

# 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**      HMC0V00112

**Covenant Date**      8/28/2014

**Self Reporting**     

### **Media of Concern:**

**Surface Water:**     

**Ground Water:**     

**Air:**     

**Soil:**     

**Other:**     

### **Site Contact Information:**

**Owner Corp:**      Smoky Hill Center LTD

**Contact Name:**      Peter Yang

**Contact Address:**      3462 Sagamore Dr.

**Contact City:**      Huntington Beach

**Contact State:**      CA

**Contact Zip:**      92649

**Contact Phone:**

### **Contaminants of Concern:**

TCE, PCE, Dry Cleaner Solvents

### **Property Restrictions:**

- 1: Property shall not be used for residential uses
- 2: Property shall not be used for any public uses: day care, elder care, hospitals, play grounds, parks, schools, short-term lodging
- 3: Groundwater shall not be removed by well or other means for domestic, agricultural or commercial use
- 4: No injection, infiltration or addition of water or liquid except conducted in compliance with dept approved work plan
- 5: No disturbance or removal of greater than 1 yard of soil except in accordance with the materials mgmt plan.

### **Site Information:**

**ID:**      COD983784968

**Name:**      Smoky Hill Center New Look Cleaners

**Address:**      16625 E Smoky Hill Rd

**City:**      Aurora

**State:**      CO

**Zip:**      80015

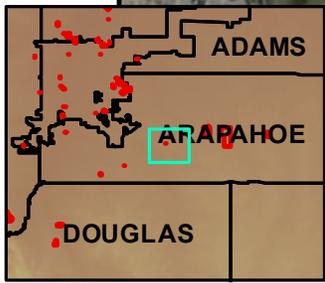
### **Legal Description:**

See Institutional Control

# SMOKEY HILL CENTER NEW LOOK CLEANERS

104°47'46"W 104°47'45"W 104°47'44"W 104°47'43"W 104°47'42"W 104°47'41"W 104°47'40"W 104°47'39"W 104°47'38"W

Featured Institutional Control  

Copyright © 2013 Esri, DeLorme, NAVTEQ, TomTom, Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

## HMC OV00112



RTN: SUZANNE BURDICK  
DEPT OF LAW/NRE  
1300 BROADWAY 7TH FLOOR  
DENVER, CO 80203

Reception #: D4088841, 09/24/2014 at  
11:11:14 AM, 1 OF 14, COV, Rec Fee  
\$76.00  
Arapahoe County CO Matt Crane, Clerk &  
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.**

**ENVIRONMENTAL COVENANT**

Smoky Hill Center LTD , a Colorado limited partnership, ("Smoky Hill Center" and the "OWNER") grant an Environmental Covenant ("Covenant") this 28<sup>th</sup> day of August, 2014 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, the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department"), which is located at 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530, is authorized to approve Environmental Covenants pursuant to § 25-15-320 of the Colorado Hazardous Waste Act, § 25-15-101, *et seq.* 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530; and

WHEREAS, for purposes of indexing in the County Clerk and Recorder's office Grantor-Grantee index only, Smoky Hill Center shall be considered the **Grantor**, and the Colorado Department of Public Health and Environment shall be considered the **Grantee**; nothing in the preceding clause shall be construed to create or transfer any right, title or interest in the Property; and

WHEREAS, Smoky Hill Center c/o Peter Yang is the owner of certain property commonly referred to as New Look Cleaners, located at 16625 East Smoky Hill Road, Aurora, CO, more particularly described in Attachment A (legal description), attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, pursuant to the Division-approved Corrective Action Plan Modification, dated May 6, 2013, the Property is the subject of remedial action pursuant to Colorado Hazardous Waste Regulations, 6 CCR 1007-3, Part 100; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by restricting access to soil and groundwater at the Property which remain above state standards.

WHEREAS, Smoky Hill Center 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 OWNERS 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, Smoky Hill Center 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 12, below, which shall run with the Property in perpetuity and be binding on the OWNERS 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. 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

- a. The property shall not be used for any residential uses. Residential use means use of a building or part of a building as a dwelling (i.e., as a place to sleep, eat and bathe) by the same person or persons for more than one month. Dwellings include single family homes, apartments, condominiums, townhomes, manufactured housing, assisted living facilities and nursing homes, but do not include motels, hospitals and other buildings used only for short-term lodging.
- b. The property shall not be used for any public uses which includes, without limitation, day-care facilities, eldercare centers, hospitals, playgrounds, parks or recreational facilities, schools, or community centers or short-term lodging facilities including, without limitation, hotels, motels, hostels and the like.
- c. Ground water on the property shall not be removed by well or other means for any use, including but not limited to domestic, agricultural, and/or commercial use. For the purpose of this restriction, "ground water" 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 discharge areas. This limitation shall not apply to construction related dewatering activities and a qualified environmental professional, obtaining ground water samples for analysis from existing monitoring wells located on the property and to potential installation of monitoring wells in the future for use solely to obtain ground water samples for analysis;
- d. No activity that will result in the injection, infiltration or addition of water or any other liquid into the subsurface or ground water, including further efforts to treat contamination, unless that activity is being conducted in compliance with a Department approved work plan.
- e. Within or adjacent to the Property building footprint, any activity resulting in the disturbance or removal of greater than 1 cubic yard of soil must be done in accordance with the Materials Management Plan, attached to and incorporated herein as Attachment B. The most recent version of the Materials Management

Plan, if modified by the parties by mutual agreement, will be on file with the Department.

- f. Any activity that generates excess soil from within or adjacent to the Property as described in Attachment A cannot be returned to the original excavation, unless the excess soil is managed in accordance with the Materials Management Plan.
- g. The property shall not be used for any activity that violates or interferes with the requirements specified in the May 6, 2013 Corrective Action Plan ("CAP") Modification as approved by the Department on May 22, 2013 (the "CAP Modification") on file at the Department.

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 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 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 the closing on any proposed sale or other conveyance of any interest in any or all of the Property. Thirty (30) days after any conveyance, OWNER shall provide the Department with a copy of the recorded deed transferring any interest in any or all of the Property and provide the name, mailing address and telephone number of the new OWNER. If the entire interest is not conveyed, OWNER shall provide an improvement survey plat that shows the property being conveyed.

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, including its authorized employees, agents, representatives and independent contractors, 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) Third Party Beneficiary. The OWNER of the Property is a third party beneficiary with the right to enforce the provisions of this Covenant as provided in § 25-15-322, C.R.S.
- 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. The OWNER of the Property and any named beneficiary of the Covenant may file suit in district court to enjoin actual or threatened violations of this Covenant.
- 10) 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.
- 11) Liberal Construction. It is intended that this Environmental Covenant be construed liberally to protect the health and welfare of the public and the quality of the environment from the risk of adverse effects of exposure to hazardous substances.
- 12) Notices. Any document or communication required under this Covenant shall be sent or directed to:

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

Dr. Peter Yang  
3462 Sagamore Drive  
Huntington Beach, CA 92649

Smoky Hill Center has caused this instrument to be executed this 28 day of August, 2014.

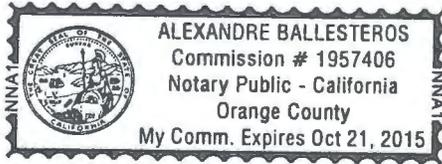
Smoky Hill Center LTD, a Colorado limited partnership

By: [Signature]

Title: Member

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF ORANGE )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of AUGUST, 2014 by PETER YANG on behalf of Smoky Hill Center LTD, a Colorado limited partnership.



[Signature]  
Notary Public

7552 EDWARDS AVE.  
Address

HUNTINGTON BEACH, CA 92648

My commission expires: 10/21/2015

Accepted by the Colorado Department of Public Health and Environment this 12<sup>th</sup> day of September, 2014.

By: [Signature]

Title: Director, AAWMD

STATE OF COLORADO )  
 ) ss:  
COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 12 day of SEPTEMBER  
2014 by GARY W. 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, 2015

# EXHIBIT

SHEET 1 OF 2

## LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 5 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 8; THENCE N28°03'50"W, A DISTANCE OF 1906.90 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 1, BLOCK 1, MOUNTAIN BELL SMOKY HILL SUBDIVISION FILING NO. 1, AS RECORDED OCTOBER 13, 1976 AT RECEPTION NUMBER R1587263 OF THE ARAPAHOE COUNTY RECORDS, SAID POINT BEING THE POINT OF BEGINNING;  
THENCE S23°48'21"W, DEPARTING SAID NORTHERLY LOT LINE, A DISTANCE OF 94.90 FEET;  
THENCE N66°16'12"W, A DISTANCE OF 185.26 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF EAST PHEASANT RUN PARKWAY, AS SHOWN IN THE WARRANTY DEED RECORDED MARCH 17, 1986 IN BOOK 4698 AT PAGE 182 UNDER RECEPTION NUMBER 2643787 OF THE ARAPAHOE COUNTY RECORDS;  
THENCE N44°08'18"E, ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, A DISTANCE OF 101.31 FEET TO A POINT ON SAID NORTHERLY LOT LINE;  
THENCE S66°14'58"E, ALONG SAID NORTHERLY LOT LINE, A DISTANCE OF 150.06 FEET TO THE POINT OF BEGINNING

SAID PARCEL CONTAINS 15,916 SQUARE FEET OR 0.365 ACRES, MORE OR LESS.

### BASIS OF BEARINGS:

THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 5 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, BETWEEN THE SOUTHEAST CORNER (A FOUND 3" BRASS CAP MARKED 'CITY OF AURORA LS 16419 T5S 8 9 16 17 R66W 1990' IN RANGE BOX) AND THE SOUTH QUARTER CORNER (A FOUND #8 REBAR) BEARS S89°38'01"W, AS SHOWN ON THE ARAPAHOE COUNTY HORIZONTAL CONTROL NETWORK PHASE 3, DATED 5/4/94, PREPARED BY MOUNTAIN SURVEYING AND MAPPING, INC.



ZYLSTRA BAKER SURVEYING, INC.  
1510 W. TUFTS AVENUE  
ENGLEWOOD, CO 80110  
PH. (303) 781-0700  
FAX (303) 781-4193  
E-MAIL mail@zbsinc.net

# **MATERIALS MANAGEMENT PLAN**

**16625 East Smoky Hill Road  
Aurora, Colorado**

**September 16, 2013**

## **Introduction**

This Management Plan (Plan) shall apply to and be implemented whenever any actions are proposed within the Environmental Covenant (EC) area established on the property located at 16625 East Smoky Hill Road, Aurora, CO:

1. Which will cause any disturbance or removal of greater than 1 cubic yard of soil within the building footprint within the EC area; or
2. Which will cause groundwater beneath the Property to be accessed for construction dewatering purposes or monitoring of groundwater constituents via monitoring wells within the EC area.

This Plan shall be implemented by any owner, lessee or licensee of 16625 East Smoky Hill Road who will undertake any of the above activities. This Plan presents procedures to assure that the health and welfare of occupants of 16625 East Smoky Hill Road, Aurora, CO is protected.

## **I. PROPERTY CIRCUMSTANCES**

The 16625 East Smoky Hill Road property (Site) is where a dry cleaning facility has operated for many years. Environmental investigations have identified a release to the environment at the Site of dry cleaning chemicals that have resulted in contamination of soils and ground-water at the Site and on the adjoining downgradient property. Owners of the Site have implemented a Corrective Action Plan and subsequent Modified Corrective Action Plans (“the Corrective Action Plan”, “the Plan”) approved by the Colorado Department of Public Health and Environment (CDPHE), which covers actions that will impact both the Site and any affected downgradient properties. The Plan has been and will continue to be implemented over a period of years and is anticipated to gradually reduce contaminant levels at the Site.

Owners of the Site have agreed to an Environmental Covenant that will impose certain use restrictions for a defined area on the Site (“EC area”). This Management Plan is an attachment to the Environmental Covenant. The Environmental Covenant will remain in place until remedial requirements of the CDPHE are met, exposure risks within the EC area are diminished to acceptable levels and residual contaminant concentrations decrease to the point where no restrictions are required on the future use of the Site.

### **1.1 SITE MONITORING**

The Site owner shall be responsible for monitoring soil and ground-water conditions at the Site and immediate surrounding area. The Site Owner will timely provide the adjoining property owners, as appropriate, with monitoring data and results.

## **1.2 ACTIVATION OF THE MANAGEMENT PLAN**

Arrangements have been made with environmental consultant, ERO Resources Corporation (ERO), to be ready to respond if this Management Plan is activated. If ERO is unavailable, an equally qualified environmental consultant will be retained. When an activity at the Site causes activation of this Management Plan, Site owners will take the following actions:

1. The environmental consultant will be contacted to respond to the activity.
2. The environmental consultant will review the activity circumstances in light of the Corrective Action Plan and requirements of the Environmental Covenant.
3. The environmental consultant will recommend appropriate steps for the Site owner for the activity to be consistent with the Corrective Action Plan and the Environmental Covenant, such that:
  - a. The Corrective Action Plan is not adversely affected;
  - b. Groundwater is not adversely affected; and
  - c. Site occupants and visitors are not exposed to contamination (soil, ground water or vapors) that create adverse health risks according to CDPHE risk criteria in use at the time.
4. The Site owner will follow the recommendations of the environmental consultant. In the event of a dispute between the Site owner and environmental consultant, the CDPHE will be consulted.
5. The environmental consultant will create a written record of its determination, the basis of the determination and any recommended actions.
6. The Site owner will retain any such written records for as long as the Environmental Covenant is in effect and make those written records available for inspection upon request of CDPHE.

## **1.3 ACTIONS REQUIRING PRIOR CDPHE APPROVAL**

There are certain activities that have the potential to result in either the generation of and/or improper management of a hazardous waste or that could cause the unintentional exposure to or spread of contamination. Rather than delegate the more significant waste handling decisions to a qualified environmental consultant, the CDPHE shall be notified at least 30 days in advance of performing the following list of activities so that it may review and approve them prior to conducting the work. The specific activities the Site owner is prohibited from doing without CDPHE approval include:

1. Groundwater beneath the Property within the EC area will not be accessed or used for any purpose; however, monitoring of groundwater constituents via monitoring wells is permitted.
2. Any activity that will result in disturbing more than one cubic yard of soil from beneath or adjacent to the footprint of the building within the EC area, unless it is done in accordance with procedures outlined in Section 1.5 of the Materials Management Plan.
3. Any soil disturbing activity that will result in the generation of excess soil that cannot all be returned to the original excavation within the EC area, unless the excess soil is managed in accordance with the procedures outlined in Section 1.5 of the Materials Management Plan.
4. Any breaching or removal of the building foundation that results in uncovered soil to be exposed to outdoor elements for more than 48 hours within the EC area.
5. Any proposal to use the property for residential purposes within the EC area.
6. Any activity that requires the use of construction dewatering techniques to allow for building activities to proceed at or below the local water table within the EC area.
7. Any activity that violates or interferes with the activities specified in the Corrective Action Plan ("CAP"), as approved most recently by the Department on May 22, 2013, attached to the site environmental covenant as Exhibit D.

The activities noted above should be submitted to the CDPHE in a short plan clearly describing what soil or groundwater disturbing activities are proposed, how the resulting potentially contaminated media will be managed, characterized and eventually disposed of.

#### **1.4 MANAGEMENT AND CHARACTERIZATION OF SOIL**

Soil disturbing activities inside the building and within the EC area involving less than one cubic yard of soil may be returned to the original excavation. All soil that may be excavated from locations inside the building that is more than one cubic yard in volume must be properly managed and characterized prior to any decision to return the soil to the original excavation. The same must be done for any volume of soil that cannot all fit back into the original excavation and therefore must be disposed of either on or off-site. The procedures used to ensure proper handling of soil are as follows:

1. Soil disturbing activities inside the building and within the EC area involving less than one cubic yard of soil may be temporarily stockpiled on plastic sheeting.
2. Soil that may be excavated from locations and within the EC area inside the building that is more than one cubic yard in volume will be placed in appropriately sized and covered containers upon its excavation.

3. For soil that either is greater than one cubic yard in volume or any volume that cannot be returned to the original excavation, a representative sample of the soil will be collected using professionally accepted techniques for laboratory analysis using EPA's SW 846 Method 8260. More than one sample may need to be collected depending on the volume of soil generated (a minimum of 1 sample per 20 cubic yards).

4. If the test results show that contaminant concentrations are all below both the residential soil concentration listed in the most current Region 6 EPA Regional Screening Level (RSL) and ground water protection level listed in the most current version of the Colorado Soil Evaluation Values table (CSEV), that soil may be managed as "clean" fill for either use on-site or disposal at a local licensed solid waste landfill.

If the test results show that contaminant concentrations are above either of the residential soil concentrations or ground water protection levels listed in the most current version of the CSEV table, the Site owner will provide the CDPHE with a copy of those test results, a description of the activity that generated the soil and its volume, requesting the CDPHE review the information provided in order to make a contained-out determination. The CDPHE will review the information provided and decide whether the measured contaminant concentrations dictate that the soil be managed as a solid waste or a hazardous waste and how it must be disposed of.

## **1.5 MANAGEMENT AND CHARACTERIZATION OF GROUNDWATER**

In the event water is observed during soil disturbing activities in any of the areas for which the Environmental Covenant applies, management of such water will be conducted in such a way as to minimize the quantity of water requiring treatment and disposal.

Either existing water quality data is reviewed or a sample of the groundwater must be collected for VOC analysis to determine if treatment or special handling of this water is necessary. The results of water samples will be compared to the Colorado Water Quality Control Commission's Basic Standards for Groundwater (Regulation 41) ("Groundwater Standards"). If concentrations of VOCs are below the Groundwater Standards, no additional groundwater management shall be required beyond standard dewatering management procedures. In the event concentrations of VOCs exceed the Groundwater Standards, the water must be contained and subjected to additional management and treatment.

Dependant on the volume of water anticipated to be managed, the contained water may be (1) treated onsite and discharged to surface water, (2) treated onsite and discharges back into the soil disturbing area, or (3) disposed off-site at an appropriate treatment facility. Water removed from the soil disturbing area(s) must be stored in a container and managed as contaminated water until analytical results prove otherwise. Appropriate permits and approvals must be obtained for any dewatering, discharge or disposal of water generated by such activities.

If it is determined the water removed from the soil disturbing area(s) is to be treated on site, it must be treated to:

1. Meet groundwater standards before it can be discharged to the ground surface.
2. Meet CDPHE-approved surface water discharge standards and discharged through a temporary CDPHE discharge permitted outfall.
3. Meet EPA-approved standards and returned to the open excavation as authorized by the Underground Injection Control Program at EPA.

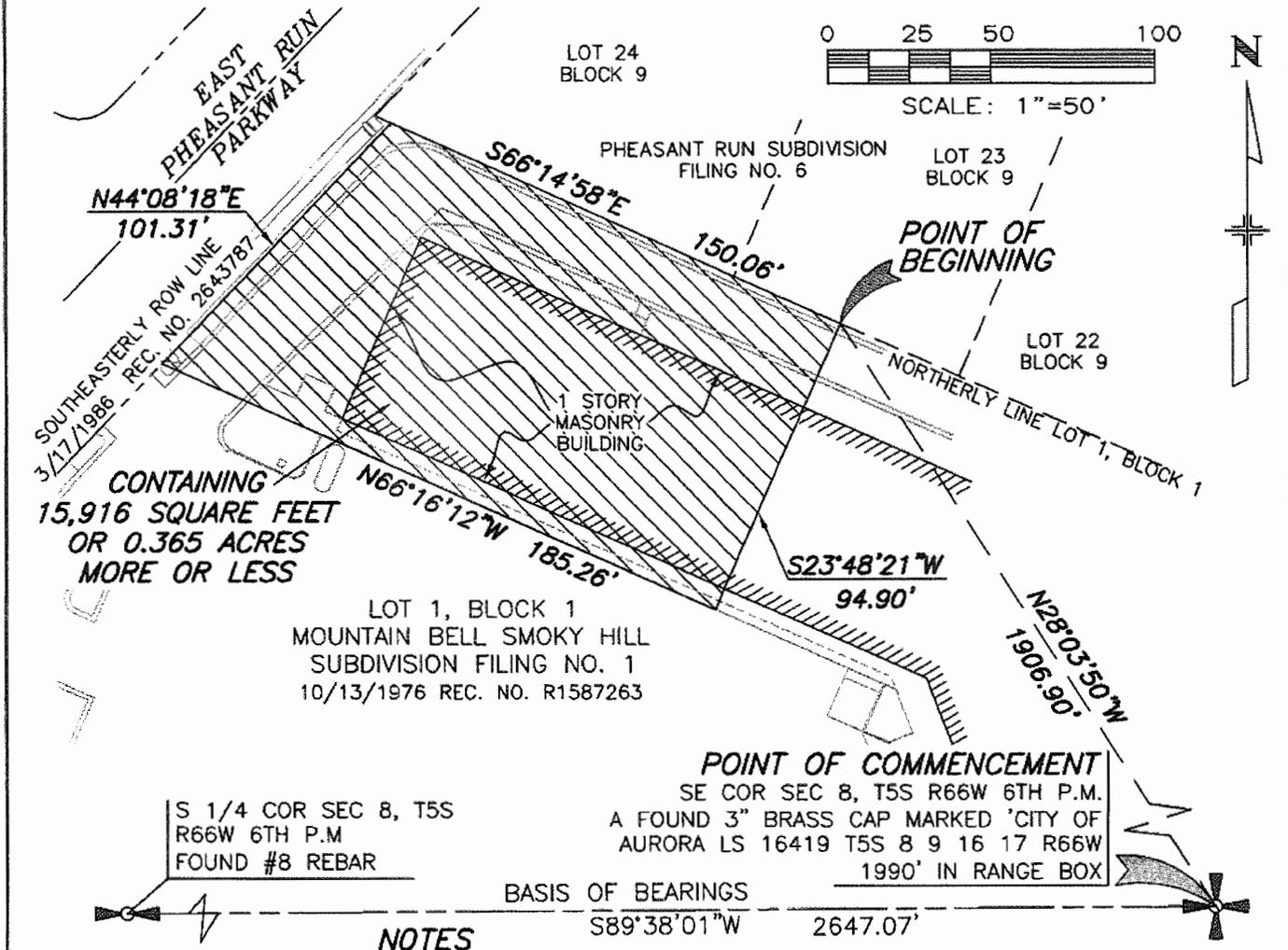
Prior to conducting any such on-site dewatering, treatment, discharge, or injection, all appropriated permits and approvals for such activities must be obtained, including permits issued by the CDPHE or EPA.

If, based on initial estimates, the total amount of water managed during the soil disturbing activities is likely less than approximately 5,000 gallons, then it may be more cost effective to contain the water onsite and dispose of this water off-site at an approved treatment facility. The off-site treatment facility may require additional sampling to fully characterize any water prior to acceptance for disposal.

3 referenced AD  
file  
slope file

# EXHIBIT

SE 1/4, SECTION 8, T. 5 S., R. 66 W., 6TH P.M.  
CITY OF AURORA,  
COUNTY OF ARAPAHOE, STATE OF COLORADO



BRIAN L. LeFEBRE  
PROFESSIONAL LAND SURVEYOR  
COLORADO NO. 34579

**NOTES**

1. NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
2. THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS ONLY INTENDED TO DEPICT THE ACCOMPANYING LEGAL DESCRIPTION.

ZYLSTRA BAKER SURVEYING INC. 1510 WEST TUFTS AVENUE ENGLEWOOD, CO 80110 PHONE (303) 781-0700		
ERO RESOURCES CORPORATION		
LEGAL DESCRIPTION		
SCALE: 1"=50'	DR: 20130805EX.DWG	
DRN. JRT	DATE: 9/5/13	CHK. BLF
JOB NO. 2013-0805	PG. 2 OF 2	



**First American Title Insurance Company - NCS**  
**1125 17th Street, Suite 750**  
**Denver, Colorado 80202**  
Phone: (303)876-1112 Fax:(877)235-9185

**DATE:** August 20, 2013  
**FILE NUMBER:** NCS-624170-CO  
**PROPERTY ADDRESS:** 16625 East Smoky Hill Road, Aurora, CO  
**OWNER/BUYER:** /  
**YOUR REFERENCE NUMBER:**  
**ASSESSOR PARCEL NUMBER:**

**PLEASE REVIEW THE ENCLOSED MATERIAL COMPLETELY AND TAKE NOTE OF THE FOLLOWING TERMS CONTAINED THEREIN:**

- Transmittal:**
- Revision No.:**
- Schedule A:**
- Schedule B - Section 1 Requirements:**
- Schedule B - Section 2 Exceptions:**

Should you have any questions regarding these materials, please contact First American Title Insurance Company National Commercial Services at the above phone number. We sincerely thank you for your business.

**TO:** First American Title Insurance Company National Commercial Services  
1125 17th Street, Suite 750  
Denver, Colorado 80202

**TITLE OFFICER:** Mej Ellsworth

**PHONE:** (303)876-1126  
**FAX:** (877)235-9185  
**E-MAIL:** mellsworth@firstam.com  
**DELIVERY:** E-MAIL

---

**TO:** First American Title Insurance Company National Commercial Services  
1125 17th Street, Suite 750  
Denver, CO 80202

**ESCROW OFFICER:** Kelly Miller

**PHONE:** (303)876-1142  
**FAX:** (877)235-9185  
**E-MAIL:** kmmiller@firstam.com  
**DELIVERY:** E-MAIL

---

**To:** Dunton Commercial Real Estate Company  
2000 S. Colorado Blvd., Suite 8000  
Denver, CO 80222

**ATTN:** Ryan P Morgan

**PHONE:** (303)758-3131  
**MOBILE:**  
**FAX:**  
**E-MAIL:** RMorgan@dunton-commercial.com  
**DELIVERY:** E-MAIL

---

**To: ERO Resources Corporation**

**ATTN: Jack Denman**  
**PHONE: (303)830-1188**  
**MOBILE: (303)903-8693**  
**FAX:**  
**E-MAIL: jdenman@eroresources.com**  
**DELIVERY: E-MAIL**

---

**To:**

**ATTN: Peter Yang**  
**PHONE:**  
**MOBILE:**  
**FAX:**  
**E-MAIL: peteryang1@me.com**  
**DELIVERY: E-MAIL**

---

**To: First American Title Insurance  
Company National Commercial  
Services  
1125 17th Street, Suite 750  
Denver, CO 80202**

**ATTN: Brian McDonald**  
**PHONE: (303)876-1141**  
**MOBILE: (720)402-0456**  
**FAX: (877)235-9185**  
**E-MAIL: brianmcdonald@firstam.com**  
**DELIVERY: E-MAIL**

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**ALTA Commitment Form**

**COMMITMENT FOR TITLE INSURANCE**

Issued by

***First American Title Insurance Company***

First American Title Insurance Company, a California corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate six (6) months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

IN WITNESS WHEREOF, First American Title Insurance Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

First American Title Insurance Company



Dennis J. Gilmore  
President



Timothy Kemp  
Secretary



**COMMITMENT FOR TITLE INSURANCE FORM  
SCHEDULE A**

1. Effective Date: August 02, 2013 at 5:00 p.m.
  - a. ALTA Owner's Policy (06-17-06) \$0.00  
  
Proposed Insured:  
None
  - b. ALTA Loan Policy (06-17-06) \$0.00  
  
Proposed Insured:  
A Lender to be determined
  
2. The estate or interest in the Land described or referred to in this Commitment is:  
  
Fee Simple
  
3. Title to the estate or interest in the Land is at the Effective Date vested in:  
  
Smoky Hill Center LTD, a Colorado limited partnership, subject to the proceeding pending in the United States Bankruptcy Court of Colorado, Case No. 12-35463, wherein petition for relief was filed December 18, 2012
  
4. The Land referred to in this Commitment is described as follows:  
  
**See Exhibit "A" attached hereto and made a part hereof**  
  
For informational purposes only: 16625 East Smoky Hill Road,  
Aurora, Colorado

**EXHIBIT A**

Commitment No.: NCS-624170-CO

The land referred to in Schedule A is situated in the County of Arapahoe, State of Colorado and is described as follows:

Lot 1, Block 1, Mountain Bell Smoky Hill Subdivision Filing No. 1,  
except that portion conveyed to the City of Aurora in Deed recorded March 17, 1986 in Book 4698 at  
Page 182,  
County of Arapahoe,  
State of Colorado.

For informational purposes only: APN: 2073-08-4-17-003

**COMMITMENT FOR TITLE INSURANCE FORM**  
**SCHEDULE B**  
**SECTION ONE**  
**REQUIREMENTS**

The following requirements must be met:

1. Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
2. Pay us the premiums, fees and charges for the policy.
3. Payment of all taxes and assessments now due and payable.
4. Recordation of a Deed of Trust satisfactory to the Company, from Smoky Hill Center, LTD., a Colorado limited partnership, to the Public Trustee of Arapahoe County, for the benefit of the proposed insured lender.
5. Recordation of a Release of the Deed of Trust from Smoky Hill Center, LTD., a Colorado limited partnership to the Public Trustee of Arapahoe County for the use of United Western Bank to secure an indebtedness in the principal sum of \$1,000,000.00, and any other amounts and/or obligations secured thereby, dated February 15, 2008 and recorded March 10, 2008 at Reception No. B8027618.

NOTE: Subordination Agreements in connection therewith recorded October 29, 2008 at Reception No. B8121367 and recorded November 6, 2008 at Reception No. B8123947.

NOTE: Assignment of Deed of Trust to First-Citizens Bank & Trust Company recorded May 23, 2011 at Reception No. D1048456.

6. Recordation of a Withdrawal by the Public Trustee, of the Notice of Election and Demand for Sale recorded October 2, 2012 at Reception No. D2111844, pursuant to the foreclosure of the Deed of Trust recorded October 29, 2008 at Reception No. B8121366.
7. Recordation of a Release of the Deed of Trust from Smoky Hill Center, LTD., a Colorado limited partnership to the Public Trustee of Arapahoe County for the use of LOA Investments, LLC, a California limited liability company to secure an indebtedness in the principal sum of \$2,200,000.00, and any other amounts and/or obligations secured thereby, dated October 14, 2008 and recorded October 29, 2008 at Reception No. B8121366.

NOTE: Affidavit Of Scrivener's Error in connection therewith recorded September 27, 2012 at Reception No. D2109338.

8. Receipt by the Company of the following documentation for Smoky Hill Center, LTD., a limited partnership:

Partnership Agreement, and all amendments thereto, if any.

Certificate of Limited Partnership issued by the Colorado Secretary of State.

9. Receipt by the Company of a satisfactory Final Affidavit and Indemnity, executed by Smoky Hill Center, LTD., a Colorado limited partnership.

**COMMITMENT FOR TITLE INSURANCE FORM**  
**SCHEDULE B**  
**SECTION TWO**  
**EXCEPTIONS**

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Any facts, rights, interests or claims which are not shown by the Public Records, but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
2. Easements, or claims of easements, not shown by the Public Records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the Land would disclose, and which are not shown by the public records.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown in the Public Records.
5. Any and all unpaid taxes, assessments and unredeemed tax sales.
6. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof.
7. The right of a proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises, as reserved in United States Patent recorded January 12, 1895 in Book A57 at Page 506.
8. Covenant recorded July 27, 1972 in Book 2041 at Page 140. ?
9. An easement for public utilities and incidental purposes granted to Public Service Company of Colorado, as set forth in an instrument recorded March 24, 1977 in Book 2565 at Page 342. ①
10. Easements, notes, covenants, restrictions and rights-of-way as shown on the plat of Mountain Bell Smoky Hill Subdivision, recorded October 13, 1976 at Reception No. 1587263. ②
11. An easement for public utilities and incidental purposes granted to Mountain States Telephone and Telegraph Company, as set forth in an instrument recorded December 31, 1985 in Book 4635 at Page 98. ③
12. Terms, conditions, provisions, obligations and agreements as set forth in the Memorandum of Lease recorded January 6, 1986 in Book 4640 at Page 331.

- E. If there has been construction, improvements or major repairs undertaken on the property to be purchased within six months prior to the Date of the Commitment, the requirements to obtain coverage for unrecorded liens will include: disclosure of certain construction information; financial information as to the seller, the builder and or the contractor; payment of the appropriate premium, fully executed Indemnity Agreements satisfactory to the company, and, any additional requirements as may be necessary after an examination of the aforesaid information by the Company.

No coverage will be given under any circumstances for labor or material for which the insured has contracted for or agreed to pay.

NOTE: Pursuant to C.R.S, 38-35-125(2) no person or entity that provides closing and settlement services for a real estate transaction shall disburse funds as a part of such services until those funds have been received and are available for immediate withdrawal as a matter of right.

NOTE: C.R.S. 39-14-102 requires that a real property transfer declaration accompany any conveyance document presented for recordation in the State of Colorado. Said declaration shall be completed and signed by either the grantor or grantee.

Nothing herein contained will be deemed to obligate the company to provide any of the coverages referred to herein unless the above conditions are fully satisfied.

**NOTE: Pursuant to CRS 10-1-128(6)(a), It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.**

**DISCLOSURE STATEMENT**

Pursuant to C.R.S 30-10-406(3)(a) all documents received for recording or filing in the Clerk and Recorder's office shall contain a top margin of at least one inch and a left, right and bottom margin of at least one-half of an inch. The Clerk and Recorder will refuse to record or file any document that does not conform to the requirements of this section.

NOTE: If this transaction includes a sale of the property and the price exceeds \$100,000.00, the seller must comply with the disclosure/withholding provisions of C.R.S. 39-22-604.5 (Non-residential withholding).

NOTE: Colorado Division of Insurance Regulations 3-5-1, requires that "Every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed." Provided that First American Title Insurance Company conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction.

Pursuant to C.R.S. 10-11-122, the company will not issue its policy or policies of title insurance contemplated by this commitment until it has been provided a Certificate of Taxes due or other equivalent documentation from the County Treasurer or the County Treasurer's authorized agent; or until the Proposed Insured has notified or instructed the company in writing to the contrary.

The subject property may be located in a special taxing district. A Certificate of Taxes due listing each taxing jurisdiction shall be obtained from the County Treasurer or the County Treasurer's authorized agent. Information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor.

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NOTE: Pursuant to CRS 10-11-123, notice is hereby given:

This notice applies to owner's policy commitments containing a mineral severance instrument exception, or exceptions, in Schedule B, Section 2.

- A. That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is a substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and
- B. That such mineral estate may include the right to enter and use the property without the surface owner's permission.

NOTE: Pursuant to Colorado Division of Insurance Regulations 3-5-1, Affirmative mechanic's lien protection for the Owner may be available (typically by deletion of Exception no. 4 of Schedule B, Section 2 of the Commitment from the Owner's Policy to be issued) upon compliance with the following conditions:

- A. The land described in Schedule A of this commitment must be a single family residence which includes a condominium or townhouse unit.
- B. No labor or materials have been furnished by mechanics or material-men for purposes of construction on the land described in Schedule A of this Commitment within the past 6 months.
- C. The Company must receive an appropriate affidavit indemnifying the Company against un-filed mechanic's and material-men's liens.
- D. The Company must receive payment of the appropriate premium.



**First American Title**

**Privacy Information**

**We Are Committed to Safeguarding Customer Information**

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

**Applicability**

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

**Types of Information**

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

**Use of Information**

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

**Former Customers**

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

**Confidentiality and Security**

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

**Information Obtained Through Our Web Site**

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet. In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site. There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

**Business Relationships**

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

**Cookies**

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.

FirstAmerican.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

**Fair Information Values**

**Fairness** We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

**Public Record** We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

**Use** We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

**Accuracy** We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

**Education** We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

**Security** We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

**CONDITIONS**

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and Stipulations and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <http://www.alta.org/>.

**EXHIBIT B**  
**Statement of Charges**

TBD Commitment	\$ 350.00
	\$

13. Terms, conditions, provisions, obligations and agreements as set forth in the Planned Building Group Map recorded January 22, 1986 at Reception No. 2623816, and recorded September 10, 1986 at Reception No. 2721285 and recorded September 27, 1988 at Reception No. 3016121.
14. An easement for water, sewer, storm drainage and incidental purposes granted to The City of Aurora, as set forth in an instrument recorded March 17, 1986 in Book 4698 at Page 197.
15. An easement for water, sewer, storm drainage and incidental purposes granted to The City of Aurora, as set forth in an instrument recorded March 17, 1986 in Book 4698 at Page 200.
16. An easement for water, sewer, storm drainage and incidental purposes granted to The City of Aurora, as set forth in an instrument recorded March 17, 1986 in Book 4698 at Page 204.
17. An easement for water, sewer, storm drainage and incidental purposes granted to The City of Aurora, as set forth in an instrument recorded March 17, 1986 in Book 4698 at Page 209.
18. An easement for public utilities and incidental purposes granted to Public Service Company of Colorado, as set forth in an instrument recorded March 27, 1986 in Book 4708 at Page 338.
19. An easement for public utilities and incidental purposes granted to Public Service Company of Colorado, as set forth in an instrument recorded June 18, 1986 in Book 4789 at Page 409.
20. An easement for public utilities and incidental purposes granted to Public Service Company of Colorado, as set forth in an instrument recorded June 18, 1986 in Book 4789 at Page 412.
21. An easement for public utilities and incidental purposes granted to Mountain States Telephone and Telegraph Company, as set forth in an instrument recorded August 14, 1986 in Book 4852 at Page 322.
22. Existing leases and tenancies.

②  
11-

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11.00 DOC FEE: 0.00  
DONETTA DAVIDSON  
ARAPAHOE COUNTY

**QUIT CLAIM DEED**

THIS DEED, made as of the 30th day of July, 1998, between R&J TRUST U/T/D 5/21/98\* (James Junchul Yang, Trustee) of the State of Nevada, grantor, and SMOKY HILL CENTER, LTD., a Colorado limited partnership whose legal address is c/o Dunton Realty, 1720 S. Bellaire St., Penthouse, Denver, CO 80222 ATTN: David Irey of the City and County of Denver and State of Colorado,, grantee.

WITNESSETH, that the grantor, for and in consideration of the sum of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold and QUIT CLAIMED, and by these presents does remise, release, sell and QUIT CLAIM unto the grantee, its successors and assigns, forever, all the right, title, interest, claim and demand which the grantor has in and to the real property, together with the improvements, if any, situate, lying and being in the County of Arapahoe, and State of Colorado, described as follows: \*this date was shown incorrectly on the Deed to Grantor recorded february 23, 1998 at Rec.No. A8023534, however the correct date of the Trust Agreement is May 21, 1997.  
Lot 1,  
Block 1,  
MOUNTAIN BELL SMOKY HILL SUBDIVISION FILING NO. 1,

EXCEPT that portion conveyed to The City of Aurora in Deed recorded March 17, 1986 in Book 4698 at page 182,

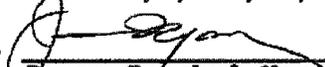
County of Arapahoe,  
State of Colorado

**NO DOCUMENTARY FEE REQUIRED - TRANSFER FOR LIMITED PARTNERSHIP CONTRIBUTION**

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in any wise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the grantor, either in law or equity, to the only proper use, benefit and behoof of the grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.

R&J TRUST U/T/D 5/21/98

By:   
James Junchul Yang, Trustee

2-2

STATE OF *California* )  
COUNTY OF *Los Angeles* ) ss.

The foregoing instrument was acknowledged before me this 3rd day of August, 1998, by James Junchul Yang, as Trustee of R&J Trust u/t/d 5/21/98.

Witness my hand and official seal.  
My commission expires: 11/24/2000



Betty Liddell  
Notary Public

QUIT CLAIM DEED

THIS DEED, made this 29<sup>th</sup> day of February, 2008, between THE VAHN LIVING TRUST AND LEON VAHN, the "Grantor" County of LOS ANGELES State of California and SMOKY HILL CENTER, LTD., a Colorado limited partnership, the "Grantee", whose legal address is 300 S. ORANGE GROVE RD PASADENA CA 91105

WITNESS, that the Grantor, for and in consideration of the sum of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed and QUIT CLAIMED, and by these presents do remise, release, sell, convey and Quit Claim unto the Grantee, its successors and assigns forever, all the right, title, interest, claim and demand which the grantor has in and to the real property, together with improvements, if any, situate, lying and being in the County of Arapahoe and State of Colorado, described as follows:

Lot 1, Block 1, MOUNTAIN BELL SMOKY HILL SUBDIVISION FILING NO. 1, RECORDED MARCH 17, 1986 IN BOOK 4698 AT PAGE 182, COUNTY OF ARAPAHOE, STATE OF COLORADO.

GRANTOR HEREBY CONVEYS ALL RIGHT, CLAIM TITLE OR INTEREST IN AND TO THE PROPERTY BY VIRTUE OF LIS PENDENS RECORDED ON MAY 17, 2006 AT RECEPTION NO. B6075065.

Also known by street and number as: 16555 E. Smoky Hill Road, Aurora, CO 80015

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the grantor, either in law or equity, to the only proper use, benefit and behoof of grantee, its successors and assigns forever. The singular number shall include the plural, the plural and the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.

THE VAHN LIVING TRUST

By: [Signature]  
Leon Vahn, Trustee

By: [Signature]  
Leon Vahn, Individually

State of California  
County of Los Angeles

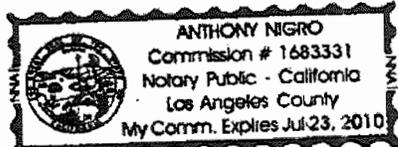
On February 29, 2008 before me, Anthony Nigro, Notary Public  
(insert name & title of the officer)

personally appeared LEON VAHN who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and they by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correction

WITNESS my hand and official seal  
[Signature]  
NOTARY'S SIGNATURE

SEAL



09898106

\$16.00 TX

# 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

May 22, 2013

Dr. Peter Yang  
3462 Sagamore Drive  
Huntington Beach, CA 92649

RE: Approval Letter  
***Annual Monitoring Report – 2013 and Proposed Corrective Action Plan Modification***  
New Look Cleaners/ Smoky Hill Plaza  
16625 East Smoky Hill Road, Aurora, CO  
EPA ID# COD 98 378 4968

Dear Dr. Yang:

Thank you for providing the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division (“the Division”) with the *Annual Monitoring Report – 2013* (the “Report”) and *Proposed Corrective Action Plan Modification* (the “CAP Mod”) for the New Look Cleaners/ Smoky Hill Plaza facility (“the Site” or “the Facility”), 16625 East Smoky Hill Road, Aurora, Colorado. The Report and CAP Mod were submitted to the Division on May 8, 2013 as Phased Corrective Action Reports under the requirements of Section 100.26 of 6 CCR 1007-3 (“Corrective Action Plan Rule”). The Report provides a summary of monitoring activities at the site through the end of March 2013; the CAP Mod requests modifications to the Corrective Action Plan for the Facility.

Results of analyses at wells MW-3, MW-10 and MW-11 continue to exceed state groundwater standards for PCE and TCE, and also indicate that reductive dechlorination is occurring; the results of VOC testing are consistent with the previous analytical groundwater data where tested.

The CAP Mod proposes:

- To place an environmental covenant (EC) on the Site with groundwater use restrictions and an affiliated Materials Management Plan (MMP);
- To continue site monitoring at wells MW-3, MW-10 and MW-11 on an annual basis for VOCs and dechlorination indicators to monitor reductive dechlorination progress; and,
- To conduct no additional ERD (EVO) injections or other active mitigation measures at this time.

Based on its review, the Division approves both the Report and the CAP Mod with the following comments.

The Division has attached a draft EC, a sample Materials Management Plan, and a copy of the Division’s EC checklist which will provide the Facility with a better understanding of the EC process. To complete

the EC process, the Facility will need to provide input to the documents provided. The following actions will be required of the Facility in order to complete the environmental covenant process:

- Paying a title company to do a title search that identifies all prior recorded interests.
- Identifying the present owner of each prior recorded interest.
- Notifying each owner of a prior recorded interest (as well as persons with unrecorded interests who are known to the facility) of the facility's intention to create a covenant or restrictive notice.
- Providing the above information to the Department.
- Obtaining "subordination agreements" in appropriate cases.
- Obtaining approval from the affected local government for proposed uses in appropriate cases.
- A survey of the area subject to the environmental covenant, signed by a certified surveyor, must be provided. The survey must be completed by a registered surveyor with at least 1-meter accuracy and tied to a known world projection system, the resulting map including sufficient surrounding landmarks (roads, etc) to identify the land location.

Corrective action sites with environmental covenants subject to the Colorado Hazardous Waste Act are presently required to pay an annual fee of \$1000 to reimburse the Division for monitoring compliance with the covenant; compliance shall be monitored annually for this Facility. Compliance monitoring will consist of an annual site visit by the Division to confirm that site restrictions and operating procedures have been properly observed.

Submittal of the next Annual Monitoring Report providing March 2014 data is due no later than May 15<sup>th</sup>, 2014. If you have any questions or need additional information, please contact me at (303) 692-3310 or by email at [charles.adams@state.co.us](mailto:charles.adams@state.co.us).

Best Regards,



Charles Adams, CPG  
Environmental Protection Specialist  
Hazardous Waste Corrective Action Unit  
Solid & Hazardous Waste Program

cc: Brian Olmsted, ERO Resources Corporation  
Jack Denman, ERO Resources Corporation  
Tom Butts, Tri-County Health Department  
Scott Schultz, AG Office



March 12, 2014

LOA Investments  
4020 Palos Verdes Drive North  
Suite 107  
Rolling Hills Estates, CA 90274

Re: Notice of Environmental Covenant

Dear Sir or Madam:

ERO Resources represents Smoky Hill Plaza, LLC, the record owner of the parcels of land in Arapahoe County, Colorado which may be subject to easements or other recorded interests held by LOA Investments. The Property to which this notice applies is commonly known as New Look Cleaners at Smoky Hill Plaza with the address 16625 East Smoky Hill Road, Aurora, Colorado. The Property is more formally described by the attached legal description denoting the applicable 0.365 acre sub-portion of the following real property:

LOT 1, BLOCK 1, MOUNTAIN BELL SMOKY HILL SUBDIVISION FILING NO. 1,  
COUNTY OF ARAPAHOE, STATE OF COLORADO.

This letter is intended to put LOA Investments on notice of Smoky Hill Plaza, LLC's intent to establish an environmental covenant to ensure proper handling of contaminated soil and/or groundwater which has been shown to exist in some areas of the Property. The environmental covenant is being entered into by the Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division ("CDPHE"). Pursuant to the proposed covenant, Smoky Hill Plaza, LLC has developed use restrictions as well as a Materials Management Plan that will govern disturbance of soil and/or groundwater within defined areas on the Property (defined by Exhibit). The covenant will also prohibit land use changes for the defined portion of the Property absent complete remediation or a showing of acceptable contaminant levels. A copy of the proposed covenant is attached for your reference.

If accepted by CDPHE, the covenant will be recorded and shall be binding upon all persons and entities who now hold, or in the future acquire, an interest in the Property. Please contact me if you have any questions.

Sincerely,

Jack Denman  
Environmental Scientist

Attachments

cc: Mr. Peter Yang, Smoky Hill LLC  
Charles Adams, CDPHE HMWMD

Denver  
1842 Clarkson St.  
Denver, CO 80218  
303.830.1188

Boise  
3314 Grace St.  
Boise, ID 83703  
208.373.7983

Durango  
1015 1/2 Main Avenue  
Durango, CO 81301  
970.422.2136

Western Slope  
P.O. Box 932  
161 South 2<sup>nd</sup> St.  
Hotchkiss, CO 81419  
970.872.3020

Consultants in  
Natural Resources  
and the Environment



March 5, 2014

City of Aurora  
City Attorneys' Office  
15151 E. Alameda Parkway  
Aurora, CO 80012

Re: Notice of Environmental Covenant

Dear Sir or Madam:

ERO Resources represents Smoky Hill Plaza, LLC, the record owner of the parcels of land in Arapahoe County which may be subject to easements or other recorded interests held by the City of Aurora. The Property to which this notice applies is commonly known as New Look Cleaners at Smoky Hill Plaza with the address 16625 East Smoky Hill Road, Aurora, Colorado. The Property is more formally described by the attached legal description denoting the applicable 0.365 acre sub-portion of the following real property:

LOT 1, BLOCK 1, MOUNTAIN BELL SMOKY HILL SUBDIVISION FILING NO. 1,  
COUNTY OF ARAPAHOE, STATE OF COLORADO.

This letter is intended to put the City on notice of Smoky Hill Plaza, LLC's intent to establish an environmental covenant to ensure proper handling of contaminated soil and/or groundwater which has been shown to exist in some areas of the Property. The environmental covenant is being entered into by the Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division ("CDPHE"). Pursuant to the proposed covenant, Smoky Hill Plaza, LLC has developed use restrictions as well as a Materials Management Plan that will govern disturbance of soil and/or groundwater within defined areas on the Property (defined by Exhibit). The covenant will also prohibit land use changes for the defined portion of the Property absent complete remediation or a showing of acceptable contaminant levels. A copy of the proposed covenant is attached for your reference.

If accepted by CDPHE, the covenant will be recorded and shall be binding upon all persons and entities who now hold, or in the future acquire, an interest in the Property.

Please contact me if you have any questions.

Sincerely,

Jack Denman  
Environmental Scientist

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Hotchkiss, CO 81419  
970.872.3020

Attachments

cc: Mr. Peter Yang, Smoky Hill LLC  
Charles Adams, CDPHE HMWMD



March 5, 2014

CenturyLink Communications Corporation  
Corporate Counsel's Office  
1801 California Street, 24th Floor  
Denver, CO 80202

Re: Notice of Environmental Covenant

Dear Sir or Madam:

ERO Resources represents Smoky Hill Plaza, LLC, the record owner of the parcels of land in Arapahoe County which may be subject to easements or other recorded interests held by CenturyLink Communications Corporation under the former Mountain States Telephone and Telegraph Company. The Property to which this notice applies is commonly known as New Look Cleaners at Smoky Hill Plaza with the address 16625 East Smoky Hill Road, Aurora, Colorado. The Property is more formally described by the attached legal description denoting the applicable 0.365 acre sub-portion of the following real property:

LOT 1, BLOCK 1, MOUNTAIN BELL SMOKY HILL SUBDIVISION FILING NO. 1,  
COUNTY OF ARAPAHOE, STATE OF COLORADO.

This letter is intended to put CenturyLink Communications Corporation on notice of Smoky Hill Plaza, LLC's intent to establish an environmental covenant to ensure proper handling of contaminated soil and/or groundwater which has been shown to exist in some areas of the Property. The environmental covenant is being entered into by the Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division ("CDPHE"). Pursuant to the proposed covenant, Smoky Hill Plaza, LLC has developed use restrictions as well as a Materials Management Plan that will govern disturbance of soil and/or groundwater within defined areas on the Property (defined by Exhibit). The covenant will also prohibit land use changes for the defined portion of the Property absent complete remediation or a showing of acceptable contaminant levels. A copy of the proposed covenant is attached for your reference.

Denver  
1842 Clarkson St.  
Denver, CO 80218  
303.830.1188

If accepted by CDPHE, the covenant will be recorded and shall be binding upon all persons and entities who now hold, or in the future acquire, an interest in the Property.

Please contact me if you have any questions.

Boise  
3314 Grace St.  
Boise, ID 83703  
208.373.7983

Sincerely,

Jack Denman  
Environmental Scientist

Durango  
1015 1/2 Main Avenue  
Durango, CO 81301  
970.422.2136

Attachments

cc: Mr. Peter Yang, Smoky Hill LLC  
Charles Adams, CDPHE HMWMD

Western Slope  
P.O. Box 932  
161 South 2<sup>nd</sup> St.  
Hotchkiss, CO 81419  
970.872.3020



March 12, 2014

First Citizens Bank  
700 17th St. Suite 1000  
Denver, CO 80202

Re: Notice of Environmental Covenant

Dear Sir or Madam:

ERO Resources represents Smoky Hill Plaza, LLC, the record owner of the parcels of land in Arapahoe County, Colorado which may be subject to easements or other recorded interests held by First Citizens Bank. The Property to which this notice applies is commonly known as New Look Cleaners at Smoky Hill Plaza with the address 16625 East Smoky Hill Road, Aurora, Colorado. The Property is more formally described by the attached legal description denoting the applicable 0.365 acre sub-portion of the following real property:

LOT 1, BLOCK 1, MOUNTAIN BELL SMOKY HILL SUBDIVISION FILING NO. 1,  
COUNTY OF ARAPAHOE, STATE OF COLORADO.

This letter is intended to put First Citizens Bank on notice of Smoky Hill Plaza, LLC's intent to establish an environmental covenant to ensure proper handling of contaminated soil and/or groundwater which has been shown to exist in some areas of the Property. The environmental covenant is being entered into by the Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division ("CDPHE"). Pursuant to the proposed covenant, Smoky Hill Plaza, LLC has developed use restrictions as well as a Materials Management Plan that will govern disturbance of soil and/or groundwater within defined areas on the Property (defined by Exhibit). The covenant will also prohibit land use changes for the defined portion of the Property absent complete remediation or a showing of acceptable contaminant levels. A copy of the proposed covenant is attached for your reference.

If accepted by CDPHE, the covenant will be recorded and shall be binding upon all persons and entities who now hold, or in the future acquire, an interest in the Property. Please contact me if you have any questions.

Sincerely,

Jack Denman  
Environmental Scientist

Attachments

cc: Mr. Peter Yang, Smoky Hill LLC  
Charles Adams, CDPHE HMWMD

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Hotchkiss, CO 81419  
970.872.3020

Consultants in  
Natural Resources  
and the Environment



March 5, 2014

Xcel Energy/Public Service Company, Inc.  
Office of General Counsel  
1800 Larimer, 11th Floor  
Denver, CO 80202

Re: Notice of Environmental Covenant

Dear Sir or Madam:

ERO Resources represents Smoky Hill Plaza, LLC, the record owner of the parcels of land in Arapahoe County which may be subject to easements or other recorded interests held by the Xcel Energy/Public Service Company, Inc. The Property to which this notice applies is commonly known as New Look Cleaners at Smoky Hill Plaza with the address 16625 East Smoky Hill Road, Aurora, Colorado. The Property is more formally described by the attached legal description denoting the applicable 0.365 acre sub-portion of the following real property:

LOT 1, BLOCK 1, MOUNTAIN BELL SMOKY HILL SUBDIVISION FILING NO. 1,  
COUNTY OF ARAPAHOE, STATE OF COLORADO.

This letter is intended to put Xcel Energy/Public Service Company, Inc. on notice of Smoky Hill Plaza, LLC's intent to establish an environmental covenant to ensure proper handling of contaminated soil and/or groundwater which has been shown to exist in some areas of the Property. The environmental covenant is being entered into by the Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division ("CDPHE"). Pursuant to the proposed covenant, Smoky Hill Plaza, LLC has developed use restrictions as well as a Materials Management Plan that will govern disturbance of soil and/or groundwater within defined areas on the Property (defined by Exhibit). The covenant will also prohibit land use changes for the defined portion of the Property absent complete remediation or a showing of acceptable contaminant levels. A copy of the proposed covenant is attached for your reference.

If accepted by CDPHE, the covenant will be recorded and shall be binding upon all persons and entities who now hold, or in the future acquire, an interest in the Property.

Please contact me if you have any questions.

Sincerely,



Jack Denman

Environmental Scientist

Attachments

cc: Mr. Peter Yang, Smoky Hill LLC  
Charles Adams, CDPHE HMWMD

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970.872.3020

Consultants in  
Natural Resources  
and the Environment



March 5, 2014

Current Tennant  
Smoky Hill Plaza Shopping Center

Re: Notice of Environmental Covenant

Dear Sir or Madam:

ERO Resources represents Smoky Hill Plaza, LLC, the record owner of the property you are currently under lease with. The Property to which this notice applies is commonly known as New Look Cleaners at Smoky Hill Plaza with the address 16625 East Smoky Hill Road, Aurora, Colorado. The Property is more formally described by the attached legal description denoting the applicable 0.365 acre sub-portion of the following real property:

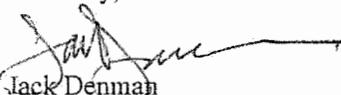
LOT 1, BLOCK 1, MOUNTAIN BELL SMOKY HILL SUBDIVISION FILING NO. 1,  
COUNTY OF ARAPAHOE, STATE OF COLORADO.

This letter is intended to put current tenants within the area of proposed easement on notice of Smoky Hill Plaza, LLC's intent to establish an environmental covenant to ensure proper handling of contaminated soil and/or groundwater which has been shown to exist in some areas of the Property. The environmental covenant is being entered into by the Colorado Department of Public Health and Environment's Hazardous Materials and Waste Management Division ("CDPHE"). Pursuant to the proposed covenant, Smoky Hill Plaza, LLC has developed use restrictions as well as a Materials Management Plan that will govern disturbance of soil and/or groundwater within defined areas on the Property (defined by Exhibit). The covenant will also prohibit land use changes for the defined portion of the Property absent complete remediation or a showing of acceptable contaminant levels. A copy of the proposed covenant is attached for your reference.

If accepted by CDPHE, the covenant will be recorded and shall be binding upon all persons and entities who now hold, or in the future acquire, an interest in the Property.

Please contact me if you have any questions.

Sincerely,



Jack Denman  
Environmental Scientist

Attachments

cc: Mr. Peter Yang, Smoky Hill LLC  
Charles Adams, CDPHE HMWMD

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