60) days after Ecology approves the aforementioned cost estimate, Owner shall provide proof of financial assurances sufficient to cover all such costs in a form acceptable to Ecology.

Owner shall adjust the financial assurance coverage and provide Ecology's project coordinator with documentation of the updated financial assurance for inflation, annually, within thirty (30) days of the anniversary date of the entry of this Restrictive Covenant or if applicable, ninety (90) days after the close of Owner's fiscal year if the financial test or corporate guarantee is used.

OWNER



Bryan M. Kolb

Date: 6-14-06



Kathleen R. Kolb

Date: 6/14/06



STATE OF WASHINGTON \_\_\_\_\_ )

COUNTY OF Thurston )

On this day personally appeared before me Bruno K. Kuntz,  
to me known to be the individual described in and who executed the within and foregoing  
instrument and acknowledged that he/she/they signed the same as his/her/their free and  
voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal this 4 day of June, 2006.



Rhonda Davidson  
Notary Public in and for the State of  
Washington, residing at Bellevue.

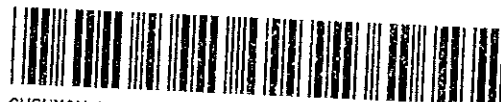


Exhibit A  
Legal Description

PARCEL A:

Lots 1 and 2, EXCEPT the East 19.58 feet thereof, Block 4, Zenor, Carlile and Luarks Addition to C. N. Byles Plat of the Town of Montesano, as per plat recorded in Volume C or 3 of Plats, page 593, records of Grays Harbor County;  
Situate in the County of Grays Harbor, State of Washington.

PARCEL B:

Lots 1 and 9, Block 4, Mace, Talber and Magill's Addition to C. N. Byles Plat of Montesano, as per plat recorded in Volume 1 of Plats, page 10, records of Grays Harbor County;

AND,

The North 29 feet of Lot 2, AND the North 29 feet of Lot 8, Block 4, Mace, Talbert and Magill's Addition to C. N. Byles Plat of Montesano, as per plat recorded in Volume 1 of Plats, page 10, records of Grays Harbor County;

ALL Situate in the County of Grays Harbor, State of Washington.

EXCEPT FROM PARCEL B ABOVE THE FOLLOWING DESCRIBED PARCEL:

The East 83.00 feet of Lot 9;  
AND the East 83.00 feet of the North 29.00 feet of Lot 8 in Block 4 of Mace, Talbert and Magill's Addition to C. N. Byles Plat of Montesano, as per plat recorded in Volume 1 of Plats, page 10, records of Grays Harbor County;  
Situate in the County of Grays Harbor, State of Washington.



## Exhibit B

### 6.0 SELECTION OF REMEDIAL ALTERNATIVE

On the basis of the analysis of the four alternatives and their comparison to the MTCA criteria of WAC 173-340-360, alternative 4; Soil Source Removal with Disposal, Groundwater Treatment, and Monitoring was selected for implementation at the site. This alternative is protective of both human health and the environment, is consistent with current and anticipated future use of the site, and is cost-effective. The primary exposure pathways at the site will be eliminated or substantially reduced (i.e., direct soil contact will be eliminated and groundwater deed restriction will be placed on the property deed). The remedial components of this alternative are technically implementable, are expected to meet administrative (agency) requirements, and can be constructed in a reasonable time frame at a reasonable cost.

Residual COCs in the groundwater are expected to be reduced over time through natural attenuation. Quarterly groundwater monitoring will further enhance this alternative's protectiveness. MW-1 to MW-6 will be sampled on quarterly bases for four consecutive quarters (twelve calendar months) and corresponding quarterly status report will be generated and submitted to Ecology for review. Upon completion of the fourth quarter groundwater monitoring sample analysis, Ecology will be contacted to review the data and to discuss any future sampling requirements.

The top of the well casings for each of the groundwater monitoring wells will be surveyed from the top of the PVC casing and referenced to NAVD 88 vertical datum reference point to construct a relative groundwater flow direction model. Prior to collecting the sample, the static groundwater levels will be measured and three times the well casing volume will be purged from each well. The groundwater samples will be collected in laboratory supplied and labeled 40-milliliter glass vials and submitted to an independent laboratory to be analyzed for gasoline (NWTPH-Gx) and gasoline constituents; benzene, toluene, ethylbenzene, and xylenes (BTEX by EPA method 8021b)