This property is subject to a
Notice of Environmental Use Restrictions
imposed by the
Colorado Department of Public Health and Environment
pursuant to section 25-15-321.5, C.R.S.

Notice of Environmental Use Restrictions

WHEREAS, Louis M. Wyman and Paula J. Wyman as general partners of and on behalf of The Wyman Elk Ranch, LLLP, a Colorado limited liability limited partnership owner of certain property commonly referred to as Pagoda Pure Water Recycling, located at the intersection of County Roads 29 and 67 in Routt County, Colorado, more particularly described in **Attachment A**, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as the "Property"); and

WHEREAS, pursuant to the most current approved *Closure Plan* for the property incorporated herein by reference and on file at the Department, the Property is the subject of remedial action pursuant to the *Solid Waste Disposal Sites and Facilities Act, § 30-20-101, et seq.*

WHEREAS, the purpose of this Notice of Environmental Use Restrictions (hereinafter, "Restrictive Notice") is to ensure protection of human health and the environment by restricting use of property to prevent the spread of contaminants remaining on the property to the environment and to limit human exposure to contaminants remaining on the property.

WHEREAS, Louis M. Wyman and Paula J. Wyman, as general partners of and on behalf of The Wyman Elk Ranch, LLLP have requested that the Department approve this Restrictive Notice as provided in Article 15 of Title 25, Colorado Revised Statutes,

NOW, THEREFORE, the Department approves this Restrictive Notice pursuant to section 25-15-321.5. The Property described in **Attachment A** shall hereinafter be subject to the following requirements set forth in paragraphs 1 through 11, below, which shall be binding on the OWNER and all parties now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein. As used in this Restrictive Notice, the term OWNER means the then current record owner of the Property and, if any, 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) Use restrictions

a. The OWNER shall complete all requirements of the most current approved *Closure Plan* for the facility on file at the Department and incorporated herein.

b. The OWNER shall maintain a livestock fence around the property with a "No Trespassing" sign attached.

c. No activities that may damage or disturb the soil or vegetative cover over the property are permitted including but not limited to digging, excavation or bore drilling of the cover, the use of any motorized vehicle or machinery over the property, grazing, and planting anything except

Department-approved native grasses on the cover. The restrictions against digging and planting do not apply if necessary to maintain and repair the vegetative cover in accordance with a Department-approved plan.

d. The OWNER shall conduct annual inspections of the property and surrounding fence. These inspections include a visual inspection of the surface for cracks, rills, desiccation and subsidence features, nuisance conditions, weeds, signage, damage from burrowing varmints, security, and positive surface water runoff.

e. The OWNER shall repair or replace all required features of the property, as set forth in the approved *Closure Plan*, within thirty (30) calendar days of discovery of loss.

2) Modifications This Restrictive Notice 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 Restrictive Notice. 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 Restrictive Notice will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Restrictive Notice 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 the closing on any proposed sale or other 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 Restrictive Notice 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 Restrictive Notice. Nothing in this Restrictive Notice shall impair any other authority the Department may otherwise have to enter and inspect the Property.

7) Third Party Beneficiary The OWNER of the Property is a third party beneficiary with the right to enforce the provisions of this Covenant as provided in § 25-15-322, C.R.S.

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

9) Enforcement The Department may enforce the terms of this Restrictive Notice pursuant to §25-15-322. C.R.S. Louis M. Wyman and Paula J. Wyman on behalf of The Wyman Elk Ranch, LLLP may file suit in district court to enjoin actual or threatened violations of this Restrictive Notice.

10) 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 Restrictive Notice.

11) Notices Any document or communication required under this Restrictive Notice shall be sent or directed to:

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

This Notice of Environmental Use Restrictions is issued by the Colorado Department of Public Health and Environment

this 19th day of November, 2010.

By: Gary W. Baughman
Gary Baughman

Title: Director, HMWMD

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 19 day of NOVEMBER, 2010 by GARY W. BAUGHMAN on behalf of the Colorado Department of Public Health and Environment.

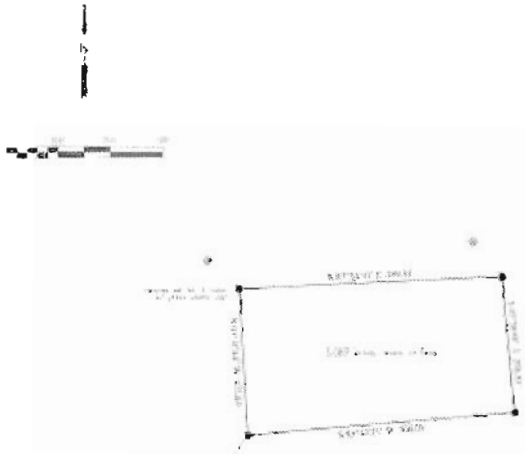
Notary Public

Claudette M. Ferris
Notary Public
4300 Cherry Creek Dr S.
Address
Denver, Co 80246

My commission expires: OCTOBER 21, 2011

Attachment A

Land Survey Plat
for
a parcel of land located in
the southwest quarter of Section 16,
Township 4 North, Range 89 West of the 6th P.M.
Routt County, Colorado



Parcel Description

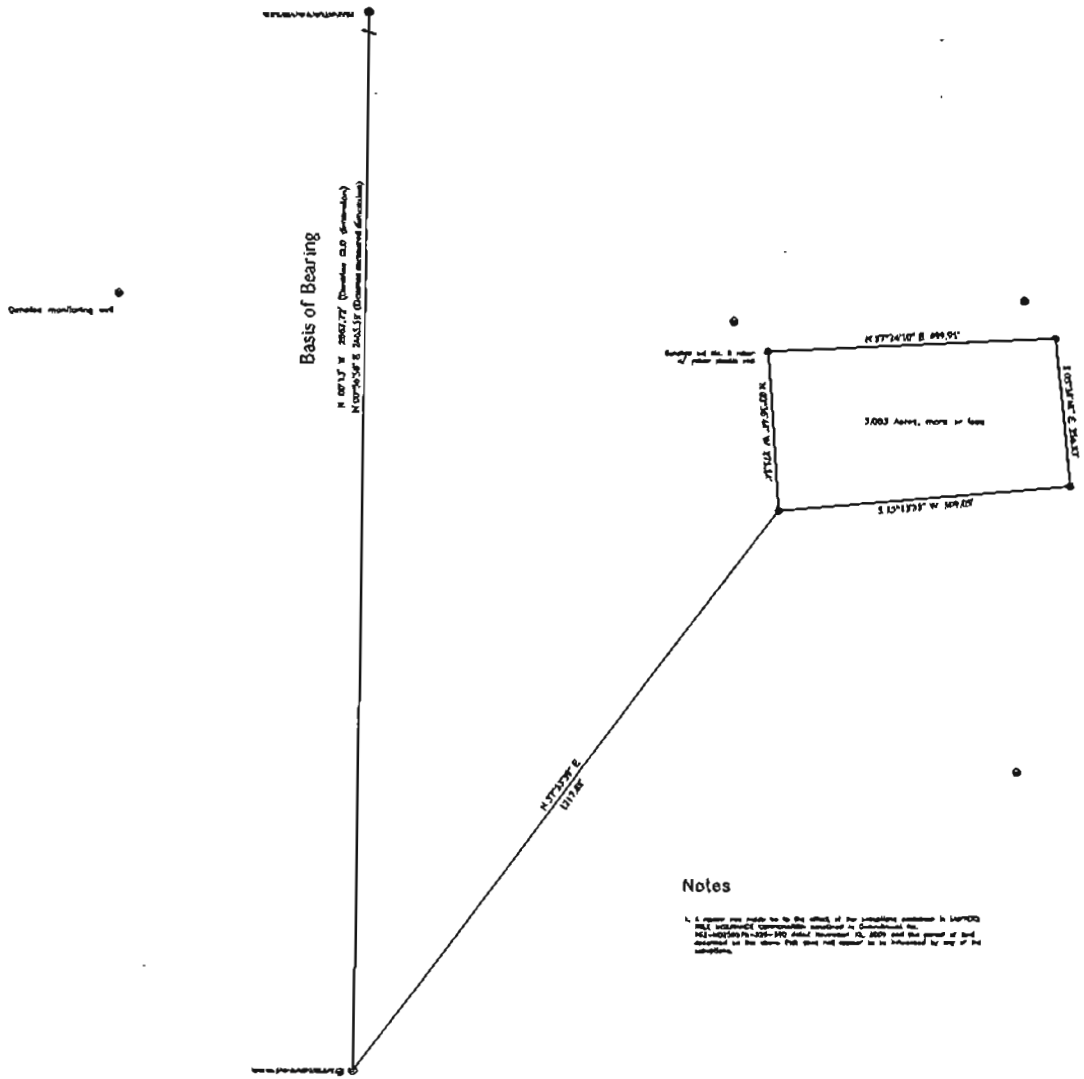
Basis of Bearing

Surveyor's Certificate

Notes

Wyman Ranch
Pagodo Site
Parcel & monitoring well survey

2295685_1 doc



Parcel Description

A parcel of land located in the northwest quarter of Section 10, Township 1 North, Range 69 West of the 6th P.M., Weld County, Colorado, more particularly described as follows:

Beginning at a point which lies South 37°13'39" East 1317.38 feet from the northwest corner of said Section 10;
thence North 52°37'41" East 175.00 feet;
thence North 37°34'10" East 899.91 feet;
thence South 07°31'50" East 354.63 feet;
thence South 37°13'39" West 169.03 feet to the point of beginning.

Contains 3.003 acres, more or less.

Basis of Bearing

Bearings are based on the West line of the northwest quarter of Section 10, Township 1 North, Range 69 West of the 6th P.M., which is monumented by found Weld County Public Survey Monuments found at the points of intersection of said line by a 2 1/2" brass cap monument set in 1916.

Surveyor's Certificate

I, Peter Epp, a duly registered Professional Land Surveyor in the State of Colorado do hereby certify that the above description and plat is true to the best of my knowledge, information and belief.

Peter Epp Colorado P.L.S. No. 19615

Dated this _____ day of _____, 200__.

or

The word "certify" or "certification" as used herein is understood to be an expression of professional opinion by the surveyor based upon the best knowledge, information, and belief. It does not constitute a guarantee, nor a warranty, expressed or implied.

Notes

1. Elevations are based on the datum of the monitoring wells as described in Gamaker Inc.'s "MONITORING WELL INSTALLATION" dated November 15, 2001 and the ground at the wellhead at the above PVC pipe well cluster is not influenced by any of the conditions.

EPP & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
433 Ute Avenue West
P.O. Box 129
Ault, CO 80610
Phone (970) 834-9736
Fax (970) 834-0327

Wyman Ranch
Pagoda Site
Parcel & monitoring well survey

Scale	Date	Drawing No.	Drawn By	Job No.
1" = 100'	17 Nov 09		P. Epp	09.105-03

RECEIVED
DEC 10 2010
HAZARDOUS MATERIALS
AND WASTE MANAGEMENT

Parcel Description

A parcel of land located in the southwest quarter of Section 16, Township 4 North, Range 89 West of the 6th P.M., Routt County, Colorado, more particularly described as follows:

Beginning at a point which lies North 37°33'39" East 1217.88 feet from the southwest corner of said Section 16;
thence North 03°36'44" West 275.84 feet;
thence North 87°24'10" East 499.91 feet;
thence South 05°38'48" East 256.83 feet;
thence South 85°13'35" West 509.05 feet to the Point of Beginning.

Contains 3.083 acres, more or less.

Basis of Bearing

Bearings are based on the West line of the southwest quarter of Section 16, Tawnship 4 North, Range 89 West of the 6th P.M. which is considered to bear North 00°56'56" East. Monumentation found at the points of termination of said line is a GLO brass cap on a 1" pipe monument set in 1914.

Surveyor's Certificate

I, Peter Epp, a duly registered Professional Land Surveyor in the State of Colorado do hereby certify that the above description was done by me or under my direct supervision and is in accordance with the applicable standards of practice and is accurate based upon my knowledge, information and belief.

COLORADO LICENSED
PETER EPP
14815
PROFESSIONAL LAND SURVEYOR

Peter Epp Colorado P.L.S. No. 14815

Dated this 7th day of December, 2010.

NOTE

The word "certify" or "certification" as used herein is understood to be an expression of professional opinion by the surveyor, based upon his best knowledge, information, and belief. As such, it does not constitute a guarantee, nor a warranty, expressed or implied.