

RECEIVED

JUN 18 2012

WA State Department
of Ecology (SWRO)

After Recording return to:

Washington State Department of Ecology
Toxics Cleanup Program
P.O. Box 47775
Olympia, WA 98504-7775

ENVIRONMENTAL COVENANT

CREEK PROPERTY

Grantor: WPP LLC, a Delaware limited liability company
Grantee: State of Washington, Department of Ecology
Legal: Portion of Lot 1 of Pierce County Exempt Segregation Survey Recorded
under Recording No. 200609185006, as more fully described in Exhibit A
Tax Parcel Nos.: Pierce County No. 0119221008
Cross Reference: None

Grantor, WPP LLC, a Delaware limited liability company, hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants other rights under this environmental covenant ("Covenant") made this 16TH day of MAY, 2012 in favor of the State of Washington Department of Ecology ("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, Chapter 64.70 RCW.

This Covenant is made in accordance with the Washington Uniform Environmental Covenants Act, Chapter 64.70 RCW ("UECA") and pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the Grantor, its successors and assigns, and Ecology, and its successors and assigns.

The undersigned, WPP LLC, covenants that it is the fee owner of real property in Pierce County, Washington, consisting of Section 22 Township 19 Range 01 Quarter 13, Lot 1 of that Pierce County Exempt Segregation as depicted on Record of Survey 2006-09-18-5006, records of Pierce County (Pierce County Tax Parcel No. 0119221008) ("Property").

A portion of the Property has been the subject of remedial action under the Model Toxics Control Act, Ch. 70.105D RCW ("MTCA"). The cleanup in that portion of the Property was performed as an independent remedial action under the MTCA voluntary cleanup program. Pursuant to RCW 70.105D.030(1)(i), in accordance with the conditions required by the Department of Ecology in order to issue an opinion regarding the independent remedial action,

and under the authority of RCW 70.105D.030(f), an environmental covenant is now necessary for a portion of the Property that was the subject of independent remedial action. The independent remedial action is described in the “Independent Action Report: Area 9, Wharf Pipeline, and Lower Sequelitchew Canyon NGRR,” dated May 2012. The administrative record for the voluntary cleanup, including the Independent Action Report, is on file and available for inspection at the Washington State Department of Ecology, Toxics Cleanup Program, P.O. Box 47775, Olympia, WA 98504-7775.

This Covenant is required because the remedial action resulted in residual contamination in soils at concentrations of hazardous substances (Total Petroleum Hydrocarbons/Bunker C) which exceed the soil cleanup levels specified in MTCA for unrestricted land uses at a portion of the Property. The portion of the Property with residual contaminant concentrations above MTCA cleanup levels is legally described in Exhibit A and depicted in Exhibit B, attached hereto and incorporated herein by this reference (“Restricted Property”). This Covenant applies only to the Restricted Property.

WPP LLC makes the following declaration as to limitations, conditions, restrictions, and uses to which the Restricted Property may be put and specifies that such declarations shall run with the land as provided by law and shall be binding on WPP LLC, its successors and assigns, and any and all parties and persons claiming under them, including all current and future owners of any portion of or interest in the Restricted Property (hereafter, “Owner”).

Section 1: Restrictions on Use of Restricted Property. The Restricted Property shall not be developed and used for any of the following: residential uses, schools, daycares, parks, or any other use in which the likelihood of children having sustained access to soils can be reasonably anticipated.

Section 2: Restrictions on Activities. The Owner may maintain and develop the Restricted Property consistent with its intended restriction to uses other than those described in Section 1. Normal construction and maintenance for permitted development, and activities relating to habitat enhancement, bank stabilization, and trail maintenance, such as filling, stream bank protection, revegetation, and installation of woody debris, are not restricted. For development activities permitted under this Covenant, excavated soils must be managed properly, including but not limited to the use of best management practices to control dust and surface water runoff. The Owner shall not remove or excavate any contaminated soils from the Restricted Property in any manner that may result in the release of or exposure to hazardous substances without prior written approval from the Department of Ecology. Excavated soils removed from the Restricted Property that cannot be put back in place must be disposed off-site in accordance with applicable regulations. Excavated soils from the Restricted Property shall be managed to minimize exposure to workers and other adults, and to prevent exposure to children. Excavation and other activities that will potentially expose humans or ecological receptors to the residual contamination located at the Restricted Property, and activities on the Restricted Property that could interfere with the continued protection of human health and the environment, are strictly prohibited without prior written approval from the Department of Ecology.

Section 3: Change of Use. The Owner must notify and obtain approval from the Department of Ecology and WPP LLC prior to any use of the Restricted Property that is inconsistent with the terms of this Covenant. The Department of Ecology may approve any inconsistent use only after public notice and comment.

Section 4: Notice of Conveyance. The Owner must give thirty (30) days' advance written notice to the Department of Ecology of the Owner's intent to convey any interest in the Restricted Property. Within thirty (30) days of the date any instrument conveying a fee title interest is executed, grantor must provide the Department of Ecology with a certified true copy of the instrument and, if it has been recorded in the public land records, its recording reference. No conveyance of title, easement, lease, or other interest in the Restricted Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the remedial action.

Section 5: Leasehold Interests. The Owner must restrict leases to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Restricted Property.

Section 6: Recordation. Within thirty (30) days of the date of execution, WPP LLC shall record this Covenant with the Pierce County Assessor's Office, and provide evidence of recordation to the Department of Ecology.

Section 7: Notice Requirement. The Owner shall include in any instrument conveying any interest in any portion of the Restricted Property, including but not limited to deeds, leases, and mortgages a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO THE EFFECT OF AN ENVIRONMENTAL COVENANT, DATED _____, RECORDED IN THE PUBLIC LAND RECORDS ON _____, IN BOOK _____, PAGE _____, IN FAVOR OF, AND ENFORCEABLE BY THE STATE OF WASHINGTON.

Section 8: Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give the other shall be in writing and shall be served personally or sent by first class mail postage prepaid, addresses as follows:

To WPP LLC:

WPP LLC
5260 Irwin Road
Huntington, West Virginia 25705-3247

To the Department of Ecology:

Washington State Department of Ecology
Toxics Cleanup Program
P.O. Box 47775
Olympia, WA 98504-7775

Section 9: Access. The Owner shall allow authorized representatives of the Department of Ecology and WPP LLC the right to enter the Restricted Property at reasonable times for the purposes of monitoring compliance with the terms of this Covenant, evaluating the remedial action, taking samples, inspecting remedial actions conducted at the Restricted Property, and inspecting records that are related to the remedial action.

Section 10: Public Access and Use. No right of access or use by the general public is conveyed by this Covenant to any portion of the Restricted Property, nor is any such public access and use prohibited.

Section 11: Enforcement. Owner, WPP LLC and the Department of Ecology shall each have the right, but not the obligation, to enforce the terms of this Covenant by resort to specific performance or any legal process; provided, however, that no provision of this Covenant shall be construed or intended to impose any obligations, by law or by contract, on Owner or WPP LLC or the Department of Ecology to take action to enforce said restrictions. Neither the right nor authority of Owner and WPP LLC and the Department of Ecology to enforce this Covenant nor a decision made to exercise or not to exercise such authority or right shall give rise to any duty or responsibility on the part of Owner or WPP LLC or the Department of Ecology to exercise or not exercise this right on behalf of any Party or other person or entity. All remedies available hereunder shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Any forbearance, delay or omission to exercise the enforcement rights under this Covenant in the event of a breach of any term of this Covenant shall not be deemed to be a waiver of such term or of any subsequent breach of the same or any other term, or of any of the rights under this Covenant.

Section 12: No Third Party Beneficiary. This Covenant is intended for the sole and exclusive benefit of the Parties hereto and their respective successors and assigns, including all current and future owners of any portion or interest in the Restricted Property. The Parties to this Covenant expressly do not intend to benefit any other person or entity, and expressly do not intend to create any third-party beneficiaries to any provision of this Covenant, including but not limited to any enforcement provisions.

Section 13: Run with the Land. To the extent that this Covenant is construed as a restrictive covenant, it shall run with the land, and shall be binding on the Owners, their successors and assigns, of all or any portion of the Restricted Property. No conveyance of title, easement, lease, or other interest in the Restricted Property shall be consummated by the Owner without adequate and complete provision for the continued observation of this Covenant.

Section 14: Severability. Invalidation of any provision or application of a provision of this Covenant by any court shall not affect any other provisions or applications.

Section 15: Easement in Gross. To the extent that this Covenant creates a negative easement, it shall be construed as an easement in gross for the sole benefit of Owner, without whose consent it cannot be released, modified or amended.

Section 16: Removal of Covenant. WPP LLC reserves unto itself and its successors and assigns the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Restricted 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, approves.

Section 17: Reserved Rights. WPP LLC reserves unto itself and its successors and assigns all rights and privileges in and to the use of the Restricted Property which are not incompatible with the restrictions, and rights granted herein.

WPP LLC has caused this Environmental Covenant to be signed in its name.

EXECUTED this 16th day of May, 2012.

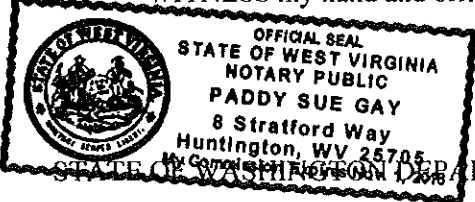
NRP (operating) LLC, on behalf of
WPP LLC, a Delaware limited liability company
its sole member

[Signature]
By: Kevin F. Wall
Its: Executive VP OPERATING

STATE OF WEST VIRGINIA)
County of CABELL) ss.

On this 16TH day of MAY, 2012, before me, the undersigned, a Notary Public in and for the State of WEST VIRGINIA, duly commissioned and sworn, personally appeared KEVIN F. WALL, known to be the EX. VP of NRP (operating) LLC of WPP LLC, the corporation that executed the foregoing Environmental Covenant, and acknowledged the said Environmental Covenant to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said Environmental Covenant.

WITNESS my hand and official seal hereto affixed the day and year written above.



NOTARY PUBLIC in and for the State of WEST VIRGINIA
[Signature] My commission expires: 11/1/2018
PADDY SUE GAY

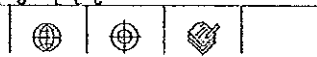
By: [Signature]
Mike Blum, Project Coordinator

Dated: June 12, 2012

Attachments: Exhibit A – Legal description of Restricted Property
Exhibit B – Depiction of Restricted Property



CONSULTING ENGINEERS LLC



Pioneer Technologies Corporation
Job No. 1-000-000-0178
December 3, 2008

EXHIBIT A

LEGAL DESCRIPTION FOR RESTRICTED AREA NORTH OF SEQUALITCHEW CREEK

That portion of Lot 1 of that Pierce County Exempt Segregation as depicted on Record of Survey recorded under Recording No. 200609185006, records of Pierce County, Washington, being more particularly described as follows:

COMMENCING at the most westerly corner of said Lot 1, said corner also begin the most northerly corner of Lot 3 of that Pierce County Exempt Segregation as depicted on Record of Survey recorded under Recording No. 200601275001;

THENCE along the common line to said lots, S 62°16'24" E, 282.18 feet to the TRUE POINT of BEGINNING;

THENCE N 23°07'27" E, 70.91 feet;

THENCE S 62°40'26" E, 20.82 feet;

THENCE S 63°15'07" E, 34.19 feet;

THENCE S 64°01'40" E, 55.96 feet;

THENCE S 64°58'12" E, 40.46 feet;

THENCE S 73°19'59" E, 48.86 feet;

THENCE S 72°02'08" E, 52.15 feet;

THENCE S 62°07'02" E, 57.02 feet;

THENCE S 58°46'44" E, 57.78 feet;

33915 1st Way South
Suite 200
Federal Way, WA 98003

Tel (253) 838 6113
Fax (253) 838 7104
Toll Free (800) 345 5694

Bothell (425) 415 6144
www.esmcivil.com

Civil Engineering
Project Management
Land Surveying

Land Planning
Public Works
Landscape Architecture

Pioneer Technologies Corporation
December 3, 2008
Page 2

THENCE S 54°43'03" E, 54.26 feet;

THENCE S 53°27'39" E, 58.19 feet;

THENCE S 53°05'28" E, 58.83 feet;

THENCE S 54°50'13" E, 54.86 feet;

THENCE S 53°15'25" E, 61.01 feet;

THENCE S 30°31'51" W, 52.58 feet to said common line to Lots 1 and 3;

THENCE along said common line, the following courses:

N 74°09'12" W, 59.43 feet;

N 70°33'10" W, 201.29 feet;

N 42°11'19" W, 83.69 feet;

N 52°39'53" W, 105.03 feet;

N 62°16'24" W, 201.64 feet to the TRUE POINT of BEGINNING;

CONTAINING 1.37 acres, more or less.

See attached Exhibit B.

Written by: D.L.R.

Checked by: C.A.F.

i:\esm-jobs\400\01\006\document\legal-004.doc

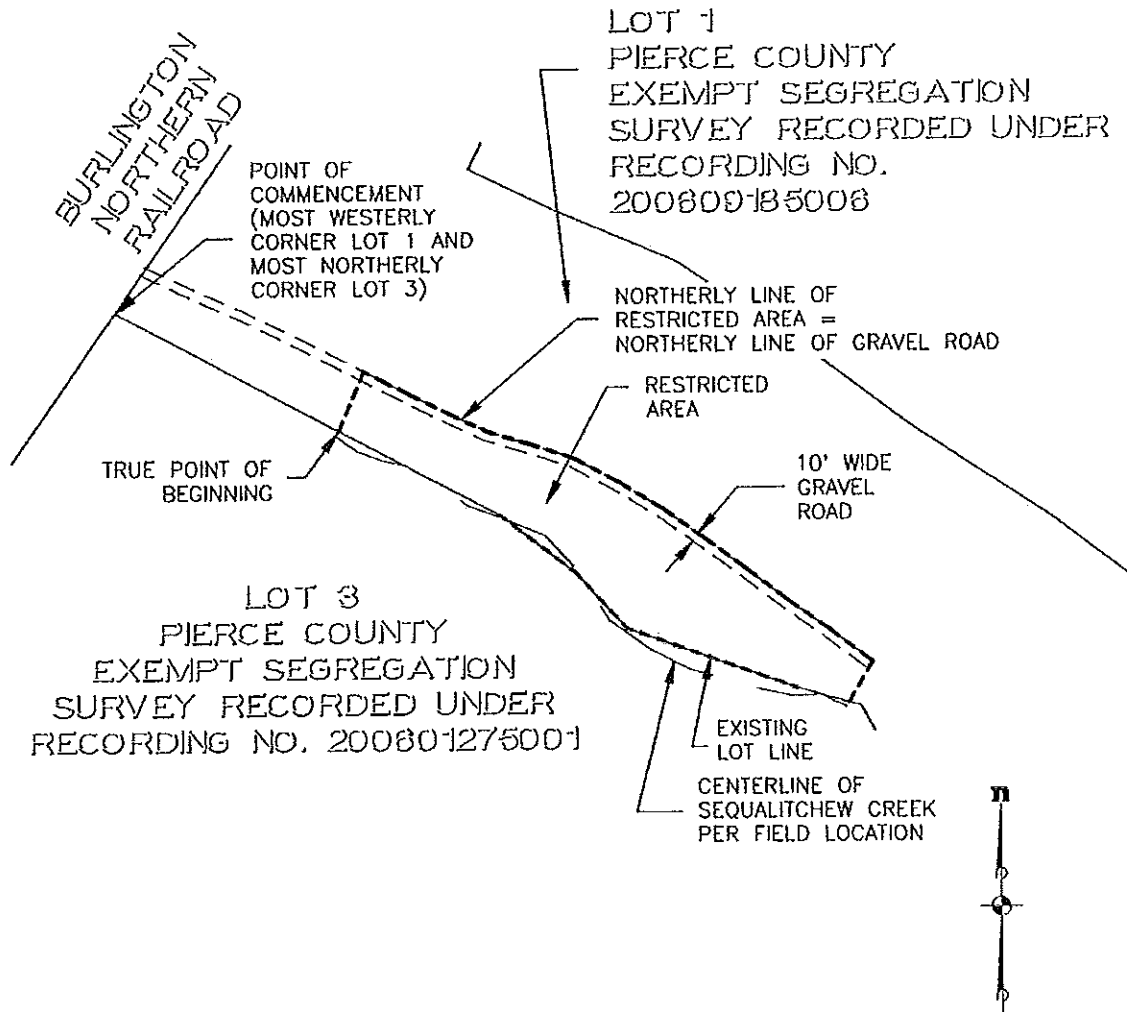


12-03-2008

EXHIBIT B

TO ACCOMPANY LEGAL DESCRIPTION FOR RESTRICTED
AREA NORTH OF SEQUALITCHEW CREEK

A PORTION OF THE SE 1/4 OF SECTION 22,
TOWNSHIP 19 NORTH, RANGE 1 EAST, W.M.,
CITY OF DUPONT, PIERCE COUNTY, WASHINGTON



\\ESM8\ESM-JOBS\400\01\006\EXHIBITS\SR-03.DWG



CONSULTING ENGINEERS LLC

33915 1st Way South #200
Federal Way, WA 98003



FEDERAL WAY (253) 838-6113
BOTHELL (425) 415-8144
ELLENSBURG (509) 862-2698

www.esmcivil.com

Civil Engineering
Public Works

Land Surveying
Project Management

Land Planning
Landscape Architecture

JOB NO. 1-000-000-0178
DRAWING NAME : SR-03
DATE : 2008-12-03
DRAWN : DLR
SHEET 1 OF 1