RECEPTION# 2010000021287,
04/01/2010 at 11:50:23 AM 1 OF 6
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Karen Long Adams County CO

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, Derby Cleaners, Inc. ("Derby Cleaners") is the owner of certain property commonly referred to as Derby Cleaners located at 7220 Locust Street, Commerce City, 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 Compliance Order on Consent No. 08-04-09-01, the Property is the subject of enforcement and remedial action pursuant to the Colorado Hazardous Waste Act, C.R.S. § 25-15-301, et. Seq. ("CHWA"); and

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 uses of the Property that could lead to adverse impact to human health or the environment; and

WHEREAS, Derby Cleaners has requested that the Department issue this Restrictive Notice as provided in Article 15 of Title 25, Colorado Revised Statutes.

NOW, THEREFORE, the Department issues this Restrictive Notice pursuant to § 25-15-321.5, C.R.S. The Property described in Attachment A shall hereinafter be subject to the following requirements set forth in paragraphs 1 through 12 below, which shall be binding on Derby Cleaners 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. The following uses are prohibited on the Property:

   a) Residential use including, but not limited to, any single family or multi-family residential dwelling or living unit, whether permanent or temporary;

SUZANNE BURDICK
DEPT OF LAW/NRE
1525 SHERMAN ST 7TH FLOOR
DENVER, CO 80203

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b) Public use including, but not limited to, any playgrounds, parks or recreational facilities for children, schools, daycare centers, eldercare (whether independent or ancillary to a permitted use), or community centers with outdoor uses;

c) Agricultural use including, but not limited to, the cultivation or storage of crops, grazing, feeding or keeping of any animal for agricultural or commercial purposes;

d) Water storage, including stormwater detention/retention ponds and man-made lakes or ponds;

e) Covering, plugging, disturbing or tampering with the four existing monitoring wells located on the property shown in Figure 1;

f) Pumping or otherwise extracting groundwater for any use including, but not limited to, domestic, agricultural, and/or commercial use. For the purpose of this restriction, "groundwater" means subsurface waters in a zone of saturation that are or can be brought to the surface of the ground or to the surface waters through wells, springs, seeps or other discharge areas. This limitation shall not apply to a qualified environmental professional, obtaining groundwater samples for analysis from the four existing monitoring wells located on the property shown in Figure 1; and

g) Digging, drilling, or any other excavation or activity that has the potential to disturb or expose soil unless the activity is approved by Department as part of a remediation project.

2) Restrictive Notice serves as an interim measure. The Department issues this Restrictive Notice as an interim measure to protect human health and the environment until further investigation and remediation occurs on the Property. Issuance of this Restrictive Notice does not constitute a remedial decision as that term is defined in § 25-15-101(13.5), C.R.S. The Department reserves the right to require OWNER to further investigate and remediate existing contamination on the Property.

3) Modifications. This Restrictive Notice runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph or pursuant to a subsequent remedial decision issued by the Department. 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 investigation and/or 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.

4) 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.

5) Notice to Lessees. OWNER shall 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.

6) 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.

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 Restrictive Notice. Nothing in this Restrictive Notice shall impair any other authority the Department may otherwise have to enter and inspect the Property.

8) 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.

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

10) Enforcement. The Department may enforce the terms of this Restrictive Notice pursuant to § 25-15-322, C.R.S. and may file suit in district court to enjoin actual or threatened violations of this Restrictive Notice.

11) 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.

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

Hazardous Waste Corrective Action Unit Leader
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 approved by the Colorado Department of Public Health and Environment

this 18th day of March, 2010.

By: Craig W. Broughton
Director, Hazardous Materials and Waste Management Division

STATE OF Colorado)
) ss:
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 18th day of March, 2010 by Craig W. Broughton on behalf of the Colorado Department of Public Health and Environment.

Diane L. Hulse
Notary Public

Address 4300 Cherry Creek Drive S. Denver Co
My commission expires:
2-29-2012

Attachment A

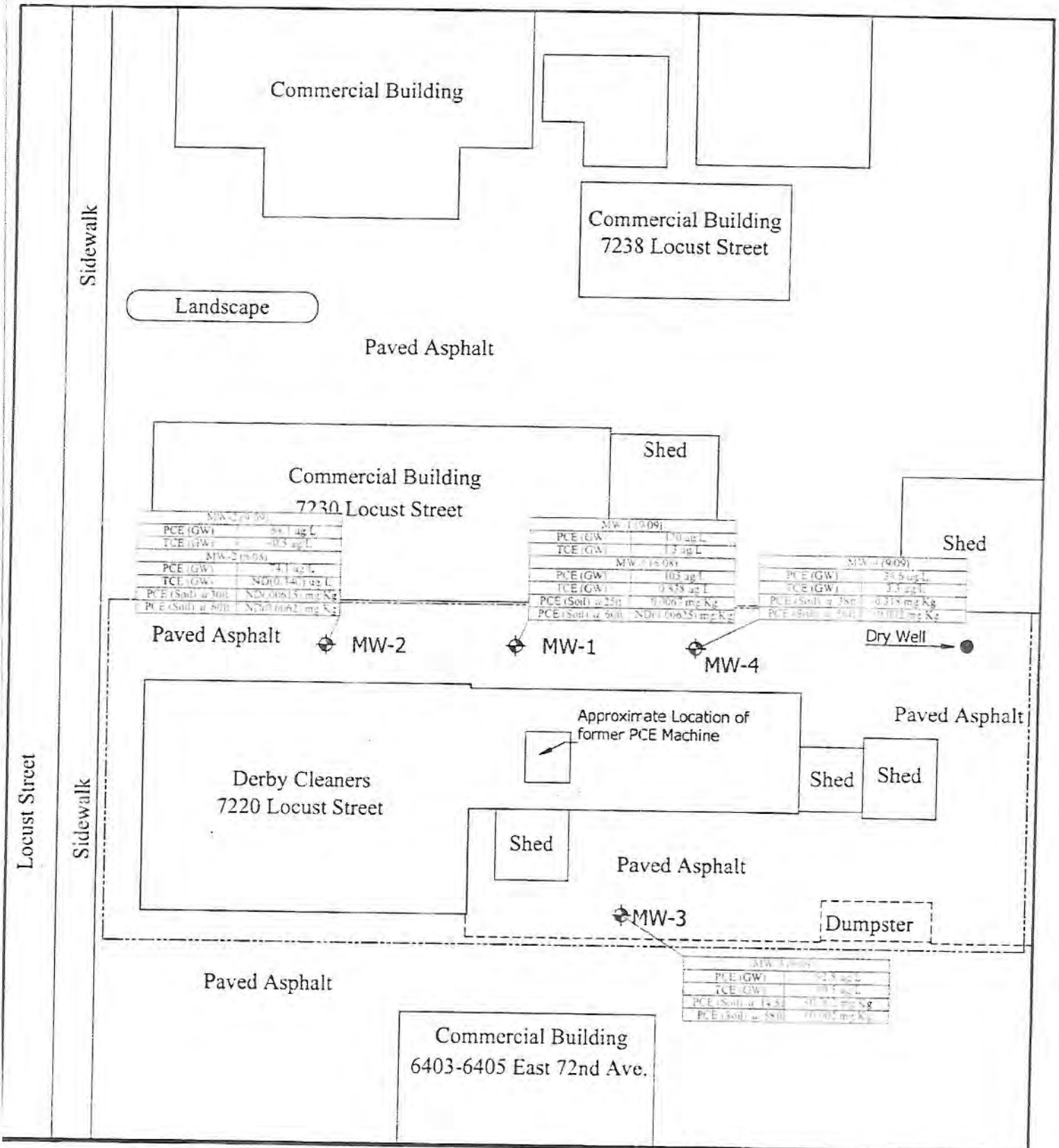
Property Legal Description

SUB: TOWN OF DERBY

BLK: 78

LOT: 17

LOT: 18



Legend

Property Line

MW-1 Monitoring Well

Fence

0 10 20

APPROXIMATE SCALE (FEET)

Regulatory Limits

N

TALUS

Talus Environmental Consulting, LLC
6900 West Jefferson Ave, Suite 140
Lakewood, CO 80235

Site Map
Soil and Groundwater Results
Derby Cleaners
7220 Locust Street
Commerce City, CO

Figure 1 | Job # [illegible] | DATE [illegible]