

INSTRUCTIONS FOR COVENANTS USED TO PROTECT WATER SUPPLIES

INTRODUCTION

Washington State Drinking Water Regulations include requirements to protect public drinking water sources (WACs 246-290-135, 246-291-100). The regulations require that wells and springs be surrounded by an area of sanitary control. The Sanitary Control Area is the area in which activities that could contaminate the drinking water source are not allowed. Lewis County requires similar protection for two-party water supplies and properties being subdivided.

According to state regulations and Lewis County Policy, a purveyor (the person owning or operating a water system) must provide an area of sanitary control for a radius of 100 feet for wells and 200 feet for springs. For small water systems, these distances may be modified by the Health Officer based on an acceptable evaluation of geological conditions and other factors.

Covenants are the legal tools used by purveyors to assure that no source of contamination will be constructed, stored, disposed of, or applied within the Sanitary Control Area. The purpose of this handout is to:

- Explain what covenants are.
- Explain the types of covenants used to protect water sources.
- Help purveyors complete the legal forms to record covenants.

WHAT IS A COVENANT?

A covenant is a written promise, agreement, or restriction. When applied to water systems, a covenant is a recorded agreement stating that certain activities and/or practices will not be allowed to occur near a particular water source. As explained previously, limiting these activities is intended to prevent the water source from being contaminated.

It is the responsibility of the purveyor to:

- Declare or obtain the necessary covenant(s).
- Record the covenant(s) in the Lewis County Auditor's Office.

Purveyors cannot rely upon the authority of state or local agencies to exclude potential sources of contamination from the Sanitary Control Area.

TYPES OF COVENANTS USED TO PROTECT WATER SOURCES

Two types of covenants are used to protect water sources. A **DECLARATION OF COVENANT** is used when the well and the entire 100' Sanitary Control Area are located on the same parcel, owned by the purveyor. A **RESTRICTIVE COVENANT** is used when all or part of the Sanitary Control Area is located on another property, even if the second parcel is also owned by the purveyor. In many cases, both types of covenants may be necessary to protect the water source.

INSTRUCTIONS

The instructions provided below should be used in conjunction with the attached sample covenants. The "sections" refer to the various portions of the covenants that need to be completed. The sections are noted on the attached example covenants.

DECLARATION OF COVENANT

If you, the Purveyor, own all or part of the area to be protected, you should fill out a Declaration of Covenant. The completed form should be submitted to Lewis County Environmental Health to review, and then filed with the Lewis County Auditor's Office upon approval.

See Attachment #1 for an example of a completed Declaration of Covenant. Sections A and B shown on Attachment #1 are explained below.

SECTION A—In Section A, fill in the tax parcel number and legal description of the property on which the water source is located. This should include the full legal description, which can be found on the property title or obtained from the Auditor's Office.

Long or complex legal descriptions can be provided as an attachment filed with the covenant (see Attachment A). However, any attachments should be referenced in Section A of the Declaration of Covenant (example shown on Attachment #1)

SECTION B—This section refers to the precise location of the drinking water source on the property described in Section A.

RESTRICTIVE COVENANTS

When portions of the Sanitary Control Area extend past the Purveyor's property line, he/she must obtain a Restrictive Covenant from that land owner. This applies whether the Purveyor owns the neighboring parcel(s) or not. For example, if a Purveyor owns 2 adjacent pieces of property, with a well near the dividing line, he/she would complete both a Declaration of Covenant and a Restrictive Covenant. The purveyor must record the covenants with the Lewis County Auditor's Office. This ensures that the Sanitary Control Area will be protected if/when the adjacent property is sold.

See Attachment #2 for an example. Sections C and D shown in Attachment #2 are explained below.

SECTION C—This section refers to the property that is granting the Restrictive Covenant, i.e. the property neighboring or adjacent to the parcel where the water source is located. The tax parcel number and full legal description of the neighboring parcel should be written here.

SECTION D—This section references the property where the water source is actually located. The tax parcel number, full legal description of the property, and the water source's exact location on the property should be written here.

We recommend that a map be filed at the Auditor's Office with the covenant(s) showing the location of the source relative to property lines. See Attachment A for an example. Because this is a legally binding document, we also recommend that an attorney review the completed form prior to submittal to assure adequate protection for all concerned parties.

If you have any questions regarding these forms, please call one of the following:

Meredith Jones, Lewis County Water Program
(360) 740-1231

Sue Kennedy, Lewis County Water Program
(360) 740-2691

Tony Barrett, Lewis County Deputy Health Officer
(360) 740-1238

This document was modified from Washington State Department of Health Publication #331-048 for use in Lewis County. The attachments are also from that publication and have not been changed.