Hamilton Sundstrand Environmental Covenant Summary

Covenant ID: HMCOV00036

Covenant Information:

Covenant Date: August 10, 2007
Self Reporting: Yes
Media of Concern:
Surface Water: No
Groundwater: Yes
Air: No
Soil: Yes
Other: No
Contaminants of Concern: trichloroethylene, tetrachloroethene and daughter
Property Restrictions:

1. Property to be used exclusively for recreation and open space
2. All buildings constructed on the property shall be approved by the Department
3. No wells or use of groundwater
4. Owner must cooperate to allow implementation of remedy
5. Utility corridors shall be designed and constructed to minimize potential for vapor collection

Site Information:

ID: COD007057995
Name: Hamilton Sundstrand Facility
Address: 2480 West 70th Avenue
City: Denver
State: CO
Zip Code:
Legal Description:
County: Denver

Site Contact Information:

Hamilton Sundstrand Corporation
Name: Office of General Counsel
Address: One Hamilton Road
City: Windsor Locks
State: CT Zip Code: 06096

HAMILTON SUNSTRAND FACILITY

HMCOV00036

0 205 410 Meters

Colorado Department of Public Health and Environment

RECEIVED
AUG 17 2007
HAZARDOUS MATERIALS
AND WASTE MANAGEMENT

RECEPTION#: 2007000077016,
08/10/2007 at 11:41:08 AM,1 OF 12,
TD Pgs: 0 Doc Type:COV
Karen Long, Adams County, CO

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

Hamilton Sundstrand Corporation ("Hamilton Sundstrand") grants an Environmental Covenant ("Covenant") this 8th day of August, 2007 to the Hazardous Waste Management Division of the Colorado Department of Public Health and 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, Hamilton Sundstrand is the owner of certain property located at 70th Street and Pecos Drive, Adams 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

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WHEREAS, the Property and certain adjacent property also owned by Hamilton Sundstrand, more particularly described in Attachment B, attached hereto and incorporated by reference as though fully set forth, (hereinafter referred to as "the Adjacent Property") are, as of the date of this Covenant, the subject of remedial action pursuant to the Colorado Hazardous Waste Act, § 25-15-301, et. seq. ("CHWA"); and

WHEREAS, the purpose of this Covenant is to promote protection of human health and the environment by (i) minimizing the potential for exposure to any hazardous substance, hazardous waste, hazardous constituents, and/or solid waste that remains on the Property and (ii) restricting use of groundwater from the Property; and

WHEREAS, this Covenant is intended to run with the land and shall be binding upon all subsequent owners of all or part of the Property.

WHEREAS, Notice is hereby given to each OWNER that soil vapor and groundwater within and under the Property and flowing in, into, under and from the Property contains or may contain naturally and non-naturally occurring constituents and that existing and future subsurface conditions may result in volatile and non-volatile substances migrating from and under the Property.

WHEREAS, Hamilton Sundstrand 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 Hamilton Sundstrand, its successors and 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 and shall also be enforceable against any such grantees of the Property, their heirs, successors, assigns and grantees, and any users of the Property by Hamilton Sundstrand.

X ew Return To: David Walker
CDPHE
4300 Cherry Creek Dr. South, Denver, CO 80246

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NOW THEREFORE, Hamilton Sundstrand grants this 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 in this Environmental Covenant, which shall run with the Property in perpetuity and be binding on Hamilton Sundstrand 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. Hamilton Sundstrand and any parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns shall hereafter be referred to in this covenant as OWNER.

1. Restrictions.

a. Limitation on Land Use. The Property shall be used exclusively for recreational and open space purposes, including, without limitation, a golf course and uses related thereto. Such uses may include: (i) recreational uses in a park-like setting; (ii) open space; (iii) underground utilities; and (iv) any necessary and related uses. No use of the Property at all, except for remediation and monitoring purposes and for the purpose of demolition of existing buildings and structures on the Property, shall be allowed until the Property meets all state and federal regulatory standards and obtains all state and federal regulatory approvals providing for the use of the Property for recreational and open space purposes. In no event may any use occur that would in any manner (i) interfere with the operation or maintenance of any building or structure that is necessary for site remediation activities or (ii) interfere with or adversely affect the implementation, integrity or protectiveness of any remedial measures to be performed on the Property. Upon approval by the Department, the Corrective Measures Implementation, Maintenance and Monitoring Plan, and any amendments thereto, detailing the specific remedial measures to be performed on the Property will be on file at the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division, Records Center.

b. Limitations on Structures and Buildings. From and after the date hereof, no building, defined as any structure having a roof and any walls and intended for the shelter, housing or enclosure of persons, animals or materials and no structure, defined as anything that is constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground shall be erected, constructed or placed on the Property, without approval of the Department pursuant to Paragraph 2 below. The foregoing shall not operate to prohibit (i) the construction or installation of signs, fences, or structures or buildings to house, protect or store equipment and appurtenances or supplies in connection with approved remediation or recreational activities or (ii) construction or installation of restrooms, picnic shelters or other shelters appropriate to park uses, provided that such restrooms, picnic shelters or other shelters are sufficiently ventilated so to avoid collection of vapor

from soil gases and/or groundwater therein or (iii) anchoring of recreational equipment into the ground.

c. No Wells or Use of Groundwater. No wells shall be placed or installed on the Property except for (i) wells ("Monitoring Wells") that were or are placed or installed for the purpose of monitoring or remediation, the use of which and the water drawn from such wells shall be solely and exclusively limited to those purposes, and (ii) wells ("Deep Aquifer Wells") that are placed or installed in the nontributary and not-nontributary Denver Basin and Denver Basin Aquifers, including, but not limited to, the Dawson Aquifer, Upper Dawson Aquifer, Lower Dawson Aquifer, Denver Aquifer, Arapahoe Aquifer, Upper Arapahoe Aquifer, Lower Arapahoe Aquifer and Laramie-Fox Hills Aquifer (as those terms are defined by Section 37-90-103, C.R.S., the Denver Basin Rules, 2CCR 402-6) for all authorized uses, including but not limited to domestic and municipal uses. Except for water drawn from Monitoring Wells which shall be solely and exclusively used for the monitoring or remediation purpose for which they have been placed or installed and except for water produced by the Deep Aquifer Wells, there shall be no use of groundwater for drinking by humans or animals, irrigation or any other purpose or use without approval of the Department pursuant to Paragraph 2 below.

d. No Alteration of Groundwater Flow Patterns. Except as the result of operation of wells that are placed, installed and/or operated for the purpose of, or in connection with, monitoring or remediation and except as a result of other operation of other wells that may be installed, maintained or operated on the Property as permitted herein, the use of which and the water drawn from such wells shall be solely and exclusively limited to those purposes, no activities shall be conducted on the Property that will materially alter the pattern of the flow of groundwater that existed prior to development activities on the Property from the Adjacent Property onto the Property or within the borders of this Property.

e. No Activities Involving Chlorinated Solvents. No activities that involve the manufacture, use or storage of chlorinated solvents or other hazardous substances, are permitted on the Property. The foregoing shall not operate to prohibit the normal intended use of painting compounds, maintenance compounds, cleaning compounds, pesticides, herbicides and fertilizers provided the use of such substances is undertaken in compliance with all manufacturer's instructions and all applicable laws. The Owner, at the time such substances are used, expressly assumes responsibility and liability arising or occurring from the use of such substances.

f. Implementation of Corrective Measures. OWNER shall cooperate with the corporate entity responsible for implementation of the site remediation activities to ensure that the site remediation measures can be properly implemented, maintained and monitored.

g. Utility Corridor Protections. Utility corridors shall be designed, configured and constructed to avoid vapor connection to the Adjacent Property and to minimize the potential for collection of vapor within utility corridors and migration of vapor through utility corridors, and with the goal of preventing migration of vapors into buildings. OWNER shall include the Department in the review and approval cycle for utility corridor design.

h. No Exacerbation of Conditions. No activities on the Property shall be conducted that would exacerbate any environmental condition on the Property, Adjacent Property or other properties that adjoin or abut the Property or adjoin or abut streets that abut the Property (including the quantity, quality, or distribution of any contamination) except such conditions as are the natural consequence of the implementation of the remedial measures undertaken in accordance with requirements of the governmental agencies having jurisdiction. If such conditions develop, then OWNER shall take all measures necessary to address such conditions so as to protect human health and the environment as may be required by the governmental agencies having jurisdiction.

i. More Stringent Standard Controls. Wherever and whenever there is an applicable State of Colorado requirement that is more stringent than any requirement provided herein, the more stringent State of Colorado requirement shall apply.

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 this Covenant. Such request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and environment to the same extent as is intended by the provisions hereof. 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 to the same extent as is intended by the provisions hereof, 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 risk posed by the residual contamination, if any;
c. information demonstrating that any residual contamination had diminished;
d. information demonstrating that the proposed modification will not adversely impact the remedy and is protective of human health and the

environment to the same extent as is intended by the provisions hereof; and

e. other appropriate supporting information.

Copies of all requests for modification and termination and supporting information shall also be submitted to Hamilton Sundstrand or its corporate successors and assigns.

3. Conveyances and Transfers. 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 of 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 on 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.

   a. Department. The Department does not acquire any liability under State law by virtue of accepting this covenant.

   b. Hamilton Sundstrand. Hamilton Sundstrand does not acquire any liability under State law by virtue of being a beneficiary of this Covenant. Nothing herein shall alter or impair Hamilton Sundstrand's liability under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. §6901, *et seq.*, The Colorado Hazardous Waste Act, § 25-15-101, *et seq.*, or any judicial or administrative order issued pursuant to any of the foregoing.

   c. Owner. No OWNER of the Property shall have responsibility or liability under, and solely by virtue of, this Covenant for obligations required, arising or occurring from the actions of others after that OWNER's conveyance or transfer of all such OWNER's interest in the Property.

8. Enforcement. The Department may enforce the terms of this Covenant pursuant to §25-15-322, C.R.S. Hamilton Sundstrand or its corporate successors and assigns may enforce this Covenant by suit in the District Court of Adams County, Colorado 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:

If to the Department:

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

If to Hamilton Sundstrand (unless changed by instrument recorded in the real property records of Adams County, Colorado that specifically refers to this Covenant):

Hamilton Sundstrand Corporation
Office of the General Counsel
One Hamilton Road
Windsor Locks, Connecticut 06096-1010

11. Binding Effect. Consistent with and pursuant to §25-15-318(2) C.R.S., any person or entity who acquires any right, title or interest in all or any part of the Property shall be conclusively deemed to have consented and agreed to the provisions of this Covenant, whether or not any reference to this Covenant or its provisions is contained in the deed or other conveyance instruments by which such person or entity acquires an interest in the Property.

[The Rest of this Page is Intentionally Left Blank.]

Hamilton Sundstrand has caused this instrument to be executed this 8th day of August, 2007.

Hamilton Sundstrand Corporation

By: _____
Peter F. Longo

Title: VP Finance, CFO & Treasurer

STATE OF CONNECTICUT)
) ss:
COUNTY OF)

On this the 7th day of August, 2007, before me the undersigned officer, personally appeared Peter F. Longo, who acknowledged himself/herself to be the VP Finance, CFO & Treasurer of Hamilton Sundstrand Corporation a corporation, signer and sealer of the foregoing instrument, and that he/she as such officer, being authorized so to do, acknowledged the execution of the same to be his/her free act and deed as such officer and the free act and deed of said corporation.

IN WITNESS WHEREOF, I hereunto set my hand.

_____
Commissioner of the Superior Court
Notary Public
My Commission Expires: 4-30-2010

ACCEPTANCE

ACCEPTED by the Colorado Department of Public Health and the Environment this 9th day of August, 2007.

Colorado Department of Public Health and the Environment

By: Gary Baughman

Gary Baughman
Division Director
Hazardous Materials and Waste Management Division

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ___ day of August, 2007 by Gary Baughman on behalf of the Colorado Department of Public Health and Environment.

Notary Public

4300 Cherry Creek Dr. S.

Address

Denver CO 80246

My commission expires: 2-29-08