

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
Executive Director and Chief Medical Officer

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
Located in Glendale, Colorado (303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

Covenant Information:

Covenant ID HMCOV00086

Covenant Date 5/14/2012

Self Reporting

Media of Concern:

Surface Water:

Ground Water:

Air:

Soil:

Other:

Site Contact Information:

Owner Corp: City of Pueblo

Contact Name: Scott Hobson, Asst. City Manager for Comm

Contact Address: City of Pueblo

Contact City: Pueblo

Contact State: CO

Contact Zip: 81003

Contact Phone: 719-553-2244

Contaminants of Concern:

Metals in slag

Property Restrictions:

- 1: No construction of buildings or other structures that penetrate the cap.
- 2: No commercial, industrial, residential, helicopter pads, shooting ranges, golf courses/ranges, athletic fields, tennis courts, race tracks or airstrip
- 3: No excavation of soils or activities that reduce thickness of the cap.
- 4: No excavation of slag materials.
- 5:

Site Information:

ID: VCUP - #090317-1

Name: Lake Minnequa Slag

Address: Lakeshore Drive

City: Pueblo

State: CO

Zip: 81004

Legal Description:

See Covenant

LAKE MINNEQUA SLAG



HMCOV00086





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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

Pueblo, a Municipal Corporation (“City”) grants an Environmental Covenant (“Covenant”) this 14th day of May, 2012 to the State of Colorado for the use and benefit of the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and Environment (“the Department”) pursuant to C.R.S. 25-15-321 of the Colorado Hazardous Waste Act, C.R.S. 25-15-101, et seq. The Department’s address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, City is the owner of certain real property commonly referred to as the “Slag Area”, located near Lakeshore Drive, Pueblo, Colorado, and more particularly described in Exhibit A attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as “the Property”); and

WHEREAS, based upon the voluntary cleanup application dated March 16, 2009, submitted on behalf of the City for the Slag Area, Site ID RV090317-1, the Department had approved the voluntary cleanup plan, and has now determined that the cleanup plan has been completed and that no further action is required to assure that the Property, when used for the purposes identified in the voluntary cleanup plan, to wit: open space and playgrounds, is protective of existing and proposed uses and does not pose an unacceptable risk to human health and the environment; and

WHEREAS, the VCUP response resulted in the addition of a notification barrier above the slag materials, the placement of a 30 inch layer of uncontaminated fill material and ground vegetation that must be maintained and operated in order for the VCUP to perform as intended since slag areas that contain high levels of metals were capped and potential asbestos contaminated areas near the former boy scout camp were remediated; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by limiting the use of the Property to minimize the potential for humans ingesting or having dermal contact with unsafe quantities of steel mill slag which has been capped beneath the surface of the Property in accordance with the cleanup plan; and

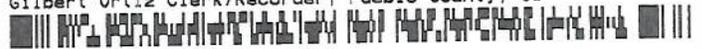
WHEREAS, based upon the Department’s review of available information and the Reports and subject to the limitation imposed by this Covenant, the Department has determined that remedial action has been completed and that contamination on the Property will not present an unacceptable risk to human health and environment, based upon the Slag Area being developed as a natural park area within a public recreation area as set forth in the VCUP application.

WHEREAS, the presence of the steel mill slag is not the result of any apparent activities of the City at the Property, but the City, as owner and wishing to maintain the protective condition of the property in accordance with work done pursuant to the VCUP and maintain beneficial use of the Property, agrees to subject the Property to this Covenant.

WHEREAS, City 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 City 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, for the benefit of the Department and OWNER.

NOW THEREFORE, City hereby grants this Environmental 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 11, below, which shall run with the Property in perpetuity and be binding on City and all parties having any right, title or interest in the Property, or any part thereof, their successors and assigns, and any persons using the land. As used in this Environmental Covenant, 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 Property shall be subject to the following restrictions:
 - (a) Construction of Buildings and Other Structures. The construction of any building, structure or other improvement, except the open space park facilities thereafter constructed in accordance with Paragraph 2 below, is prohibited.
 - (b) Uses and Improvements. Under no circumstances shall the following kinds of uses or improvement be developed on the Property: commercial, industrial or residential structures, helicopter pads, shooting ranges, golf courses or ranges, athletic fields, tennis courts, race tracks or airstrips.
 - (c) There shall be no excavation of soils and/or taking of activities that reduces the thickness of the existing clean fill cap installed pursuant to the VCUP response action.
 - (d) There shall be no excavation into the slag materials or any actions taken that in any way allow exposure of the buried slag materials under the clean fill cap installed pursuant to the VCUP response action, except the open space park facilities hereafter constructed in accordance with Paragraph 2 below.
2. Affirmative Uses and Requirements: The following open space park facilities may be constructed on the Property:
 - (a) A park pavilion shelter, playgrounds and open lawn areas with underground



irrigation equipment installed within the capped cover area above the slag.

- (b) A recreational trail constructed with crusher fine, concrete or asphalt surfacing or a combination of those surface materials.
- (c) The park pavilion shelter and playground equipment shall be constructed with on-grade slabs that do not penetrate into the slag material.
- (d) The City shall annually inspect and monitor the Property to assure that the 30 inch cap of uncontaminated fill and vegetation remains in place over the slag material.

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, which approval shall not be unreasonably withheld. 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 reasonably protect 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 following the installation, operation and maintenance of the layer of uncontaminated fill material and ground vegetation;
- (d) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment;
- (e) information demonstrating that an engineered feature or structure is no longer necessary;
- (f) 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. Incorporation of Covenant 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 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 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 Section 25-15-322, C.R.S. City may file suit in district court to enjoin actual or threatened violations of this Covenant.

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

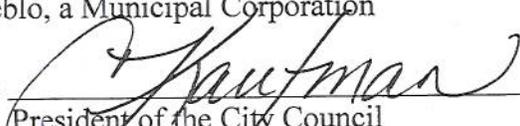
Hazardous Waste Corrective Action Unit Leader
Hazardous Materials and Waste Management Leader
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

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 Covenant.

City has caused this instrument to be executed this 14th day of May, 2012.

Pueblo, a Municipal Corporation

By:



President of the City Council

ATTEST:

By:



City Clerk





STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this 14th day of May, 2012 by Chris Kaufman as President of the City Council of Pueblo, a Municipal Corporation.

LORENE BRAVO-NEFF
NOTARY PUBLIC
STATE OF COLORADO

Lorene Bravo-Neff
Notary Public
Address: 200 S. Main St. Courtroom 2
Pueblo, CO 81003

My commission expires: 8-21-2015

Accepted by the Colorado Department of Public Health and Environment this 20th day of June, 2012.

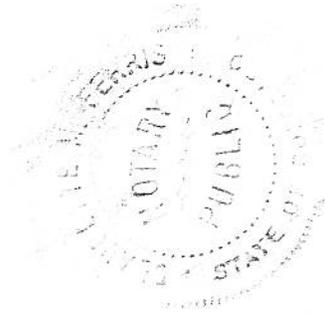
By: [Signature]
Title: Director, HMAWD

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 20 day of June, 2012 by GARY W BAUSHMAN as DIRECTOR, HMAWD of the Colorado Department of Public Health and Environment.

Claudette M-Ferris
Notary Public
Address: 4300 Cherry Creek Rd S
Denver, CO 80246

My commission expires October 21, 2015

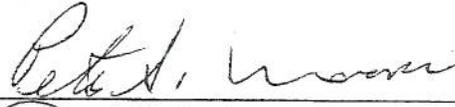




Approved and consented to by the Grantee of that certain Conservation Easement recorded in the Records of Pueblo County on January 25, 2010 at Reception number 1831096, this day of May 14, 2012."

LOWER ARKANSAS VALLEY WATER
CONSERVANCY DISTRICT

[SEAL]

By 
Board Chairman

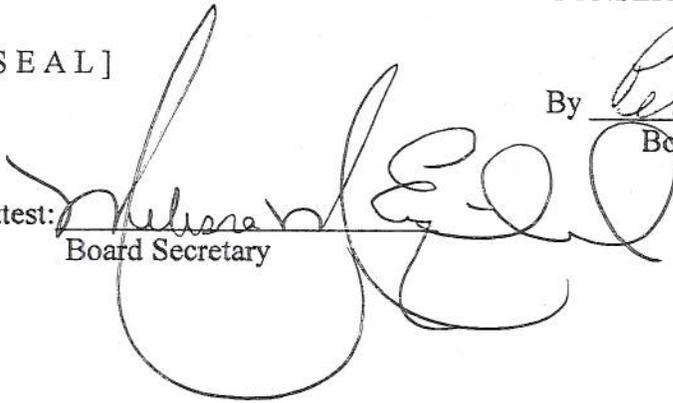
Attest: 
Board Secretary



EXHIBIT A
SLAG AREA
LAND DESCRIPTION

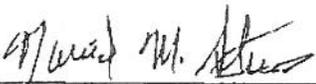
A parcel of land located in a portion of the NE $\frac{1}{4}$ of Section 14, Township 21 South, Range 65 West of the 6th P.M. in the County of Pueblo and State of Colorado, and being more particularly described as follows:

Considering a line between NGS point Abriendo and the Point of Beginning to bear S. 31°03'45" W., and all bearings contained herein to be relative thereto.

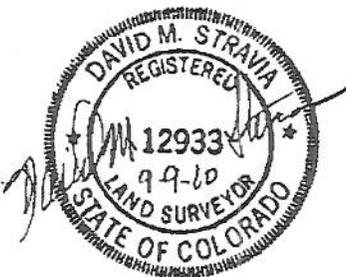
Commencing at NGS point Abriendo; thence S. 31°03'45" W., a distance of 10141.64 feet to the Point of Beginning; thence S. 02°11'39" E., a distance of 40.48 feet; thence S. 00°58'37" E., a distance of 115.02 feet; thence S. 03°25'23" E., a distance of 141.66 feet; thence S. 01°31'37" W., a distance of 30.85 feet; thence; S. 71°33'33" W., a distance of 35.14 feet; thence N. 86°13'51" W., a distance of 16.19 feet; thence S. 72°11'15" W., a distance of 25.61 feet; thence S. 44°27'12" W., a distance of 20.58 feet; thence S. 53°11'39" W., a distance of 20.01 feet; thence S. 75°17'20" W., a distance of 19.32 feet; thence N. 74°48'35" W., a distance of 26.73 feet; thence N. 49°38'32" W., a distance of 30.57 feet; thence N. 52°36'06" W., a distance of 36.75 feet; thence N. 44°34'10" W., a distance of 27.81 feet; thence N. 53°47'59" W., a distance of 24.69 feet; thence N. 06°22'07" E., a distance of 136.76 feet; thence N. 02°16'50" E., a distance of 121.40 feet; thence N. 02°45'21" W., a distance of 40.19 feet; thence S. 84°16'52" E., a distance of 44.86 feet; thence S. 88°09'34" E., a distance of 36.31 feet; thence N. 49°58'32" E., a distance of 30.54 feet; thence N. 76°28'16" E., a distance of 40.84 feet; thence S. 82°40'49" E., a distance of 42.92 feet; thence S. 48°50'21" E., a distance of 33.11 feet to the Point of Beginning.

Containing 1.83 acres, more or less.

I, David M. Stravia, being a licensed Land Surveyor in the State of Colorado, do hereby state that this land description and exhibit, being made a part hereof, were prepared under my responsible charge and are accurate to the best of my knowledge, information and belief.



David M. Stravia
Colorado P.L.S. 12933
NorthStar Engineering and Surveying, Inc.
September 9, 2010
JN 0400905



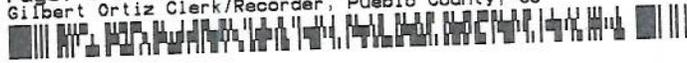
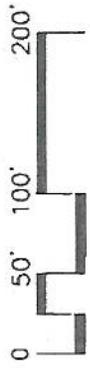


EXHIBIT A

NGS POINT "ABRIENDO"
 JK7392

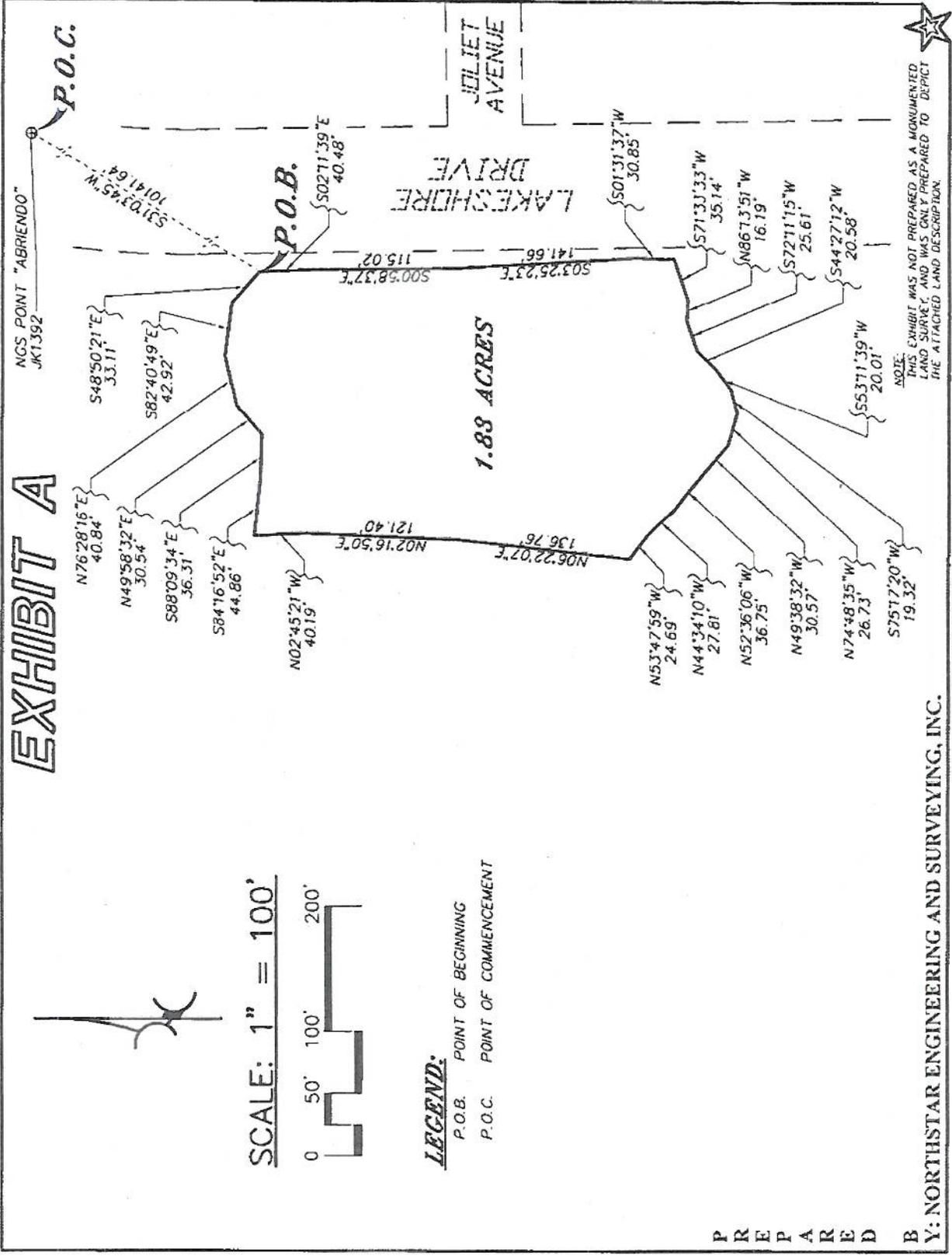


SCALE: 1" = 100'



LEGEND:

- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT



NOTE:
 THIS EXHIBIT WAS NOT PREPARED AS A MONUMENTED
 LAND SURVEY AND WAS ONLY PREPARED TO DEPICT
 THE ATTACHED LAND DESCRIPTION.

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

A RESOLUTION GRANTING AN ENVIRONMENTAL COVENANT
TO THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND
ENVIRONMENT WITH RESPECT TO THE LAKE MINNEQUA
PROPERTY

WHEREAS, the City is the owner of certain real property commonly referred to as the "Slag Area" located near Lakeshore Drive, Pueblo, Colorado; and

WHEREAS, based upon the voluntary cleanup application submitted on behalf of the City for the Slag Area, Site ID RV090317-1 and related and subsequent reports and documents ("Reports"), the Colorado Department of Public Health and Environment ("Department") approved the voluntary cleanup plan and has now determined that the cleanup plan has been completed. No further action is required to assure that the Property, when used for the purposes identified in the voluntary cleanup plan, to wit: open space and playgrounds, is protective of existing and proposed uses and does not pose an unacceptable risk to human health and the environment; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by limiting the use of the Property to minimize any potential for humans ingesting or having dermal contact with unsafe quantities of steel mill slag which has been capped beneath the surface of the Property in accordance with the cleanup plan; and

WHEREAS, based upon the Department's review of available information and the Reports and subject to the limitation imposed by this Covenant, the Department has determined that corrective action has been completed and that contamination of the Property has been adequately controlled and will not present an unacceptable risk to human health and environment, based upon existing and potential future land use; and

WHEREAS, the presence of the steel mill slag is not the result of any apparent activities of the City at the Property, but the City, as owner and wishing to remediate and rehabilitate the Property, agrees to subjecting the Property to this Covenant.

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Environmental Covenant with respect to the Lake Minnequa Property, a copy of which is attached hereto and having been approved as to form by the City Attorney, is hereby approved. The President of the City Council is authorized to execute the Environmental Covenant in the name of the City. After acceptance and execution of the Environmental Covenant by the Colorado Department of Public Health and Environment, the City Clerk is directed to file the Environmental Covenant with the County Clerk and Recorder, County of Pueblo, State of Colorado.

INTRODUCED: MAY 14, 2012

BY: Sandy Daff
COUNCIL PERSON

APPROVED: *Kaufman*
PRESIDENT OF CITY COUNCIL

ATTESTED BY: *Cynthia Dretcher*
CITY CLERK

