Continental Cleaners / Marston Park Plaza Environmental Covenant Summary

Covenant ID: HMCOV00040

Covenant Information:

Covenant Date: August 15, 2008
Self Reporting: Yes
Media of Concern:
- Surface Water: No
- Groundwater: Yes
- Air: No
- Soil: No
- Other: No

Contaminants of Concern: Tetrachloroethene and CIS 1,2 - dichloroethylene
Property Restrictions:
1. No use of the alluvial groundwater beneath the site for human consumption
2.
3.
4.

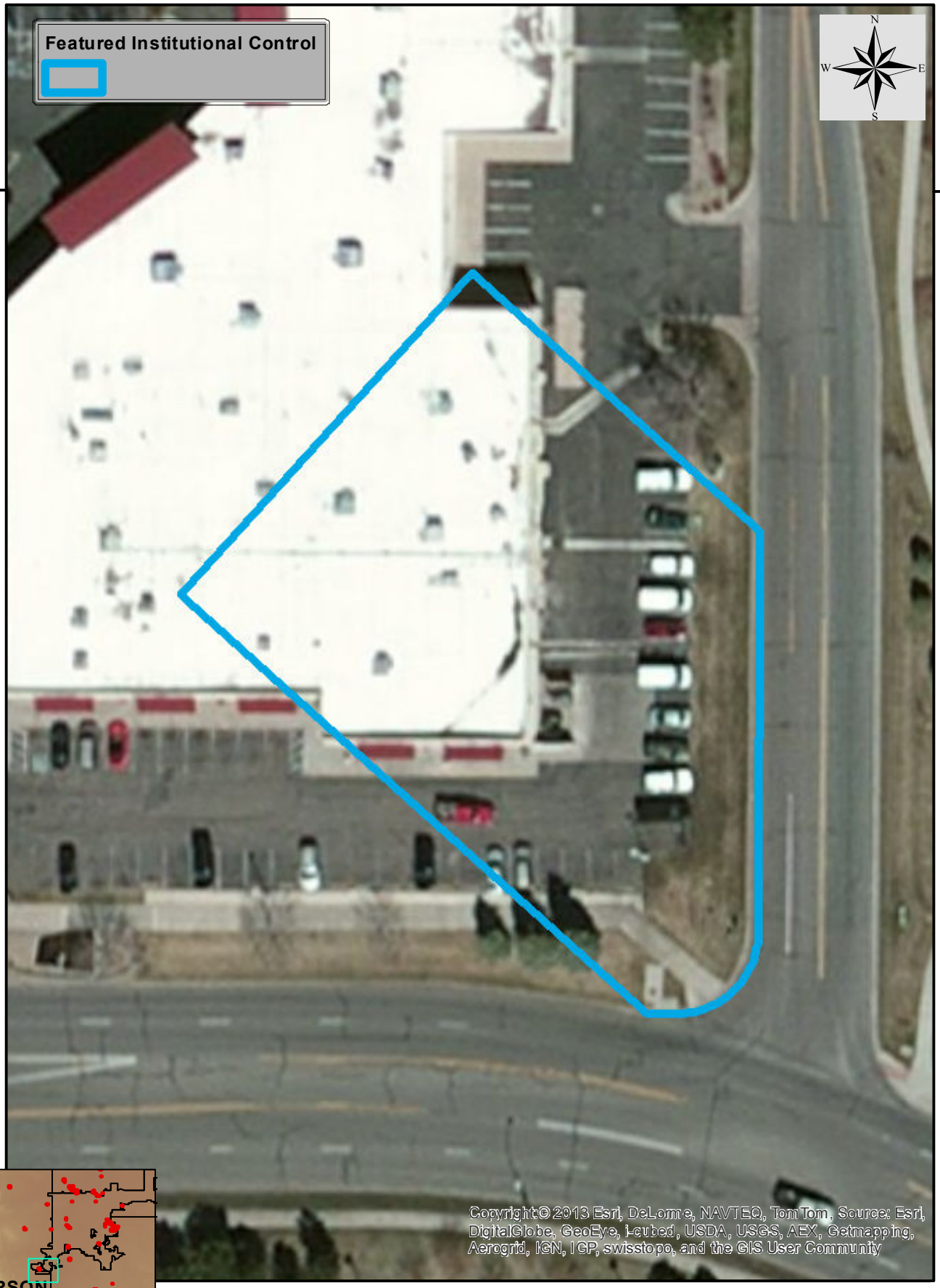
Site Information:

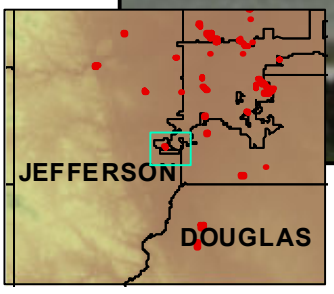
ID: COD981547557
Name: Continental Cleaners / Marston Park Plaza
Address: 5066 South Wadsworth
City: Littleton
State: CO
Zip Code: 80123
Legal Description:

Site Contact Information:

Name: Chris Sutton
Address: 1899 Wynkoop Street, Suite 700
City: Denver
State: CO Zip Code: 80202

CONTINENTAL CLEANERS \ MARSTON PARK





HMCOV00040

0 25 50 Meters

Colorado Department of Public Health and Environment

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.

31.00

1-6

ENVIRONMENTAL COVENANT

Marston Park Plaza, LLC ("Grantor") grants an Environmental Covenant ("Covenant") this 15 day of August, 2008 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, Grantor is the owner of certain property commonly referred to as the Marston Park Plaza located at 5066 South Wadsworth Boulevard, City of Lakewood, Jefferson County, Colorado more particularly described in Exhibit A, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property");

WHEREAS, pursuant to the Corrective Action Plan that the Department approved on May 26, 2008, the Property is the subject of remedial action pursuant to the Colorado Hazardous Waste Act, § 25-15-301, et. seq. ("CHWA");

WHEREAS, in January 2008, Grantor submitted to the Department a Groundwater Monitoring and Remediation Progress Report that indicated that groundwater contamination remained at the Property in amounts that exceed one or more State of Colorado groundwater standards, but that the contamination that had gone offsite from the Property has been remediated to the point where the concentration of contaminants in the alluvial groundwater off the Property no longer exceeds the State of Colorado groundwater standards;

WHEREAS, the Department has determined pursuant to CHWA that no further active remediation or monitoring is required to remediate the groundwater contamination beneath the Property as long as this Covenant remains in effect;

WHEREAS, the Grantor has requested that the Department agree to this Covenant in lieu of requiring additional groundwater remediation at the Property; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by restricting the use of the Property to prohibit the use of alluvial groundwater, located between ground surface and bedrock underlying the Property, for use of human consumption or for any other use that is not protective of human health and the environment.

R $31.00
D $0.00
COVE
2008084970
09/09/2008 11:55:07 AM 6 Page(s)
Jefferson County, Colorado

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WHEREAS, Grantor 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 Grantor 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, for the benefit of the Department.

NOW, THEREFORE, Grantor hereby grants this Covenant to the Department, and declares that the Property as described in Exhibit A shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 12, below, which shall run with the Property in perpetuity and be binding on Grantor 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 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. The Property described in Exhibit A shall be available for unrestricted use and purpose except for the following restriction:

   a. The alluvial groundwater located in the southeast portion of the Property as shown in the attached Figure 1, set forth in the legal description in Exhibit 1 and incorporated by this reference, may not be used for human consumption. This limitation does not affect the use of this groundwater for the irrigation of landscaping or to the installation or use of any monitoring or treatment well installed pursuant to the Corrective Action Plan referenced above, within the designated area on the Property, and which is used solely to obtain samples for analysis and/or to conduct remediation under the Corrective Action Plan at, on, under or arising from or relating to, the Property.

2) Modifications. This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. At any time, OWNER 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) 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 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 reasonable 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. Grantor 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:

Mr. David Walker
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

And to:

Christopher J. Sutton, Esq.
Counsel for Marston Park Plaza
c/o Perkins Coie LLP

1899 Wynkoop Street, Suite 700
Denver, CO 80202

And

Mr. Pat Scanlon
Marston Park Plaza, LLC
5373 N. Union Boulevard, Ste. 200
Colorado Springs, CO 80918

Grantor, has caused this instrument to be executed this 15th day of AUGUST, '08.

Marston Park Plaza, LLC

By: Pat Scanlon
PATRICK R. SCANLON

Title: MANAGER

STATE OF Colorado)
) ss:
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 15th day of August, 2008 by Pat Scanlon on behalf of [FACILITY]

NOTARY PUBLIC
JUDITH G. MARSHALL
STATE OF COLORADO

Judith G. Marshall
Notary Public

6125 Northwind Drive
Address

Colorado Spgs CO 80918

My commission expires: April 1, 20012

Accepted by the Colorado Department of Public Health and Environment this 3rd day of September, 2008.

By: Gary W. Baughman

Title: Director, HMWMD

STATE OF COLORADO)
) ss:
COUNTY OF ARAPAHOE)

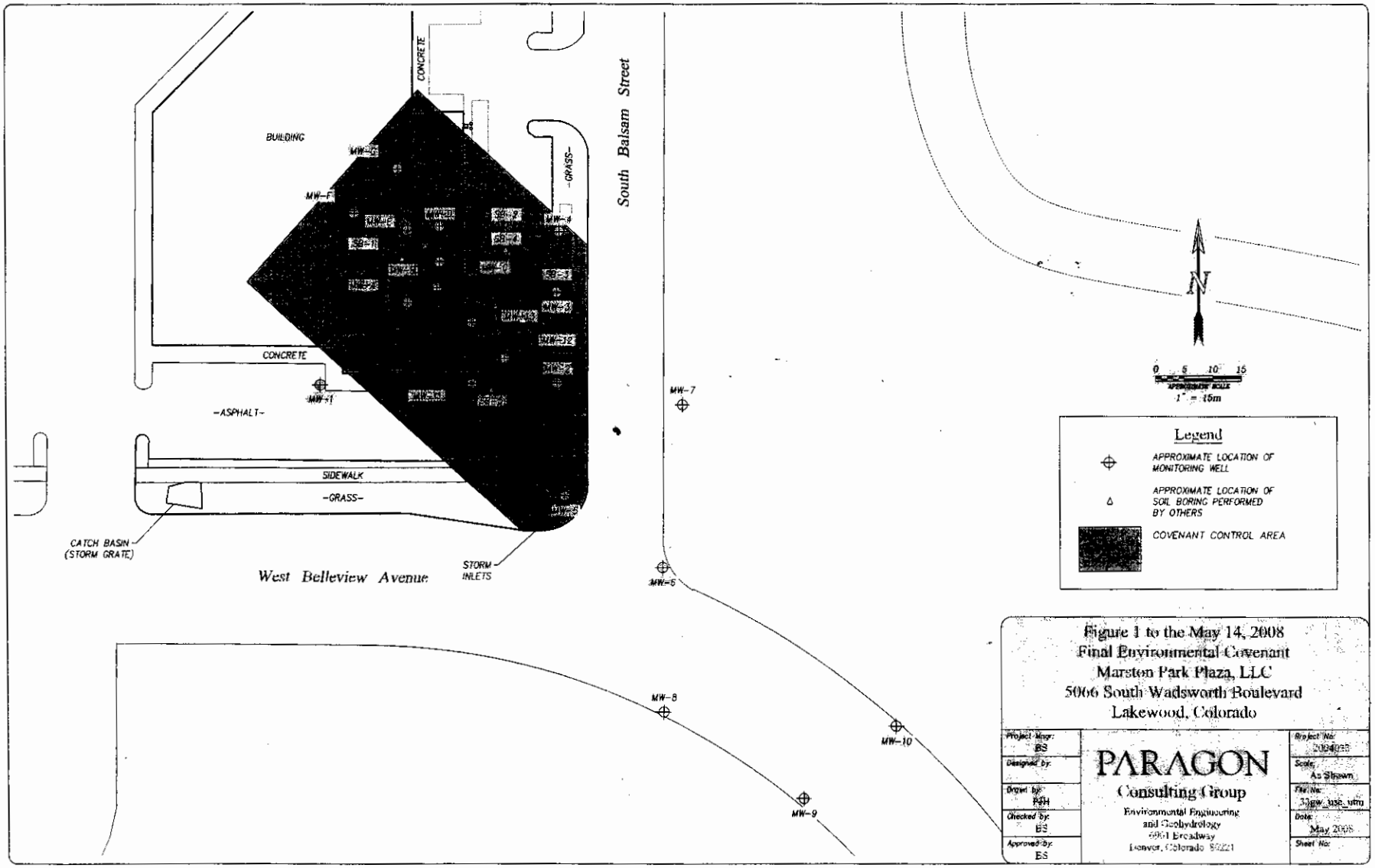
The foregoing instrument was acknowledged before me this 3 day of SEPTEMBER, 2008 by GARY BAUGHMAN on behalf of the Colorado Department of Public Health and Environment.

Claudette M. Firis
Notary Public

4300 Cherry Creek Dr So
Address

Denver, CO 80246

My commission expires: October 21, 2011


BUILDING
CONCRETE
MW-2
MW-3
MW-4
-GRASS-
South Balsam Street
CONCRETE
MW-1
-ASPHALT-
SIDEWALK
-GRASS-
CATCH BASIN (STORM GRATE)
STORM INLETS
West Belleview Avenue
MW-7
MW-6
MW-8
MW-9
MW-10
N
0 5 10 15
APPROXIMATE SCALE
1" = 15m
Legend
APPROXIMATE LOCATION OF MONITORING WELL
APPROXIMATE LOCATION OF SOIL BORING PERFORMED BY OTHERS
COVENANT CONTROL AREA
Figure 1 to the May 14, 2008
Final Environmental Covenant
Marston Park Plaza, LLC
5066 South Wadsworth Boulevard
Lakewood, Colorado
Project Mngr: BS
Designed by:
Drawn by: PJH
Checked by: BS
Approved by: ES
PARAGON
Consulting Group
Environmental Engineering and Geohydrology
6961 Broadway
Denver, Colorado 80221
Project No:
Scale: As Shown
File No: 3gw_use_utm
Date: May 2008
Sheet No: