

RESTRICTIVE COVENANT

GATX Terminals Corporation
2720 13th Avenue Southwest, Seattle, Washington

This Declaration of Restrictive Covenant (“Restrictive Covenant”) is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by GATX Terminals Corporation (“GATX”), its successors and assigns.

Remedial action (hereafter “Remedial Action”) will be undertaken at the property that is the subject of this Restrictive Covenant. The Remedial Action is described in the Final Cleanup Action Plan, GATX Harbor Island Terminal “CAP”. The CAP is attached as Exhibit B to the Consent Decree entered in State of Washington, Department of Ecology vs. GATX Terminals Corporation, King County, Case No. 00-2-07760-2SEA (“Consent Decree”).

This Restrictive Covenant is undertaken pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 because after fixation of materials, it is expected that: (1) residual concentrations of lead and arsenic will remain beneath fixated material for the surface soil, (2) separate phase, mobile petroleum hydrocarbon compounds (“floating product”) and residual concentrations of dissolved total petroleum hydrocarbons and its constituents (e.g. benzene) will exceed the Surface Water Quality standards for groundwater established under WAC 173-340-720, and (3) total petroleum hydrocarbon contaminated soils will be left in the subsurface at the Property (as defined below).

The undersigned, GATX, is the fee owner of real property (hereafter “Property”) in the County of King, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described in Attachment A of this Restrictive Covenant and made a part hereof by reference.

GATX makes the following declaration as to limitations, restrictions and uses to which the Property may be put and specifies that, unless the subject limitations and restrictions are removed as provided herein, 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) The Property shall be used only for industrial uses, as described in RCW 70.105D.020(23) or as allowed under the City of Seattle’s zoning regulations codified in

the City of Seattle as of the date of this Restrictive Covenant or as such statute or regulations may be modified after the date of this Restrictive Covenant.

(b) No groundwater may be taken for any use from the Property that is inconsistent with the Remedial Action implementation.

Section 2

(a) As of the date the Consent Decree was entered (hereinafter "Effective Date"), a portion of the Property contains total petroleum hydrocarbons in the soil, dissolved total petroleum hydrocarbons in the groundwater, floating product on the water table, vapors in the subsurface, lead and arsenic on the surface soils.

(b) Specifically, elevated soil concentrations of residual petroleum hydrocarbons and dissolved residual of petroleum hydrocarbons and its constituents are present in Yards A, B, C and D of the above storage tank areas, next to tanks no. 43, 44, 42, 37, 39 and 35 of the C Yard, and west of the D Yard, for the B Yard, next to tanks 19, 21, 27, 32, 31, 26, 33 and 25, and for the A Yard, between the Light Oil Rack and the Office. These locations are shown in the enclosed figures. Also, it is expected that, after fixation, concentrations of lead and arsenic above Harbor Island, action levels of 1000 mg/kg and 32.6 mg/kg respectively will be present beneath the fixated materials portion of the tank farm of the B and C Yards, of the site as shown in the enclosed maps attached as Attachment B.

The Owner shall not alter, modify or remove the existing structure(s) in any manner that may result in the release or exposure to the environment of contaminated soils, groundwater or vapors existing at the site as of the Effective Date of the Consent Decree in a manner inconsistent with the Remedial Action implementation or create a new exposure pathway that endangers the public health and the environment without prior written approval from Ecology, which approval will not be unreasonably withheld under RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440. Site workers conducting construction activities within the protective zone of contamination will be instructed on precautionary actions to avoid direct contacts with contaminated soils, groundwater or exposure to vapor and fumes and on appropriate methods for handling such wastes.

(c) Consistent with RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440, any activity on the Property that may interfere with the viability of the Remedial Action, and any activity that may result in the release of a hazardous substance that was contained as part of the Remedial Action are prohibited without written approval from Ecology, which approval shall not be unreasonably withheld. Site workers conducting construction activities within these areas will follow the Health and Safety Plans pursuant to WAC 173-340-810. Also, they will be instructed on precautionary actions to avoid direct contact with contaminated soils, vapors and groundwater to ensure protection of site workers.

Section 3

Only to the extent required by RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440, the Owner of the Property must give thirty (30) days advance written notice to Ecology of the Owner's intent to convey any interest in the Property or to enter into a lease for all or any part of the Property. No conveyance of title, easement, lease or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation and maintenance of the Remedial Action.

Section 4

Only to the extent required by RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440, the Owner must restrict leases of all or any part of the Property to uses and activities consistent with this Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 5

Only to the extent required by RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440, the 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. Approval by Ecology pursuant to Section 5 shall not be unreasonably withheld. This Restrictive Covenant shall be amended to reflect any changes approved by Ecology.

Section 6

Only to the extent required by RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440, the 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 the Remedial Actions conducted at the Property, and to inspect records that concern the Remedial Action. Ecology will provide GATX advance notice of its entry onto the Property when feasible. Ecology shall adhere to Access and Operating Procedures attached as Exhibit C, and applicable Health and Safety Plans to be developed for the Cleanup Action implementation.

[The remainder of this page is intentionally left blank.]

Section 7

The 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, which concurrence shall not be unreasonably withheld.

DATED: June 19, 2000

GATX TERMINALS CORPORATION

By Harold D. King
Name: Harold D. King
Title: VP - Operations

STATE OF Illinois)
) ss.
COUNTY OF Cook)

On this 14th day of June, 2000, before me, the undersigned, a Notary Public in and for the State of Illinois, duly commissioned and sworn, personally appeared Howard D. King, to me known to be the person who signed as Vice President - General of GATX TERMINALS CORPORATION, the corporation that executed the within and foregoing instrument, and acknowledged said instrument 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 was duly elected, qualified and acting as said officer of the corporation, that he was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

Cari A. Grochowski
(Signature of Notary)

(Print or stamp name of Notary)
"OFFICIAL SEAL"
CARI A. GROCHOWSKI
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 4-9-2001

NOTARY PUBLIC in and for the State
of Illinois, residing at 479 E. Grand Ave., Palatine, IL
My appointment expires: 4-9-2001

ATTACHMENT A

Lots 9 through 44, inclusive, Block 398, Seattle Tide Lands, together with that portion of vacated S.W. Lander Street as contained in Ordinance No. 106612;

Less that portion as contained in Deed under Recording No. 7710140646;

Situate in the County of King, State of Washington.