

Anderson's Formal Wear Environmental Covenant Summary

Covenant ID: HMCOV00013

Covenant Information:

Covenant Date: August 16, 2004

Self Reporting: No

Media of Concern:

Surface Water: No

Groundwater: Yes

Air: No

Soil: No

Other: No

Contaminants of Concern: tetrachloroethene (PCE) and trichloroethylene (TCE)

Property Restrictions:

1. Non-residential use only
2. Groundwater on the property shall not be removed except for monitoring purposes
3. Non-stormwater detention ponds or man-made lakes or ponds shall not be located on the property

Site Information:

ID: COD981549181

Name: Former Andersons Formal Wear

Address: 6755 E. 50th Avenue

City: Commerce City

State: CO

Zip Code: 80022

Legal Description:

County: Adams

Site Contact Information:

Spectrum Services

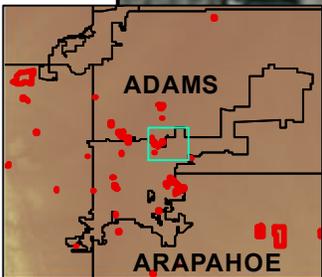
Name: Terry McGowan

Address: 2460 W. 26th Avenue, Suite 440C

City: Denver

State: CO Zip Code: 80211

ANDERSON'S FORMAL WEAR



HMCOV00013

0 30 60 Meters



Colorado Department of Public Health and Environment

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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

UVAG Realty Partnership, L.P. ("UVAG") grants an Environmental Covenant ("Covenant") this 16th day of August, 2004 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, UVAG is the owner of certain property commonly referred to as the former Anderson's Formal Wear, located at 6755 East 50th Avenue, 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 the Integrated Corrective Action Plan dated October 2001 between the Department and Anderson's Formal Wear (the former tenant), the Property is the subject of enforcement and remedial action pursuant to the Colorado Hazardous Waste Act, § 25-15-301, et seq. ("CHWA"); and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by restricting uses of the Property that could, if engaged in, lead to adverse impacts to human health or the environment; and

WHEREAS, UVAG 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 UVAG, its heirs, successors, assigns, and any grantees of the Property, their heirs, successors, assigns and grantees, and any users of the Property, for the benefit of the Department.

NOW, THEREFORE, UVAG hereby grants this Environmental Covenant to the Department, and declares that the Property as described in Attachment A shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth below, which shall run with the Property in perpetuity and be binding on UVAG 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. UVAG and all parties 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 OWNER.

1. Use restrictions

This Property shall be used for non-residential uses only;

No stormwater detention ponds or man made lakes or ponds shall be located on the Property; and Groundwater on the Property shall not be removed by well or other means for domestic, agricultural, commercial, or other 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 discharged areas. This limitation shall not apply to the 12 existing monitoring wells located on the Property and to potential installation of monitoring wells in the future for use solely to obtain groundwater samples for analysis.

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, and/or solid waste that remains 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. OWNER or its successors and assigns 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 proposal to perform additional remedial work;
new information regarding the risks posed by the residual contamination;
information demonstrating that residual contamination has diminished;
information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
other appropriate supporting information.

4. 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.

5. Binding Effect. 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.

6. Notification for proposed construction and land use. OWNER agrees to 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 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. C.R.S. UVAG may file suit in district court to enjoin actual or threatened violations of this Covenant.

10. Owner's Compliance Certification. OWNER shall submit an annual form to the Department, on the anniversary of the date this Covenant was signed by UVAG, detailing OWNER's compliance, and any lack of compliance, with the terms of this Covenant.

11. Notices. Any document or communication required under this Covenant shall be sent or directed to:

Hazardous Waste Corrective Action Unit Leader
Hazardous Materials and Waste Management Leader
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

UVAG has caused this instrument to be executed this 16th day of August, 2004.

Naturita

By: Original Signed by Christopher Hunt

Title: Managing Director

STATE OF California)
) ss:
COUNTY OF Marin)

The foregoing instrument was acknowledged before me this 16th day of August, 2004 by Christopher Hunt on behalf of UVAG.

Gabriel Greece
Notary Public

Address
Marin County, CA

My commission expires: May 27, 2007

Accepted by the Colorado Department of Public Health and Environment this 30th day of September, 2004.

By: Original Signed by Gary W. Baughman

Title: Director, Hazardous Materials & Waste Management Division

STATE OF Colorado)
) ss:
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 30 day of September, 2004 by Gary Baughman on behalf of the Colorado Department of Public Health and Environment.

Claudette M. Ferris
Notary Public
4300 Cherry Creek Dr So
Address
Denver, CO 80246

My commission expires: October 21, 2007