10 PAGE DOCUMENT

RECEPTION 419788, BK 4585 PG 1 01/11/2008 at 12:08:49 PM, 1 OF 10, R $50.00 S $1.00 Doc Code: COVENANTS
Janice Rich, Mesa County, CO CLERK AND RECORDER

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

ENVIRONMENTAL COVENANT

The Colorado Department of Transportation ("CDOT") whose address is 4201 East Arkansas Avenue, Denver, CO grants an Environmental Covenant ("Covenant") this 14th day of November, 2007 to the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department") pursuant to § 25-15-321 of the Colorado Hazardous Waste Act, §§ 25-15-101, *et seq*. The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, CDOT is the owner of certain property commonly referred to as "the Gateway Maintenance Facility", located at 43225 Highway 141, Gateway, CO 81522, more particularly described in Attachments A and B, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, the Property is a portion of what was formerly known as the George E. Davis Mill and processed uranium-vanadium ores. In approximately 1947, the mill was used for a short time to crush, grind, and roast alabaster from a nearby mine for the production of building blocks. Subsequently, George E. Davis, doing business as the Sinbad Uranium Company, received U.S. Atomic Energy Commission (AEC) source material licenses No. R-170 and R-215, which permitted possession of source material in unlimited quantities for processing and resale of uranium. These licenses were active from December 16, 1955 to July 31, 1959; and

WHEREAS, the milling activities left the Property contaminated with radioactive materials. In addition, the original contaminated soil horizon was covered with fill material that also contains residual radioactive material; and

WHEREAS, in 2006, cleanup activities were conducted on the Property in order to attempt to remove the contamination. Despite this cleanup residual radioactive material remains on the site; and

WHEREAS, groundwater contamination is being addressed through natural attenuation; and

WHEREAS, excavation into the contaminated zones could result in higher doses to potential future residents and/or users of the property, and residual radioactive material remaining at the site could be a source term for elevated indoor radon levels; and

WHEREAS, in order to protect health and safety, and to prevent spread of and exposure to the residual radioactive contamination, certain restrictions on the use of the property are in order; and

WHEREAS, the Department has the authority and responsibility to control sources of ionizing radiation in order to protect the public health and safety, Colo. Rev. Stat. §§ 25-11-103 *et seq.*; and

WHEREAS, creation of this environmental covenant will facilitate termination of the Atomic Energy Act license issued by the Nuclear Regulatory Commission's predecessor agency for uranium and vanadium milling on the Property; and

WHEREAS, CDOT desires to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind CDOT and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land, as described herein, for the benefit of the Department.

NOW, THEREFORE, CDOT hereby grants this Environmental Covenant to the Department, and declares that the Property as described in Attachments A and B shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 10, below, which shall run with the Property in perpetuity and be binding on CDOT and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land, as described herein. As used in this Environmental Covenant, the term OWNER means the record owner of the Property and any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

1) <u>Use restrictions:</u>

a. No excavation of soils in Area 1 at the Property without modification of this Covenant. For purposes of this Covenant, cultivation is not considered excavation.

b. Crops grown on the Property may be used only as animal feed or for uses OTHER THAN direct human consumption.

c. Groundwater under the Property may not be used for human consumption; OR for use by domestic animals that are raised for human consumption; OR for irrigation of any crops that will be used for animal feed for animals that are raised for human consumption.

d. All construction of permanent habitable structures in Area 1 shall meet radon resistant construction codes. Any permanent habitable structures shall be slab on grade (not a basement or crawlspace). Habitable structure means any structure with a fixed floor, walls, and ceiling that could potentially be used in the future for residential habitation (e.g., warehouse). Mobile homes are not considered permanent habitable structures.

2) Modifications: This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. 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 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.

3) Conveyances: 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.

4) Notice to Lessees: OWNER agrees to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.

5) Notification for proposed construction and land use: OWNER shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use.

6) 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.

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

8) Enforcement: The Department may enforce the terms of this Covenant pursuant to §25-15-322. C.R.S. CDOT may file suit in district court to enjoin actual or threatened violations of this Covenant.

9) Owner's Compliance Certification: OWNER shall execute and return a certification form provided by the Department, on an annual basis, detailing OWNER's compliance, and any lack of compliance, with the terms of this Covenant.

10) Notices: Any document or communication required under this Covenant shall be sent or directed to:

Manager, Radiation Program
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

and

Colorado Department of Transportation
Attn: Region 3 Transportation Director
222 South 6th, Number 317
Grand Junction, CO 81501

WITNESSETH, the Colorado Department of Transportation has caused this Environmental Covenant to be executed this 23rd day of October, 2007.

COLORADO DEPARTMENT OF TRANSPORTATION

ATTEST:

Douglas W. Bennett
Chief Clerk for Right of Way

Pamela Hutton,
Chief Engineer

STATE OF COLORADO)
) ss:
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 23rd day of October, 2007 by Douglas W. Bennett as Chief Clerk for Right of Way and Pamela Hutton as Chief Engineer of the Colorado Department of Transportation.

Witness my hand and official seal.

JENNIFER FOGEL NOTARY PUBLIC STATE OF COLORADO

Notary Public

4201 E. Arkansas Ave.
Address

Denver, CO 80222

My commission expires: May 11, 2011

Accepted by the Colorado Department of Public Health and Environment this 14th day of November, 2007.

By: Gary W. Baughman

Title: Director HMWMD

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 14 day of NOVEMBER, 2007 by GARY BAUGHMAN on behalf of the Colorado Department of Public Health and Environment.

CLAUDETTE M. FERRIS NOTARY PUBLIC STATE OF COLORADO

Claudette M. Ferris
Notary Public

4300 Cherry Creek Dr. S.
Address

Denver, CO 80246

My commission expires: OCTOBER 21, 2011

Colorado Department of Transportation
Section 25-15-321, C.R.S. Environmental Covenant

ATTACHMENT A PAGE 1 OF 3

CDOT Maintenance Yard Property (Description as shown on document recorded in Book 773 Page 273, Mesa County, Colorado)

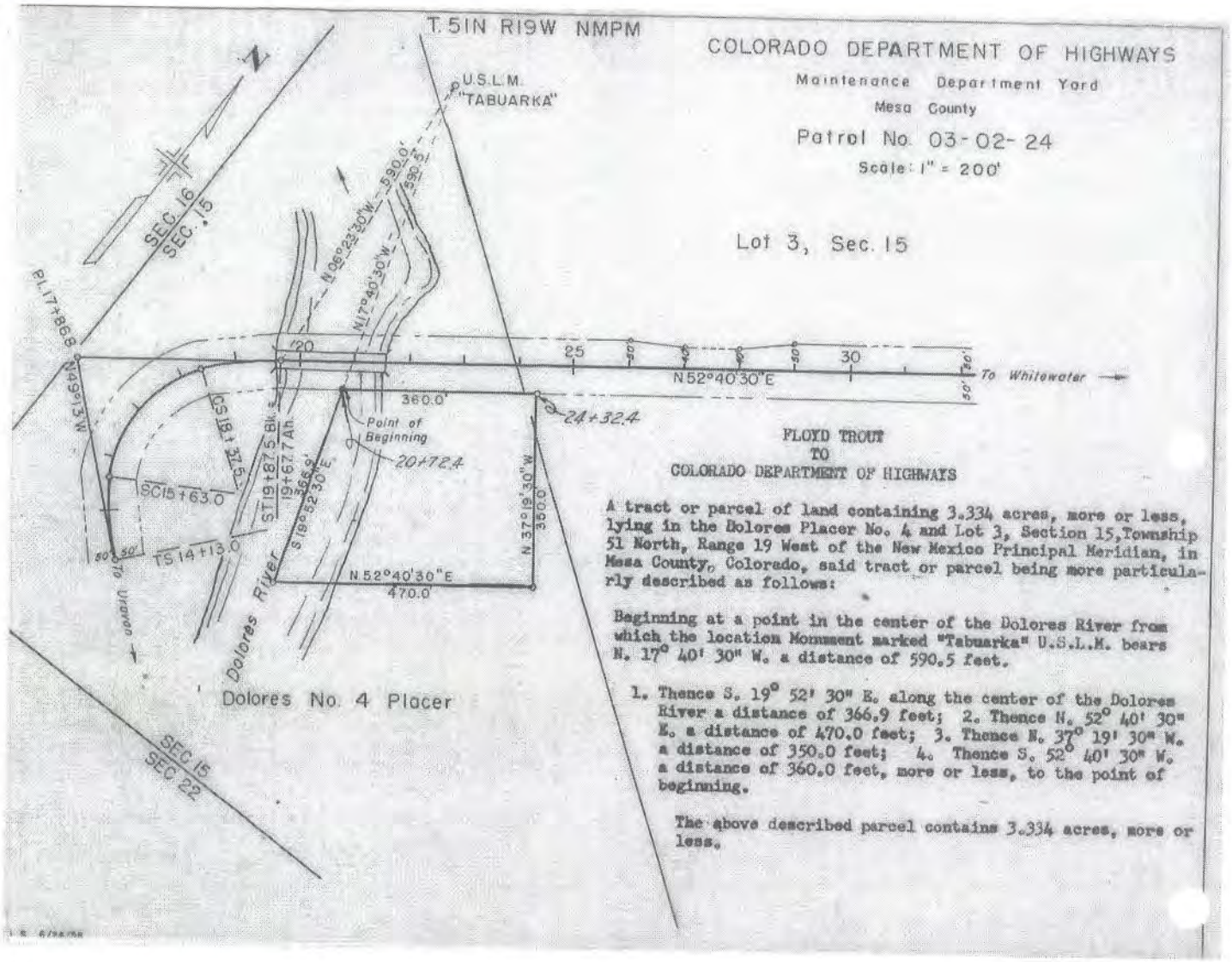
A tract or parcel of land containing 3.334 acres, more or less, in the Delores No. 4 Placer, U.S. Mineral Survey No. 3255, and in Lot 3 of Section 15, Township 51 North, Range 19 West, of the New Mexico Principal Meridian in Mesa County, Colorado, said tract or parcel being more particularly described as follows: Beginning on the southeasterly line of right of way for State Highway No. 141, as described in the deed to Mesa County, dated January 12, 1957, and recorded in Book 702, Page 394, of the records of Mesa County, at its point of intersection with the centerline of the Dolores River, from whence U.S. Location Monument marked "Tabuarka" bears N.17°40'30"W., a distance of 590.5 feet, said point being to the right of and opposite Station 20+72.4 of the centerline of survey of the Department of Highways Project No. FAP A-AA 23-1

1. Thence S.19°52'30"E., along said centerline of the Dolores River, upstream, a distance of 366.9 feet;

2. Thence N.52°40'30"E., on a line parallel with said Southeasterly line of right of way, a distance of 470.0 feet;

3. Thence N.37°19'30"W., a distance of 350.00 feet to said southeasterly line of right of way for State Highway No. 141;

4. Thence S.52°40'30"W., along said Southeasterly line of right of way about 360.0 feet to the place of beginning.



FLOYD TROUT
TO
COLORADO DEPARTMENT OF HIGHWAYS

A tract or parcel of land containing 3.334 acres, more or less, lying in the Dolores Placer No. 4 and Lot 3, Section 15, Township 51 North, Range 19 West of the New Mexico Principal Meridian, in Mesa County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at a point in the center of the Dolores River from which the location Monument marked "Tabuarka" U.S.L.M. bears N. 17° 40' 30" W. a distance of 590.5 feet.

1. Thence S. 19° 52' 30" E. along the center of the Dolores River a distance of 366.9 feet; 2. Thence N. 52° 40' 30" E. a distance of 470.0 feet; 3. Thence N. 37° 19' 30" W. a distance of 350.0 feet; 4. Thence S. 52° 40' 30" W. a distance of 360.0 feet, more or less, to the point of beginning.

The above described parcel contains 3.334 acres, more or less.

COLORADO DEPT. OF TRANSPORTATION
SECTION 25-15-331, C.R.S. ENVIRONMENTAL COVENANT
ATTACHMENT A, PAGE 2 of 3

State of Colorado
County of Mesa

Recorded at 1:4 o'clock P. M. Jan 21, 1960
Reception No. 760424

Annie M. Dunston
Annie M. Dunston

Book 773 Page 273

KNOW ALL MEN BY THESE PRESENTS, That

FLOYD TROUT

of the County of Mesa, and State of Colorado, for the consideration of Ten Dollars and other valuable consideration Dollars, in hand paid, hereby sell and convey to DEPARTMENT OF HIGHWAYS, STATE OF COLORADO of the County of, and State of Colorado, the following real property, situate in the County of Mesa and State of Colorado, to-wit:

A tract or parcel of land containing 3.334 acres, more or less, in the Dolores No. 4 Placer, U. S. Mineral Survey No. 3255, and in Lot 3 of Section 15, Township 51 North, Range 19 West, of the New Mexico Principal Meridian, in Mesa County, Colorado, said tract or parcel being more particularly described as follows:

Beginning on the Southeasterly line of right of way for State Highway No. 141, as described in the deed to Mesa County dated January 12, 1957, and recorded in Book 702, Page 394, of the records of Mesa County, at its point of intersection with the centerline of the Dolores River, from whence U. S. Location Monument marked "Tabuarka" bears N. 17° 40' 30" W., a distance of 590.5 feet, said point being to the right of and opposite Station 20+72.4 of the centerline of survey of the Department of Highways Project No. A-AA 23-1;

1. Thence S. 19° 52' 30" E., along said centerline of the Dolores River, upstream, a distance of 366.9 feet;
2. Thence N. 52° 40' 30" E., on a line parallel with said Southeasterly line of right of way, a distance of 470.0 feet;
3. Thence N. 37° 19' 30" W., a distance of 350.0 feet to said Southeasterly line of right of way for State Highway No. 141;
4. Thence S. 52° 40' 30" W., along said Southeasterly line of right of way about 360.0 feet to the place of beginning.

with all its appurtenances, and warrant the title to the same, subject to

Signed and delivered this 7th day of [illegible], A. D. 1958

in the presence of

FLOYD TROUT (SEAL)

(SEAL)

(SEAL)

STATE OF COLORADO
County of [illegible] } ss.

The foregoing instrument was acknowledged before me this [illegible] day of [illegible]
FLOYD TROUT
Witness my hand and official seal.
My commission expires [illegible]

Notary Public

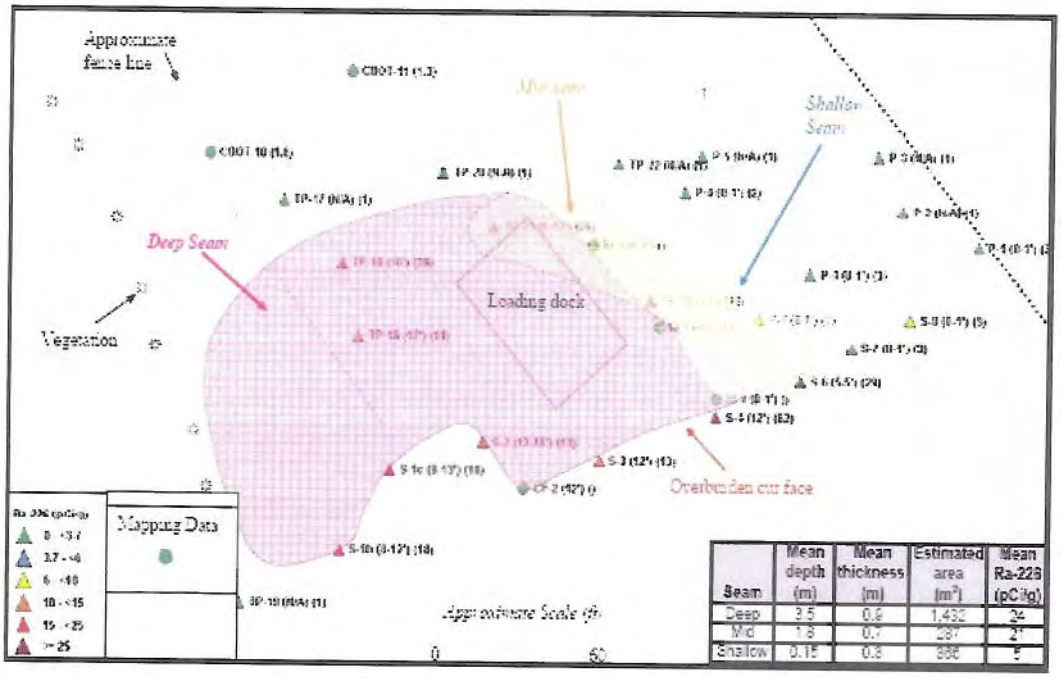
*If by natural person or persons have insert name or names; if by person acting in representative or official capacity or as attorney-in-fact, then insert name of person as executor, attorney-in-fact or other capacity or description; if by officer of corporation, then insert name of such officer or officers, as the president or other officers of such corporation, handing it.—Statutory Acknowledgment, Section 1237.

No. 897. WARRANTY DEED—Statutory Form.—The Bradford-Robinson Ptg. Co., Mfrs. Robinson's Legal Blanks, 1446 Stout St., Denver, Colo.

ANTI-DATE REFERENCE None
SUBJECT TO
FEDERAL
PROTECTED

RECORDER NOTE: POOR QUALITY DOCUMENT
PROVIDED FOR REPRODUCTION

COLORADO DEPARTMENT of TRANSPORTATION
SECTION 25-15-321, CRS. ENVIRONMENTAL COVENANT
ATTACHMENT A, PAGE 3 of 3



Seam	Mean depth (m)	Mean thickness (m)	Estimated area (m^2)	Mean Ra-226 (pCi/g)
Deep	3.5	0.6	1,432	24
Mid	1.8	0.7	287	27
Shallow	0.15	0.3	366	5

Figure 12. Estimated dimensions and locations of subsurface seams of contamination below the overburden bench. Features are approximate.

Figure 5. Photo diagram showing delineations of Area 1 (unremediated) and Area 2 (remediated).

RECORDER NOTE: POOR QUALITY DOCUMENT
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