

Return Address:



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Skagit County Auditor

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LAND TITLE OF SKAGIT COUNTY

120246-7

Document Title(s) (for transactions contained therein): 1. DECLARATION OF ENVIROMENTAL RESTRICTION AND OTHER ENVIROMENTAL 2. COVENANTS AND CONDITIONS 3. 4.
Reference Number(s) of Documents assigned or released: (on page of documents(s))
Grantor(s) 1. KUMAR INC 2. 3. 4.
Additional Names on page of document.
Grantee(s) 1. BP WEST COAST PRODUCTS LLC 2. 3. 4.
Additional Names on page of document.
Legal Description (abbreviated i.e. lot, block, plat or section, township, range) LOT 1 MV SP 8-86 in SE 1/4 of NE 1/4 in 17-34-4
Additional legal is on page of document.
Assessor's Property Tax Parcel/Account Number 340417-1-014-0702
The Auditor/Recorder will rely on information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

Order No.: 120246-T
Escrow No.: 10823337

RECORDING REQUESTED BY
LAND TITLE COMPANY OF SKAGIT COUNTY
AND WHEN RECORDED, RETURN TO:

BP West Coast Products LLC
4 Centerpointe Drive, LPR 4-224
La Palma, California 90623-1066
Attn: Ken Tucker

ARCO Facility No.: 05373
BP SCDB No.: 30953
Location: 2125 E. College Way
Mount Vernon, WA 98273-2319

LAND TITLE OF SKAGIT COUNTY
FOR RECORDER'S USE 120246-T

Type 3 Site 340417-1-014-0702

Lot 1 MV SP 8-86 in SE 1/4 of NE 1/4 17-34-4

**DECLARATION OF ENVIRONMENTAL RESTRICTION AND
OTHER ENVIRONMENTAL COVENANTS AND CONDITIONS**

This Declaration of Environmental Restriction and Other Environmental Covenants and Conditions (this "Declaration") dated August 18, is made by KUMAR, INC., a Washington corporation ("Owner"), for the benefit of ATLANTIC RICHFIELD COMPANY, a Delaware corporation ("ARCO"), and BP WEST COAST PRODUCTS LLC, a Delaware limited liability company ("BP").

RECITALS

A. ARCO or ARCO's dealer operated an ARCO-branded gasoline station on the real property in the County of Skagit, State of Washington, described in the attached Exhibit "A" (the "Real Estate").

As of January 1, 2002, ARCO conveyed substantially all of its refining and marketing assets, including the Real Estate, to BP. BP America Inc., a Delaware corporation, owns both ARCO and BP.

\\bp1\pris001\group\RE\ADMIN\PNW DECAP 2006\WA\05373 - ENV 3, SCP 1\05373 Exhibit F Environmental Dec Clean (12-23) updated.DOC



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C. In connection with the signing and recording of this Declaration, BP conveyed the Real Estate to Owner.

D. By this Declaration, Owner intends to impose certain restrictions on the Real Estate.

AGREEMENT

THEREFORE, Owner agrees and declares as follows:

1. **BP's Access Right.**

1.1 **Grant of Access Right.** After the date on which this Declaration is recorded (the "Effective Date"), BP and BP's representatives will have the unrestricted right to enter on the Real Estate in order to assess, monitor, and perform corrective action (which may include natural attenuation) on any Pre-Closing Contamination, to the extent that the Agency requires for gasoline station use (the "Corrective Action"). The term "Pre-Closing Contamination" means hydrocarbons, TPHg (total petroleum hydrocarbons as gasoline), MTBE and other fuel additives, petroleum, and petroleum derivative products released into the soil or groundwater during BP or ARCO gasoline station operations conducted on the Real Estate by BP or ARCO and its subsidiaries before the Effective Date. The term "Agency" means the environmental regulatory agency that has jurisdiction over the assessment and remediation of Pre-Closing Contamination. BP shall give Owner prior oral or written notice of its exercise of this right to enter (the "Access Right"). In exercising the Access Right, BP shall attempt to minimize, to the extent reasonably possible, any interference with the operation of the business on the Real Estate, except in the case of an emergency, as determined by BP. In conducting its operations on the Real Estate, Owner shall attempt to minimize, to the extent reasonably possible, any interference with the Corrective Action. BP will have sole discretion to determine the Corrective Action schedule, technique, method, and design; and BP may contest and appeal any decision of the Agency. Owner shall cooperate with BP in obtaining Agency approval for any Corrective Action. The Access Right includes, without limitation, the right to (i) perform soil and groundwater investigations, (ii) install, operate, monitor, maintain, repair, close, and remove equipment (including piping and wells) for the Corrective Action, and (iii) have service trucks on the Real Estate. As part of any equipment installation, BP may cut and remove portions of the asphalt and concrete. But BP shall patch any asphalt and concrete that it removes with comparable asphalt and concrete. BP will not be required to pay any rent or other compensation to Owner for the Access Right or the portion of the Real Estate occupied by the equipment used in performing the Corrective Action.

1.2 **Termination and Resumption of Access Right.** The Access Right will terminate 90 days after BP receives a letter issued by the Agency stating that, based on certain assumptions and conditions, the Agency will not require BP to perform any further Corrective Action regarding the Real Estate (the "No Further Action Letter"). But if, after the Agency issues the No Further Action Letter, the Agency requires BP to perform further Corrective Action, the Access Right will resume until 90 days after BP receives a new No Further Action Letter for the further Corrective Action. But, in all events, the Access Right will terminate 25 years after the Effective Date.



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2. Owner's Notification Obligations. For 25 years after the Effective Date, Owner shall notify BP within 14 days after (i) any on-site visit by the Agency, (ii) Owner's receipt of correspondence from the Agency regarding any Corrective Action, (iii) any release of a Hazardous Material on or about the Real Estate requiring regulatory notification, or (iv) any activity on or about the Real Estate that impacts BP's rights under this Declaration or BP's performance of any Contractual Obligation (as defined in Section 3), other than the activities covered by Owner's notification obligation in Section 7.1. The term "Hazardous Material" means any material, substance, or waste that has been determined by any governmental authority to be capable of posing a risk of injury to health, safety, or property. The term "Hazardous Material" includes, without limitation, any Pre-Closing Contamination.

3. Owner's Acceptance of the Condition of the Real Estate. Owner acknowledges that Pre-Closing Contamination is present on, under, or near the Real Estate. Owner has accepted the Real Estate, including without limitation its environmental condition, in "AS IS" condition on the Effective Date, subject to any other obligation that BP may have under the Agreement for Sale of Real Estate to Lessee Dealer Accepting BP's Good Faith Offer to Sell or any other written agreement entered into between Owner and BP before the Effective Date, to conduct any Corrective Action (a "Contractual Obligation"). In addition, when the Agency issues the No Further Action Letter, Owner will be considered to have accepted the Real Estate in "AS IS" condition as of the date of the No Further Action Letter. Owner acknowledges that the purchase price paid to BP for the Real Estate reflects (i) the effect of this Declaration on the Real Estate and (ii) any presence, whether known or unknown, of Pre-Closing Contamination, subject to any right that Owner might have to require BP to perform any Contractual Obligation.

4. Owner's Waiver of Environmental Claims. Owner, for itself and its heirs, successors, and assigns (including without limitation all future owners of the Real Estate), waives any claim that it might have against ARCO, BP, or ARCO's or BP's officers, directors, employees, parents, subsidiaries, divisions, members, or affiliates (collectively, the "BP Entities") based on or related to the presence of any Hazardous Material on, under, or about the Real Estate at the Effective Date, whether discovered before or after the Effective Date. These claims include, without limitation, (i) claims that might arise after the Effective Date and (ii) claims that Owner did not know or suspect to exist when Owner signed this Declaration. Until the Agency issues the No Further Action Letter, the waived claims will not include any claims arising from any material breach by BP of (a) its Contractual Obligation, or (b) the conditions to the Access Right.

5. Owner's Environmental Indemnification of the BP Entities. Owner shall indemnify and defend the BP Entities from all liabilities, damages, losses, claims, costs, and expenses (including reasonable attorneys' fees) that the indemnified person incurs arising from the presence of any Hazardous Material on, under, or about the Real Estate, whether the release of the Hazardous Material occurred before or after the Effective Date. Until the Agency issues the No Further Action Letter, the indemnified claims will not include any claims arising from (a) any material breach by BP of its Contractual Obligation, or (b) any material breach of the conditions to the Access Right.

6. Baseline Data. For purposes of this Declaration, only Contamination within the Contamination concentration levels (the "Contamination Levels") and the Contamination areas (the "Contamination Areas") comprising the Baseline Data will be considered Pre-Closing



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Contamination. The term "Contamination" means hydrocarbons, TPHg, MTBE and other fuel additives, petroleum, and petroleum derivative products present in the soil or groundwater. The term "Baseline Data" means the Contamination Levels and Contamination Areas disclosed in the report entitled Annual Groundwater Monitoring Report, dated April 26, 2006, and prepared by Delta Environmental Consultants, Inc. regarding the Real Estate, decreased to any lower Contamination Levels or smaller Contamination Areas disclosed in any Qualified Report obtained by BP after the Effective Date. The term "Qualified Report" means a subsurface investigation report on the soil or groundwater at or under the Real Estate that has been prepared and certified by a geologist or professional engineer who is licensed by the state in which the Real Estate is located and who is not affiliated with ARCO, BP, or Owner.

7. Construction, Excavation, and Similar Restrictions.

7.1 Notice of Owner's Improvement Plans. During any period in which the Access Right is in effect (the "Access Period"), Owner shall provide BP with information regarding Owner's plans for improving the Real Estate, at least 40 days before Owner starts any grading or construction work at the Real Estate, so that BP can determine whether or not Owner's planned improvements will interfere with the Access Right or adversely affect the Corrective Action. Additionally, during the Access Period, Owner must obtain BP's written approval (not to be unreasonably withheld) before conducting any grading, constructing any improvement, or installing any equipment that BP determines would be likely to interfere with the Access Right or adversely affect any Corrective Action.

7.2 Excavation Restriction. Except as provided in Section 7.5, for a period of 25 years after the Effective Date, Owner shall not excavate any soil in any Restricted Area at a depth greater than four feet below the grade of the Restricted Area at the Effective Date. The term "Restricted Area" means each area shown on the attached Exhibit "B" with (i) the label "Restricted Area" or (ii) with a label that includes the words "Restricted Area."

7.3 Construction Restriction. Except as provided in Section 7.5, until 90 days after BP receives the No Further Action Letter, Owner shall not construct or install any improvement on or under any Restricted Area, except for asphalt surfacing or landscaping. But the landscaping must not include trees or hardscape. Thereafter, until 25 years after the Effective Date, Owner may construct or install improvements on or under any Restricted Area, but only if the construction or installation does not involve excavation at a depth greater than four feet below the grade of the Restricted Area at the Effective Date.

7.4 Underground Storage Tank and Petroleum Hydrocarbon Restrictions. Except as provided in Section 7.5, for a period of 25 years after the Effective Date, Owner shall not (i) install any underground storage tank for petroleum hydrocarbons on or under any Restricted Area or (ii) otherwise store or treat petroleum hydrocarbons on or under any Restricted Area.

7.5 Certain Permitted Work. The provisions of Sections 7.2 through 7.4 will not be considered to prohibit Owner from (i) performing any corrective action on soil or groundwater under any Restricted Area that is contaminated with a Hazardous Material, to the extent required by the Agency, (ii) removing or replacing any underground gasoline storage tank or any gasoline lines located under any Restricted Area, or (iii) storing petroleum hydrocarbons in the existing or replaced underground gasoline storage tanks. But Owner must



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perform that work in compliance with all applicable governmental requirements and perform, and pay for, the sampling, transportation, and disposal of any soil or groundwater that the Agency may require as a result of those activities described in Section 7.5(i) and (ii).

7.6 Owner's Damage to BP's Wells. If Owner or Owner's tenants, representatives, agents, or contractors damage any of BP's remediation system, associated piping, or monitoring, vapor extraction, or other wells at the Real Estate (the "BP Equipment"), Owner shall reimburse BP promptly, for the cost of repairing or replacing that BP Equipment. In addition, if Owner or Owner's tenants, representatives, agents, or contractors cover any of BP's monitoring, vapor extraction, or other wells at the Real Estate, Owner shall locate and uncover those wells and raise the Christie box surrounding the casing for those wells to the surface elevation, and Owner shall reimburse BP promptly for the cost of that work.

8. Environmental Insurance. Owner shall obtain private insurance issued by an insurer with an AM Best Rating of A+ or higher which provides cleanup and coverage for any petroleum release discovered after the Effective Date which results from the use and operation of the Real Estate after the Effective Date. Such insurance shall provide limited not less than \$250,000 per occurrence, shall name BP West Coast Products LLC as an additional insured, and shall provide at least 60 days advance written notice before expiration or earlier termination. Owner shall provide BP proof of coverage on or before the Effective Date. Such insurance shall be maintained for the longer of the following periods: (a) five (5) years after Closing, or (b) the date upon which BP receives a No Further Action Letter or equivalent decision from the Agency.

9. Notices. Notices relating to this Declaration must be in writing (except as set forth in Section 1.1) and sent to the addresses set forth below. But a party may change its address for notices by giving notice as required by this Section /8. A written notice will be considered given (i) when personally delivered, (ii) two business days after deposit in the United States Mail as first class mail, certified or registered, return receipt requested, with postage prepaid, (iii) one business day after deposit with a reputable overnight delivery service for next business day delivery, or (iv) on the business day of successful transmission by electronic facsimile. The parties' addresses for notices are as follows:

To Owner: Kumar, Inc.
2125 E. College Way
Mount Vernon, Washington 98273-2319
Attn: Veer Kumar

Facsimile: _____

To BP: BP West Coast Products LLC
4 Centerpointe Drive, LPR 4-183
La Palma, California 90623-1066
Attn: Manager, Western Environmental Services Team

Facsimile: (714) 670-5195

10. Entire Agreement; Modification; Waiver. This Declaration (including any attached Exhibits) contains the entire agreement between Owner and BP with respect to any



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restrictions on Owner's use and operation of the Real Estate and the other matters that are the subject of this Declaration. Any modification of this Declaration must be in writing and signed by Owner and BP. Any waiver of a provision of this Declaration by Owner or BP must be in writing.

11. Governing Law. The internal laws of the State of California govern this Declaration.

12. Interpretation. The captions appearing in this Declaration are for convenience of reference only, and they do not affect the meanings of the provisions of this Declaration. In this Declaration, each gender includes the other gender. Words in the singular include the plural and vice versa, when appropriate. The word "person" includes natural individuals and all other entities. The word "cost" includes any cost or expense. The word "term" includes any covenant, condition, representation, warranty, or other provision that is part of this Declaration. Whenever a provision of this Declaration requires Owner or BP to perform an act, that person must do so at its sole cost (unless otherwise stated in connection with that provision).

13. Further Acts. Owner and BP shall each do all things that the other reasonably requests to carry out the purpose of this Declaration.

14. Attorneys' Fees. If a dispute arises with respect to this Declaration and if BP prevails in the dispute, then BP will be entitled to recover from Owner the reasonable costs and expenses that BP incurred in enforcing its rights under this Declaration, including reasonable attorneys' fees.

15. Restrictions Run with the Land. ARCO's and BP's rights under this Declaration, Owner's obligations under this Declaration, any restrictions on the use and operation of the Real Estate, and any waivers by Owner under this Declaration (collectively, the "Rights and Restrictions") are for the benefit of the BP Entities, and their successors and assigns. The Rights and Restrictions run with the Real Estate and bind Owner's successors and assigns, including future owners of the Real Estate, for the benefit of the BP Entities, and their successors and assigns. The Rights and Restrictions are intended to constitute equitable servitudes that burden the Real Estate.

(See signatures on following page.)



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UNOFFICIAL DOCUMENT

OWNER:

KUMAR, INC.,
a Washington corporation

By: V-h. Kumar

Printed Name: VEER KUMAR

Printed Title: PRESIDENT

By: _____

Printed Name: _____

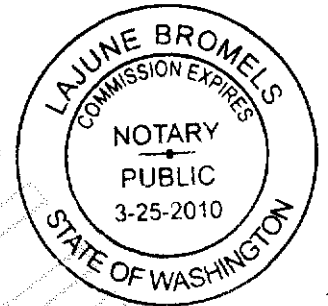
Printed Title: _____

(ATTACH NOTARY ACKNOWLEDGMENTS)

_____, A NOTARY PUBLIC IN
THE STATE OF WASHINGTON, ON
_____, DAY OF _____
MY COMMISSION EXPIRES _____

_____, A NOTARY PUBLIC IN
THE STATE OF WASHINGTON, ON
THIS 18th DAY OF Aug 2006
MY COMMISSION EXPIRES 3-25-2010

Lajune Bromels



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LEGAL DESCRIPTION OF THE REAL ESTATE

(See Exhibit "A" following this cover sheet.)

EXHIBIT "A"



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Lot 1, City of Mount Vernon Short Plat No. 8-86, approved December 23, 1986, recorded December 23, 1986 in Book 7 of Short Plats, page 150, under Auditor's File No. 8612230042 and being a portion of the Southeast ¼ of the Northeast ¼ of Section 17, Township 34 North, Range 4 East, W.M.,

EXCEPT the South 10 feet thereof deeded to the City of Mount Vernon by instrument recorded May 11, 1987, under Auditor's File No. 8705110008.

TOGETHER WITH an easement for ingress, egress and regress, in common with other owners, over, upon and across Parcel "B" as shown on the face of said Short Plat.

Situate in the County of Skagit, State of Washington.



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**DEPICTION OF THE REAL ESTATE
AND RESTRICTED AREA**

(See Exhibit "B" following this cover sheet.)

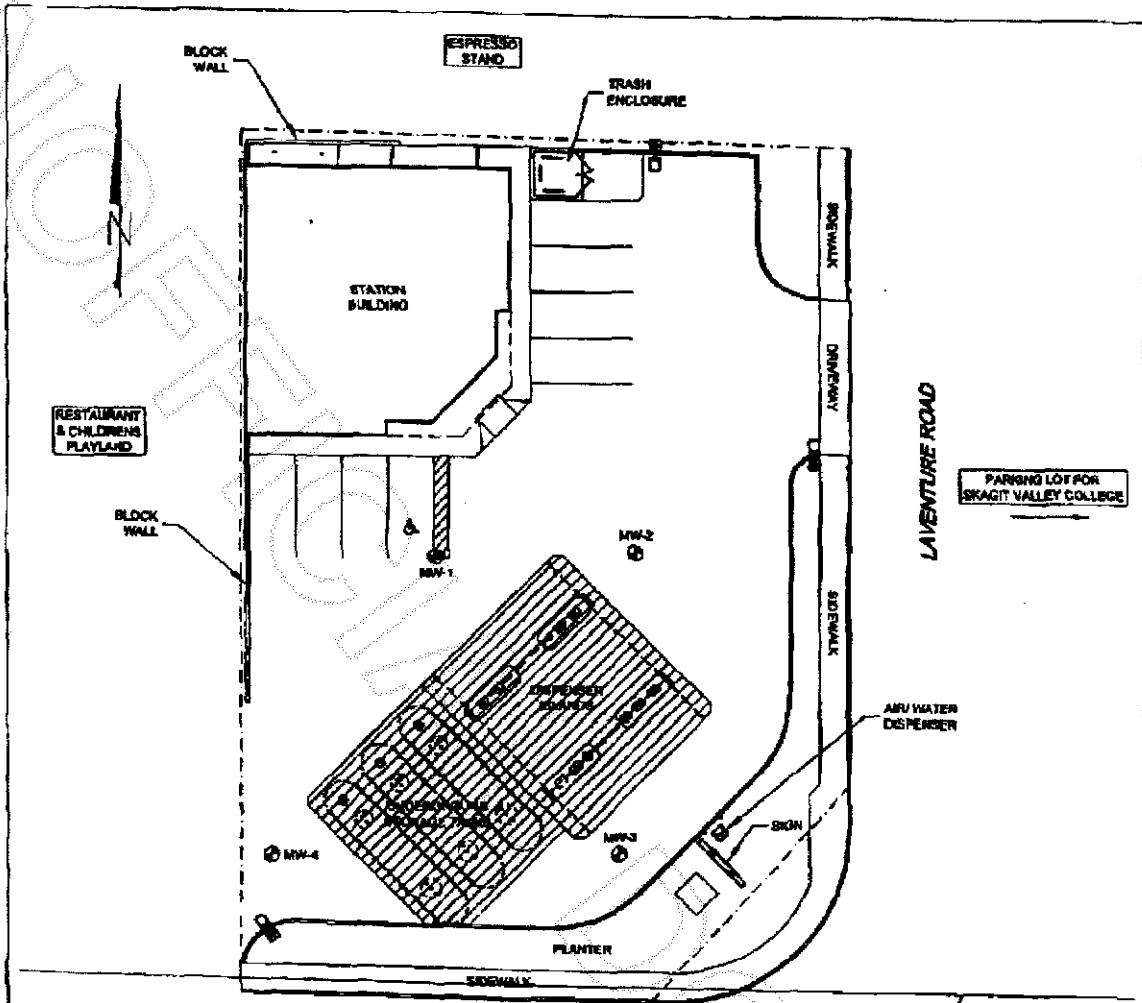
EXHIBIT "B"

\\bp1pris001\group\RE\ADMIN\PNW DECAP 2006\WA\05373 - ENV 3; SCP 1105373 Exhibit F Environmental Dec Clean (12-23) updated.DOC



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- LEGEND:
- MW-1 MONITORING WELL LOCATION
 - RESTRICTED USE AREA

FOOD MART & YESCO'S STATION



FIGURE 1
RESTRICTED AREA USE MAP

ARCO FACILITY NO. 5373
2125 E. COLLEGE WAY
MT. VERNON, WA.

PROJECT NO. 00815	DRAWN BY M.L. MYERS
FILE NO. M130078	PREPARED BY M.L.M.
REVISION NO. 1	REVIEWED BY



SOURCE: FIGURE MODIFIED FROM DRAWING PROVIDED BY
SARGHAUSEN CONSULTING ENGINEERS DATED 12/28/04.



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