146

Arapahoe County Clerk & Recorder, Nancy A. Doty
ception #: B6145463
Receipt #: 5[illegible]920 Recording Fee: $146.00
Pages Recorded: 29
Date Recorded: 10/11/2006 2:17:22 PM

This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, *Colorado Revised Statutes.*

ENVIRONMENTAL COVENANT

The United States of America (United States) grants an Environmental Covenant ("Covenant"), as more fully set out below, this 10th day of July, 2006 to the Colorado Department of Public Health and Environment ("Department") pursuant to § 25-15-321, Colorado Revised Statutes. The Department's Address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

1-29

WHEREAS, the United States is the owner of certain property (hereinafter referred to as the "Property") which is approximately 22.9 acres and is part of what is commonly referred to as the Missile Complex Area of the Bennett Army National Guard Facility (BANGF), located in Arapahoe County, Colorado, and operated by the United States Army (Army); and more particularly described in Attachment A, attached hereto and incorporated herein by reference as though fully set forth. Said property is being conveyed to Mr. Michael Eckert by quitclaim deed pursuant to the Federal Property and Administrative Services Act (FPASA) of 1949.

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment as described in the Army's Engineering Evaluation/Cost Analysis, Final Action Memorandum and Finding of Suitability to Transfer for the Property.

WHEREAS, the United States desires to subject the Property to the restrictions of this Covenant as provided in Colorado Revised Statutes § 25-15-317 *et. seq.*, which Covenant shall burden the Property, run with the land, and bind the Property's owner, its heirs, successors, assigns, and any grantees of the Property, their heirs, successors, assigns and grantees, and any users of the Property.

NOW, THEREFORE, the United States hereby grants this Environmental Covenant to the Department, and declares that the Property shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 11, below, which shall run with the land in perpetuity and be binding on the owner and all parties having right, title, or interest in the Property, or any part thereof, their heirs, successors, and assigns, and any persons using the Property. The owner and all persons having any right, title, or interest in the Property, or any part thereof, their heirs, successors, and assigns shall hereinafter be referred to in this covenant as the "Owner".

Please return the original document to:
Suzanne Burdick
Department of Law/NR
1525 Sherman Street, 7th Floor
Denver, Colorado 80203

1. Use Restrictions The United States both retains for itself and hereby grants to the Department an irrevocable, permanent, and continuing right to enforce the following restrictions on the Property:

a. The Property shall only be used as open space. Open space shall be defined as land that is not built upon or substantially altered by human activity, which is dedicated primarily to passive recreation use, nature conservation, and visual enjoyment.

b. There shall be no use of groundwater located under the Property;

c. There shall be no access, use or disturbance of the underground missile complex and/or tunnels including the powerhouse, control center, three missile silos, antenna terminal, utility systems, and approximately 2,100 feet of tunnels between major structures; and;

d. There shall be no excavation activities (e.g. digging, drilling, or any other excavation or disturbance of the land surface or subsurface) that disturb the underground complex on the Property. See Exhibit 1, Site Map for Titan I Complex 2A, Bennett Colorado.

2. Purpose of this Covenant The purpose of this Covenant is to ensure protection of human health and the environment by minimizing the potential for exposure to any hazardous substance, hazardous waste, hazardous constituents, solid waste, and/or unsafe conditions that remain on the Property. The Covenant will accomplish this by minimizing those activities that result in disturbing the ground surface, and by creating a review and approval process to ensure that any such intrusive activities are conducted with appropriate precautions to avoid or eliminate any hazards.

3. Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. The Owner may request that the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information and may request additional information. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Covenant shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:

a) a proposal to perform additional remedial work;
b) new information regarding the risks posed by the residual contamination;
c) information demonstrating that the residual contamination has diminished;

d) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
e) other appropriate supporting information.

4. Conveyances The Owner shall notify the Department at least fifteen (15) days in advance of any proposed grant, transfer, or conveyance of any interest in any or all of the Property.

5. The Owner agrees to incorporate either in full or by reference this Covenant and its restrictions in any leases, licenses, or other instruments granting a right to use the Property.

6. Notification for proposed construction and land use The Owner shall notify the Department simultaneously when submitting any application to local government for a building permit or change in land use.

7. Inspections The Department shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant. Nothing in this Covenant shall impair any other authority the Department may otherwise have to enter and inspect the Property.

8. No Liability The Department does not acquire any liability under State law by virtue of accepting this Covenant.

9. Enforcement The Department may enforce the terms of this Covenant pursuant to § 25-15-322. Colorado Revised Statutes. The United States may seek enforcement of this Covenant in any court with jurisdiction, including asking the court to enjoin actual or threatened violations of this Covenant.

10. Owner's Compliance Certification The Owner shall submit an annual report to the Department, on the anniversary of the date this Covenant was signed by the United States, detailing the Owner's compliance with, and any violation of, the terms of this Covenant.

11. Notices Any report, document, or communication required under the Covenant shall be mailed by registered mail (or commercial equivalent), postage prepaid, to:

Hazardous Waste Corrective Action Unit Leader
Hazardous Materials and Waste Management Leader
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80846-1530

The UNITED STATES OF AMERICA, has caused this instrument to be executed this 10th day of July, 2006.

UNITED STATES OF AMERICA

By: _____
Joseph W. Whitaker
Deputy Assistant Secretary of the Army
(Installations and Housing)

STATE OF Virginia)
) ss:
COUNTY OF Arlington)

The foregoing instrument was acknowledged before me this 10th day of JUL, 2006 by JOSEPH W. Whitaker on behalf of the United States of America.

_____
Notary Public

_____
Address

_____

My commission expires: My Commission Expires October 31, 2008

Accepted by the Colorado Department of Public Health and Environment this 31st day of May, 2006.

By: Gary W. Baughman

Gary W. Baughman
Director
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 31 day of MAY, 2006 by GARY BAUGHMAN on behalf of the Colorado Department of Public Health and Environment.

Claudette M. Lewis
Notary Public

4300 Cherry Creek Dr. So.
Address

Denver, Co. 80246

My commission expires: October 21, 2007

ATTACHMENT A

Legal Description of the 22.9 Restricted Missile Complex Area

LEGAL DESCRIPTION OF PROPERTY for Restricted Area

A tract of land situated in Section 29, Township 5 South, Range 63 West of the Sixth Principal Meridian, Arapahoe County, Colorado, being more particularly described as follows:

Commencing at the Northeast corner of said Section 29;

Thence West along the North line of said Section 29, a distance of 30.00 feet;

Thence South along a line parallel with the East line of said Section 29, a distance of 1,157.57 feet.

Thence West, 1,420.83 feet, more or less, to the POINT OF BEGINNING,

Thence West, 542.16 feet,

Thence Southwest (bearing N28°59'49"E), 770.67 feet,

Thence Southeast (bearing N36°53'16"W), 1,153.44 feet,

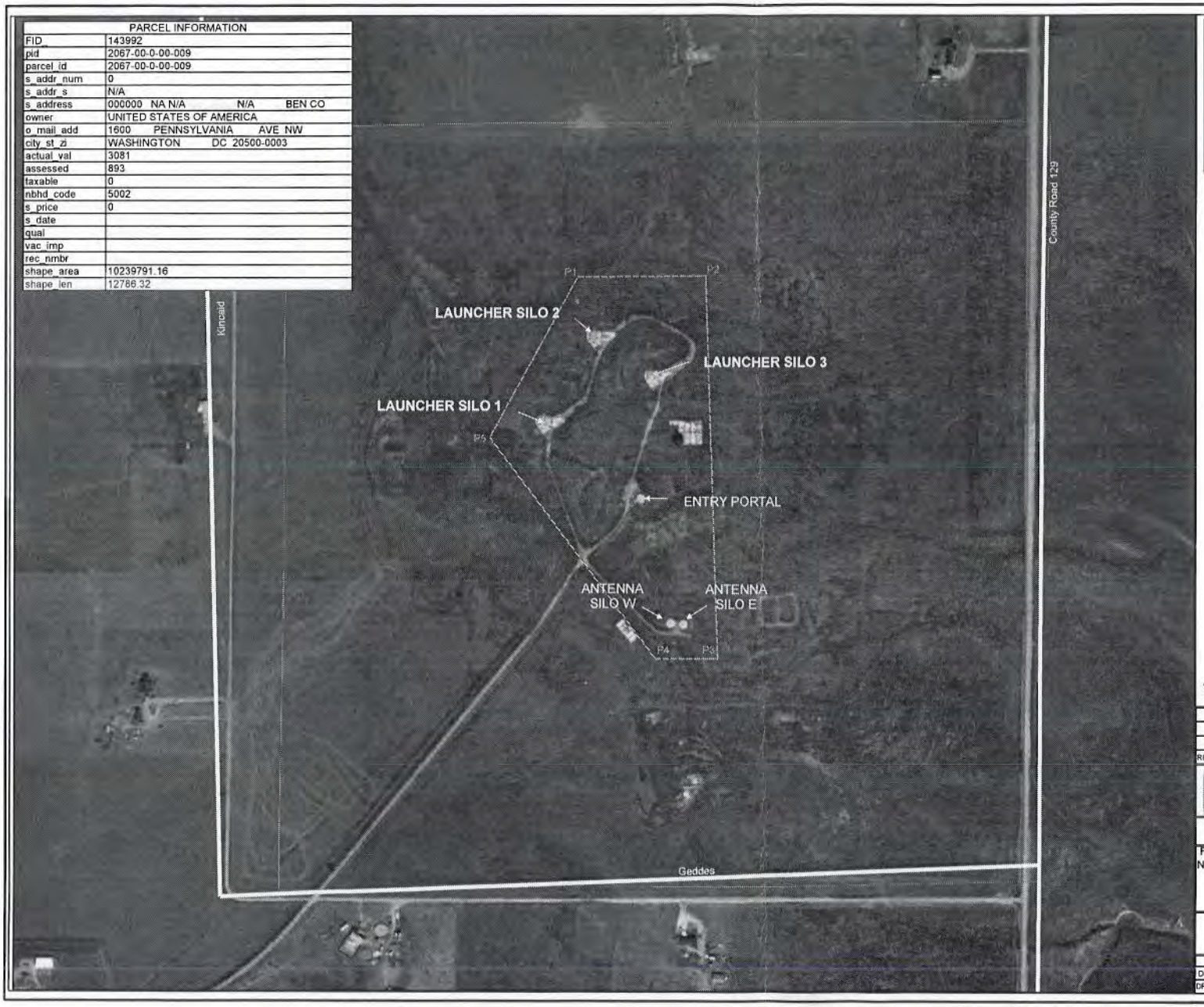
Thence East, 267.75 feet,

Thence North, 1,598.16 feet, more or less, to the POINT OF BEGINNING, and containing 22.9 acres, more or less, with appurtenances thereto.

EXHIBIT 1

Site Map for Titan I Complex 2A, Bennett, Colorado

PARCEL INFORMATION	
FID_	143992
pid	2067-00-0-00-009
parcel_id	2067-00-0-00-009
s_addr_num	0
s_addr_s	N/A
s_address	000000 NA N/A N/A BEN CO
owner	UNITED STATES OF AMERICA
o_mail_add	1600 PENNSYLVANIA AVE NW
city_st_zi	WASHINGTON DC 20500-0003
actual_val	3081
assessed	893
taxable	0
nbhd_code	5002
s_price	0
s_date	
qual	
vac_imp	
rec_nmbr	
shape_area	10239791.16
shape_len	12786.32



Legend

- Local Road
- RestrictedArea
- Parcels

COORDINATE TABLE		
SITE ID	NORTHING	EASTING
P1	1641202.09	3292451.20
P2	1641204.54	3292993.54
P3	1639606.70	3293046.61
P4	1639606.70	3292778.77
P5	1640525.78	3292081.16
ANTENNA SILO E	1639754.40	3292900.75
ANTENNA SILO W	1639758.40	3292846.96
LAUNCHER SILO 1	1640606.11	3292304.76
LAUNCHER SILO 2	1640965.15	3292517.43
LAUNCHER SILO 3	1640796.79	3292761.90

0 200 400 Feet

SCALE: 1" = 400'

Aerial Photograph was obtained from TerraServer and is dated September 30, 1999

REVISION	DESCRIPTION	CHKD	APPR	DATE
A	ORIGINAL ISSUE	THR		10/19/05

U.S. ARMY
CORPS OF ENGINEERS
OMAHA DISTRICT

BENNETT ARMY NATIONAL GUARD FACILITY

FIGURE NUMBER 1

FORMER TITAN 1 MISSILE FACILITY INSTITUTIONAL CONTROL BOUNDARY & PARCEL INFORMATION

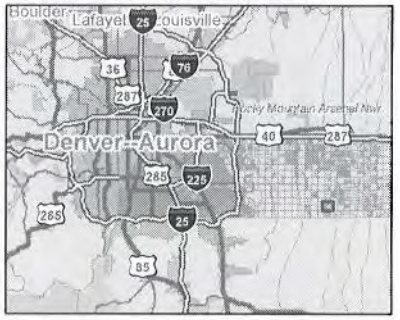
Shaw Shaw Environmental, Inc.

	BY	DATE		BY	DATE	PROJECT NO.	REV.	FILE NAME
DSGN	JRL	10/19/05	CHKD	THR	10/19/05	845080. 00991834	A	Installation_ Location
DRAWN	JRL	10/19/05	APPR					

Legend

- Local Road
- Institutional Control Boundary
- Parcels

COORDINATE TABLE		
SITE ID	NORTHING	EASTING
P1	1641202.09	3292451.20
P2	1641204.54	3292993.54
P3	1639606.70	3293046.61
P4	1639606.70	3292778.77
P5	1640525.78	3292081.16
ANTENNA SILO E	1639754.40	3292900.75
ANTENNA SILO W	1639758.40	3292846.96
LAUNCHER SILO 1	1640606.11	3292304.76
LAUNCHER SILO 2	1640965.15	3292517.43
LAUNCHER SILO 3	1640796.79	3292761.90



0 350 700 Feet

SCALE: 1" = 400'

Aerial Photograph was obtained from TerraServer and is dated September 30, 1999.

REVISION	DESCRIPTION	CHKD	APPR	DATE
A	ORIGINAL ISSUE	THR		10/1/5

U.S. ARMY
CORPS OF ENGINEERS
OMAHA DISTRICT

BENNETT ARMY NATIONAL GUARD FACILITY

FIGURE NUMBER 2

FORMER TITAN 1 MISSILE FACILITY
INSTITUTIONAL CONTROL BOUNDARY & PARCEL INFORMATION

Shaw Shaw Environmental, Inc.

	BY	DATE		BY	DATE	PROJECT NO	REV.	FILE NAME
DSGN	JRL	10/19/05	CHKD	THR	10/19/05	845090. 00991804	A	Installation_ Location
DRAWN	JRL	10/19/05	APPR					