

## Environmental Covenant

After Recording Return to:  
Stan Leja  
Department of Ecology – Southwest Regional Office  
P.O. Box 47775  
Olympia, WA 98504-7775

## Environmental Covenant

**Grantor:** SSA Containers, Inc.  
**Grantee:** State of Washington, Department of Ecology  
**Legal:** Lots 1 and 2 of Short Plat 8308190230, Pierce County, Washington  
**Tax Parcel Nos.:** 0321355005, 0321355006  
**Cross Reference:** None

Grantor, SSA Containers, Inc., hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter “Covenant”) made this [REDACTED] day of [REDACTED], 2008 in favor of the State of Washington Department of Ecology and its successors and assigns (Ecology). Ecology will 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, 2007 Wash. Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by SSA Containers, Inc., its successors and assigns, and Ecology.

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the Cleanup Action Plan (CAP) for the Reichhold/ SSA Containers Facility dated [REDACTED] and its attachments. These documents are on file at Ecology's Southwest Regional Office.

This Covenant is required because, as further described in the CAP, the Remedial Action resulted in residual concentrations of pentachlorophenol (PCP) and breakdown products (other chlorinated phenols), together with chlorinated solvents (i.e. trichloroethylene or “TCE”) and associated breakdown products (e.g. vinyl chloride), which exceed the Model Toxics Control Act Cleanup Level(s) for Non-Potable Groundwater established under WAC 173-340-720(6) (i.e., MTCA Method B surface water criteria). In addition, the Remedial Action has resulted in soil that has been remediated to Model Toxics Control Act Method C Cleanup Levels for industrial use, but not unrestricted land use. As a result, this Restrictive Covenant is required to ensure that groundwater is not used for drinking water and future use of the Property is limited to industrial use.

The undersigned, SSA Containers, Inc., is the fee owner of real property (hereafter "Property") in the County of Pierce, State of Washington, that is subject to this Covenant. The Property is legally described in Attachment A of this Covenant and made a part hereto by reference.

SSA Containers, Inc. makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations will constitute covenants to run with the land, as provided by law and will 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.

1. The Property will be used only for traditional industrial uses, as described in RCW 70.105D.020(23) and defined in and allowed under the County of Pierce’s zoning regulations codified in the Pierce County Development Regulations - Zoning as of the date of this Restrictive Covenant.

2. No groundwater may be taken for drinking water purposes from the Property.

Section 2. Any activity on the Property that may result in the creation of a new exposure pathway to a hazardous substance that remains on the Property as part of the Remedial Action, is prohibited without prior written approval from Ecology.

Section 3. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property will be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

Section 4. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 5. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 6. The Owner will 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, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 7. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant will 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.

SSA CONTAINERS, INC.

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

\_\_\_\_\_  
Edward DeNike  
President

\_\_\_\_\_  
Kay Seiler  
Section Manager, Southwest Regional Office  
Hazardous Waste & Toxics Reduction Program

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, I certify that \_\_\_\_\_ personally appeared before me, acknowledged that **he/she** is the \_\_\_\_\_ of the corporation that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that **he/she** was authorized to execute said instrument for said corporation.

\_\_\_\_\_  
Notary Public in and for the State of  
Washington, residing at \_\_\_\_\_.  
My appointment expires \_\_\_\_\_.

Exhibit A  
Legal Description

Lots 1 and 2 of Pierce County Short Plat, as recorded August 19, 1983 under Recording No. 8308190230, records of Pierce County Auditor;

Situate in the City of Tacoma, County of Pierce, State of Washington.