Katherine Willis Property/Gateway Environmental Covenant Summary

Covenant ID: HMCOV00037

Covenant Information:

Covenant Date: April 13, 2007
Self Reporting: Yes
Media of Concern:
Surface Water: No
Groundwater: Yes
Air: Yes
Soil: Yes
Other: No
Contaminants of Concern: radioactive materials
Property Restrictions:

1. No excavation of soils
2. Crops grown on property only used for animal feed or for uses other than direct human consumption
3. Groundwater may not be used for human consumption, irrigation of crops used to feed animals raised for human consumption or use by animals raised for human consumption
4. All construction of permanent habitable structures shall meet radon resistant construction codes; structures shall be slab-on-grade

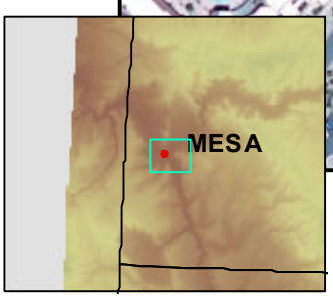
Site Information:

ID:
Name: Katherine Willis Property/Gateway
Address:
City: Gateway
State: CO
Zip Code:
Legal Description:
County: Mesa

Site Contact Information:

Name: Katherine
Address:
City: Gateway
State: CO Zip Code:

KATHERINE WILLIS PROPERTY - GATEWAY



HMCOV00037

0 130 260 Meters

Colorado Department of Public Health and Environment

7 PAGE DOCUMENT

RECEPTION #: 2396449, BK 4494 PG 302 08/16/2007 at 03:00:46 PM, 1 OF 7, R $35.00 S $1.00 Doc Code: COVENANT
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.

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OFFICE OF THE ATTORNEY GENERAL NATURAL RESOURCES & ENVIRONMENT SECTION

ENVIRONMENTAL COVENANT

Katherine Willis grants an Environmental Covenant ("Covenant") this 13 day of April, 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, Katherine Willis is the owner of certain property located in the Dolores Placer No. 4 and Lot 3, Section 15, Township 51 North, Range 19 West, New Mexico Principal Meridian, Mesa County, Colorado, more particularly described in Attachment A, attached hereto and incorporated herein by reference as though fully set forth. The parcels of the Property subject to this Environmental Covenant are designated on Attachment A as "Unit 3", "Unit 4", and "Unit 5" (collectively these Units are 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 Property consists of approximately 4.942 acres of real property and a mill structure and associated buildings; and

WHEREAS, the milling activities left the Property contaminated with radioactive materials; and

WHEREAS, in 2006, cleanup activities were conducted on the Property in order to remove the contamination. The mill and associated buildings were not demolished as a part of the remedial activities. Due to the proximity of groundwater to the surface of the Property, not all radioactive contamination was able to be removed from other portions of the Property and thus was left in place. In addition some radioactive contamination remains near and under the mill and associated buildings and in areas where mill tailings were stored; and

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

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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, Katherine Willis 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 Katherine Willis and all parties having right, title, and interest in the Property, or any part thereof, Katherine Willis's heirs, successors, and assigns, and any persons using the land, as described herein, for the benefit of the Department

NOW, THEREFORE, Katherine Willis 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 in paragraphs 1 through 10, below, which shall run with the Property in perpetuity and be binding on Katherine Willis 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, 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. No excavation of soils at the Property without modification of this covenant. For purposes of this Covenant, cultivation is not considered excavation.

b. Crops grown on the affected areas 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 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. The OWNER may request that the Department approve a modification or termination of this 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 this 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 an engineered feature or structure is no longer necessary;
e) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
f) 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. Katherine Willis 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:

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

Katherine Willis, has caused this instrument to be executed this 13 day of April, 2007.

KATHERINE WILLIS

By: Katherine B Willis

Title: Owner

STATE OF Colorado)
) ss:
COUNTY OF Mesa)

The foregoing instrument was acknowledged before me this 13 day of April, 2007 by Katherine Willis on behalf of Katherine Willis

NOTARY PUBLIC
NANCY REID
STATE OF COLORADO

Nancy Reid
Notary Public

42700 Hwy 141
Address

Gateway Co 81522

My commission expires: 09-23-2007

Accepted by the Colorado Department of Public Health and Environment this 20th day of July, 2007

By: Gary W. Baughman

Title: Director, HMWMD

STATE OF ~~DENVER~~ COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 20 day of JULY, 2007 by GARY BAUGHMAN on behalf of the Colorado Department of Public Health and Environment.

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

My commission expires: October 21, 2007