

EXHIBIT

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Kelly Cole
Office of Regional Counsel
U.S. EPA, Region 10
1200 Sixth Ave. ORC-158
Seattle, WA 98101



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Washington State
Department of Ecology

Document Title: Restrictive Covenant
Grantor: Federal Asset Recovery, Inc.
Grantee: WA DEPARTMENT OF ECOLOGY
Legal Description: S ½ lot 12, all lots 13 and 14, N ½ lot 15, Blk 62 map of Tacoma
Tidelands according to plat filed September 14, 1895.
Additional Legal Description: SEE ATTACHMENT 1 FOR FULL LEGAL DESCRIPTION
Assessor's Tax Parcel Number: 8950001971

RESTRICTIVE COVENANT

This Restrictive Covenant is made this 5th day of October, 2006, pursuant to RCW 70.105D.030(1)(f), and WAC 173-340-440(9) by Federal Asset Recovery, Inc and its successors and assigns (hereinafter "Grantor"), and the State of Washington, Department of Ecology ("Ecology"), and its successors and assigns (hereinafter "Grantee") for the benefit of the United States Environmental Protection Agency, its successors and assigns, ("EPA").

A portion of the property referenced above is subject to this Restrictive Covenant because Remedial Actions have been undertaken on the property pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601, et. seq., under a Consent Decree entered on May 9, 2003, titled the *United States v. Atlantic Richfield Company, et al.*, in the United States District Court for the Western District of Washington, Civil Action No. C03-5117 RJB, ("Consent Decree"). The objective of the remedial actions undertaken on the property is to protect human health and the environment.

The Consent Decree is part of an integrated settlement that includes two other consent decrees. One is between the EPA and Puget Sound Energy, Advance Ross Sub Company and PacifiCorp; ("Utilities"), and was entered by the federal District Court on May 9, 2003. The other consent decree is between EPA and the state Department of Natural Resources, which was entered by the federal District Court on December 17, 2003.

The property subject to this Restrictive Covenant is the portion of Tax Parcel 8950001971 that is located at 1147 East Dock Street, Tacoma, WA (hereafter, the "Property"), which is generally depicted as the cross-hatched area in the map attached as Attachment 2. This Restrictive Covenant is required because part of the Remedial Action capped and/or left residual contamination in place. The purpose of this Restrictive Covenant is to reduce potential exposure of marine organisms to contaminated sediments confined by capping, and to reduce potential exposure of marine organisms to contaminated sediments left in place in the Thea Foss and Wheeler Osgood Waterways.

The Grantor holds legal title to certain real property in the County of Pierce, State of Washington that is subject to this Restrictive Covenant. The parcel is legally described in Attachment 1, which is incorporated by reference into this Restrictive Covenant. The Grantor, as holder of legal title, does hereby declare that it has authority to enter into this Restrictive Covenant.

Grantor makes the following declarations as to limitations, restrictions, and uses on the Property. Furthermore, it is the intent of the Grantor that such declarations shall constitute covenants that run with the land, as provided by law, and 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.

Section 1. Remedial actions undertaken on the Property consist of: a slope cap (i.e., placement of capping material on the slope of the bank).

Section 2. The Grantor shall not conduct, or allow to be conducted any activity on the Property that may result in the release or exposure to the environment of contaminated sediment that is confined by the remedy, or creates a new exposure pathway, unless the proponent of the activity obtains the prior written authorization from EPA and secures all necessary local, state, and federal permits and approvals. Activities prohibited unless otherwise approved include, but are not limited to:

- 2.1 Any activity that alters, modifies, or removes remedial actions undertaken on the Property.
- 2.2 Piling removal and installation.
- 2.3 Dredging and excavation.

Section 3. Any other activity on the Property that may interfere with the Remedial Action, including Operation and Maintenance activities, is prohibited without prior notice to and approval of EPA.

Section 4. The Grantor shall give thirty (30) days advance written notice to EPA of the Grantor'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 Grantor without adequate and complete provision for the continued compliance with all required institutional controls, including this Restrictive Covenant.

Section 5. The Grantor shall notify and obtain approval from EPA, or its successor agency, before any use of the Property that is inconsistent with the terms of the Restrictive Covenant, or the Decree. EPA or its successor agency may approve any inconsistent use only after public notice and comment.

Section 6. The Grantor shall allow authorized representatives of EPA or its successor agency and the City of Tacoma the right to enter the Property at reasonable times for the purpose of evaluating compliance with the Consent Decree and other required plans, including the right to undertake Operation and Maintenance activities required under the Consent Decree, which includes gathering samples on the Property, and to confirm compliance with this Restrictive Covenant.

Section 7. The Grantor shall restrict leases of the Property to uses and activities consistent with this Restrictive Covenant and shall notify all lessees of the restrictions on the use of the Property. The Grantor shall include a copy of this Restrictive Covenant in any instrument conveying any interest in any portion of the Property, including conveyance of title, a lease, a license, an easement or other use authorizations.

Section 8. Within ten (10) days of the date this Restrictive Covenant is fully executed, the Grantor shall record this Restrictive Covenant with the Auditor's Office, Pierce County, State of Washington. Conformed copies of such recordings shall be forwarded to EPA, Region 10, Office of Regional Counsel at 1200 Sixth Avenue, ORC-158, Seattle, Washington 98101. The Grantor shall include a copy of this Restrictive Covenant in any instrument conveying any interest in any portion of the Property.

Section 9. If requested by EPA, the Grantor shall allow, at no cost, the placement and maintenance of signs on the Property regarding prohibited activities, vessel size and speed, and Waterway navigational buoys, markers and visual aids, to the extent such activities do not unreasonably interfere with the public's use and enjoyment of the Property.

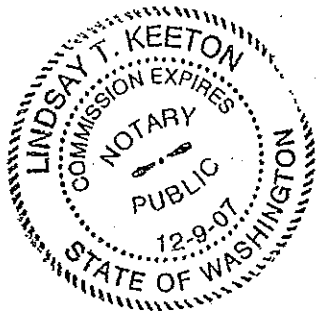
Section 10. The Grantor reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit the use of the Property or be of any further force or effect. However, such an instrument may be recorded only if EPA, after public notice and opportunity to comment, concurs.

Section 11. The Grantor hereby confirms that this Restrictive Covenant is enforceable at law by EPA.

Section 12. The parties that must be notified by the terms of this Restrictive Covenant are:

Environmental Protection Agency
Office of Environmental Cleanup
1200 Sixth Avenue, ECL-111
Seattle, WA 98101

Washington, residing at University Place
My appointment expires 12/9/2007.



ATTACHMENT 1

The south half of lot 12, all of lots 13 and 14, and the north half of lot 15, block 62, map of the Tacoma Tide Lands as surveyed and platted by the Board of tide Land Appraisers for Pierce County, according to the Plat filed for record September 14, 1895, in the office of the County Auditor, in Pierce County, Washington: Commonly known as 1147 East Dock Street, Tacoma WA 98402

PERMITS MAIL

F. J. Fox
Law Offices

1411 East Olive Way
Seattle, Washington 98122

Address Not to be Mailed



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Environmental Protection Agency
Office of Environmental Cleanup
1200 Sixth Avenue, ECL-111
Seattle, Washington 98101

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Washington State
Department of Ecology