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06-30-2005 03:58pm \$23.00  
PIERCE COUNTY, WASHINGTON

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

Foster Pepper & Shefelman PLLC  
1111 Third Avenue, Suite 3400  
Seattle, WA 98101  
Attention: Thomas J. Parkes

*SPACE ABOVE THIS LINE FOR RECORDER'S USE*

**RESTRICTIVE COVENANT**

Grantor: WATERWAY PROPERTIES, INC., a Washington corporation

Grantee: STATE OF WASHINGTON DEPARTMENT OF ECOLOGY, an agency of the State of Washington

Legal Description: Lots 7-12, Block 57, Map of Tacoma Tidelands, Tacoma, Pierce County, Washington  
Official legal description on Exhibit A

Assessor's Tax Parcel ID#: 8950001832

For reference only, not for re-sale.

## RESTRICTIVE COVENANT

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Waterway Properties, Inc. and its successors and assigns, in favor of the State of Washington Department of Ecology (Ecology).

Ecology conducted a remedial action under Chapter 70.105D RCW at the property that is the subject of this Restrictive Covenant. The extent of contamination and the remediation work done to clean up the property (the Cleanup Action) is described in four documents: *Former Standard Chemical Company Property, Final Report, Focused Feasibility Study, Tacoma Coal Gasification Site/Tacoma Gas Company Site, Tacoma, Washington, August 25, 2000* (GeoEngineers 2000a); *Remedial Design Exploration Work Plan, Former Standard Chemical Company Site, Tacoma, Washington, January 17, 2002*; *Cleanup Action Plan/Engineering Design Report, Standard Chemical Company Site, Tacoma, Washington, October 24, 2002*, by GeoEngineers for Ecology; and *Final Closure Report, Standard Chemical Company Site, Tacoma, Washington, September 29, 2003*, by GeoEngineers for Ecology.

This Restrictive Covenant is required because the Cleanup Action on the Property resulted in residual concentrations of polycyclic aromatic hydrocarbons (PAHs) in soil that may exceed cleanup levels for soils established under WAC 173-340-740(2) and (3), and because the Cleanup Action did not constitute a final resolution of groundwater contamination issues.

Waterway Properties, Inc. holds legal title to certain real property in Pierce County, State of Washington, located along Dock Street in the City of Tacoma, on the west bank of the Foss Waterway (the Property). The legal description of the Property is attached and made a part hereof by reference.

Russell S. Yee, as CEO of Waterway Properties, Inc., which is the holder of legal title, declares that he has authority to enter into this Restrictive Covenant. Russell S. Yee makes the following declaration on behalf of Waterway Properties, Inc. 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.

### Restrictive Covenants:

Section 1. No groundwater may be taken for domestic, agricultural, commercial, or industrial purposes from any well at the Property.

Section 2. Any activity on the Property that may result in the release of a hazardous substance that may remain on the Property is prohibited without the prior written approval of Ecology, including, but not limited to, any activity that could result in excavation below the soil surface as it existed on March 25, 2005.

Section 3. The owner and all successors in interest and assigns must give written notice to Ecology, or to a successor agency, of the owner's intent to convey any interest in the Property.

Section 4. The owner and all successors in interest and assigns must notify and obtain approval from Ecology, or its successor agency, prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant, including any subsequent amendments thereto which are recorded with the Pierce County Auditor's Office. Ecology or its successor agency may approve any inconsistent use only after public notice and comment.

Section 5. The owner and all successors in interest and assigns shall allow authorized representatives of Ecology, or its successor agency, the right to enter the property at reasonable times for the purpose of monitoring the Cleanup Action or to take samples.

Section 6. The owner and all successors in interest and assigns, reserve the right under WAC 173-340-440 to record an instrument which 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 with the consent of Ecology, or its successor agency. Ecology or its successor agency may consent to the recording of such an instrument only after public notice and comment.

**WATERWAY PROPERTIES, INC.**

By: \_\_\_\_\_

Russell S. Yee, CEO

Date: \_\_\_\_\_

6-30-05

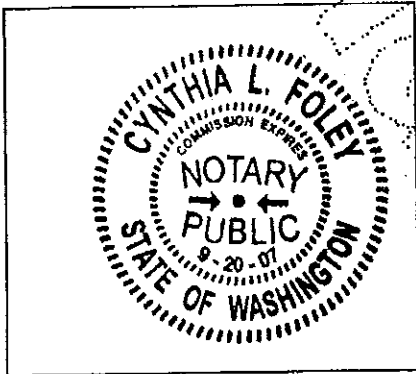
For reference only, not for re-sale.

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF PIERCE )

I certify that I have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

On this day personally appeared before me RUSSELL S. YEE, as his separate estate, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 30<sup>th</sup> day of June, 2005.



(Use This Space for Notarial Seal Stamp)

*Cynthia L. Foley*  
Notary Public in and for the State of Washington,  
residing at Univ. Pl

My commission expires: 9-20-07

Cynthia L. Foley  
[Type or Print Notary Name]

For reference only, not for re-sale.

**EXHIBIT A  
TO  
RESTRICTIVE COVENANT**

**Legal Description of Property**

Lots 7 to 12, inclusive, block 57, map of Tacoma Tideland as surveyed and platted by the Board of Tideland 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.

Except such portion, if any, within 25 feet of a line midway between the two main tracks of the Northern Pacific Railway Company.

Except that portion conveyed to the City of Tacoma by deed recorded under recording number 8205260048, described as follows:

Beginning at the southwest corner of Block 57, Map of Tacoma Tideland, according to the map thereof, filed for record September 14, 1895 in the Office of the County Auditor, in Pierce County, Washington;

Thence north along the east line of said Block 57 to the northwest corner of Lot 7 of said Block 57; thence east along the north line of said Lot 7, a distance of 12 feet;

Thence southeasterly to a point on the south line of said block 57, said point being 68 feet east of the southwest corner of said Block 57;

Thence west along the south line of said Block 57, 68 feet to the point of beginning.