



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

**Covenant Information:**

**Covenant Date** 10/28/2014

**Self Reporting**

**Media of Concern:**

**Surface Water:**

**Ground Water:**

**Air:**

**Soil:**

**Other:**

**Covenant ID** HMC0V00115

**Site Contact Information:**

**Owner Corp:** Great Western Railway of Colorado, LLC

**Contact Name:** Ken Rose

**Contact Address:** Omni Trax

**Contact City:** Denver

**Contact State:** CO

**Contact Zip:** 80206

**Contact Phone:** 303-398-4549

**Contaminants of Concern:**

Petroleum Hydrocarbons and Organics

**Property Restrictions:**

- 1: No alluvial groundwater may be withdrawn except as authorized by the CDPHE HMWMD.
- 2: No excavation or soil-disturbing activity is allowed except as authorized by the CDPHE HMWMD.
- 3: Vehicular access permitted for daily activities or repairs to surface areas or infrastructure typical of Grantor's business.
- 4:
- 5:

**Site Information:**

**ID:**

**Name:** Loveland Locomotive Works - Great Western Railway of CO

**Address:** 950 Talor Ave.

**City:** Loveland

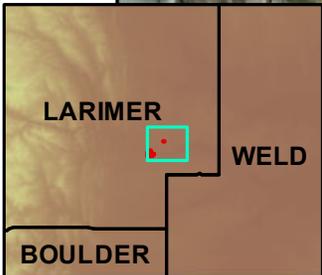
**State:** CO

**Zip:** 80537

**Legal Description:**

See Institutional Control

# LOVELAND LOCOMOTIVE WORKS



## HMC OV00115



**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**

The Great Western Railway of Colorado, LLC, a Colorado company, (referred to herein as "Grantor") grants an Environmental Covenant ("Covenant") this 28<sup>th</sup> day of October, 2014 to 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, Grantor is the owner of certain property located at 950 Taylor Avenue, Loveland, Colorado, 80537, portions of which, more particularly described in Exhibit A, attached hereto and incorporated herein by reference as though fully set forth, contain residual levels of certain contaminants (this Covenant applies only to the area described in Exhibit A, which hereinafter is referred to as "the Property"); and

WHEREAS, pursuant to a Remedial Action Work Plan implemented by Grantor, the Property is the subject of remedial action pursuant to the Colorado Solid Wastes Disposal Sites and Facilities Act, C.R.S. § 30-20-100.5, *et seq.*; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by restricting uses of the Property in limited areas that exhibit residual levels of contamination above regulatory standards; and

WHEREAS, Grantor desires to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind Grantor and all parties now or subsequently having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land, as described herein, for the benefit of the Department and OWNER.

NOW, THEREFORE, Grantor hereby grants this Covenant to the Department and declares that the Property as described in Exhibit A shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth below, which shall run with the Property in perpetuity and be binding on Grantor and all parties having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein. As used in this Covenant, the term OWNER means the then current record owner of the Property and any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain

1) Use restrictions

a) No alluvial groundwater may be withdrawn or used for any purpose, except as authorized in a remedial decision document or environmental sampling plan approved by the Hazardous Materials and Waste Management Division (“the Division”).

b) No excavation, drilling, grading, digging, tilling or any other soil-disturbing activity is allowed on the Property, except as authorized in a remedial decision document or environmental sampling plan approved by the Division. However, nothing in the preceding sentence shall prohibit the use of vehicles on the Property for the purpose of performing daily activities or repairs to surface areas (e.g. parking lots) or infrastructure typical of Grantor’s business.

2) Modifications. This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this section. 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 any proposed grant, transfer or conveyance of any interest in any or all of the Property, except that OWNER may, without notice to the Department, lease portions of the structure that, as of the date of this Covenant, are located within the Property.

4) Notice to Lessees. OWNER agrees to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.

5) Notification for proposed construction and land use. OWNER shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use.

6) Inspections. The Department shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant.

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 C.R.S. § 25-15-322.

8) No Liability. The Department does not acquire any liability under State law by virtue of accepting this Covenant. OWNER does not acquire any liability under State law by virtue of being a beneficiary of this Covenant.

9) Enforcement. The Department may enforce the terms of this Covenant pursuant to C.R.S. § 25-15-322. Grantor or OWNER 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) Notices. Any document or communication required under this Covenant shall be sent or directed to:

Solid Waste Permitting Unit Leader  
Hazardous Materials and Waste Management Division  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246-1530

If to Grantor:

The Great Western Railway of Colorado, LLC

c/o Ken Rose

252 Clayton St., 4<sup>th</sup> Floor

Denver, CO 80206

Any party to this Covenant may change the person or address to which documents or communication must be directed by Notice of such change pursuant to this Section 11.

The Great Western Railway of Colorado, LLC has caused this instrument to be executed this 28<sup>th</sup> day of October, 2014.

The Great Western Railway of Colorado, LLC

By: [Signature]

Title: Secretary / Treasurer

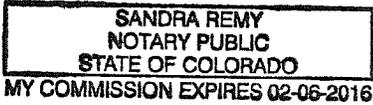
STATE OF Colorado )

City: COUNTY OF Denver )

SS:

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of October, 2014 by Hubert Casson on behalf of The Great Western Railway of Colorado, LLC

[Signature]  
Notary Public



252 Clayton - 4<sup>th</sup> floor  
Address  
Denver, Colorado 80206

My commission expires: 2-6-2016



# EXHIBIT A

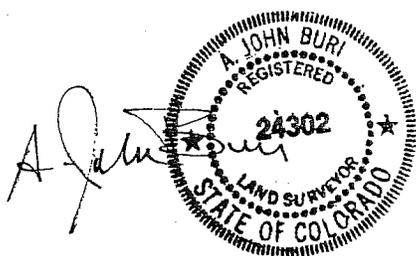
## LEGAL DESCRIPTION – ENVIRONMENTAL COVENANT AREA

A PARCEL OF LAND BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 13, T5N, R69W OF THE 6<sup>TH</sup> P.M., CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 2.5" ALUMINUM CAP, P.L.S. 34174, BEING A 50' WITNESS CORNER TO THE SE CORNER OF THE NE 1/4 OF SECTION 13, T5N, R69W OF THE 6<sup>TH</sup> P.M, WHENCE THE SOUTH WEST CORNER OF SAID NE 1/4 MARKED BY A 3.25" ALUMINUM CAP, P.L.S. 31159 IN A RANGE BOX BEARS S88°38'50"W, 2607.56 FEET SAID LINE FORMING THE BASIS OF BEARING FOR THIS DESCRIPTION; THENCE N53°07'48"W A DISTANCE OF 803.49 FEET TO THE POINT OF BEGINNING;

THENCE N89°49'03"W, A DISTANCE OF 214.20 FEET;  
THENCE NORTHWESTERLY ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 469.24 FEET, AND A CENTRAL ANGLE OF 31°01'55" (CHORD BEARS N33°25'02"W, 251.05 FEET) A DISTANCE OF 254.14 FEET;  
THENCE N58°45'44"W, A DISTANCE OF 264.85 FEET;  
THENCE N00°08'14"W, A DISTANCE OF 117.52 FEET;  
THENCE EASTERLY ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 1269.25 FEET, AND A CENTRAL ANGLE OF 05°10'21" ( CHORD BEARS S79°17'08"E, 114.54 FEET) A DISTANCE OF 114.58 FEET;  
THENCE S76°41'58"E, A DISTANCE OF 5.76;  
THENCE EASTERLY ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 538.01 FEET, AND A CENTRAL ANGLE OF 14°11'18" (CHORD BEARS S83°47'37"E, 132.89 FEET) A DISTANCE OF 133.23 FEET;  
THENCE N89°06'44"E, A DISTANCE OF 275.36 FEET;  
THENCE S01°19'31"E, A DISTANCE OF 132.80 FEET;  
THENCE N88°40'29"E, A DISTANCE OF 43.59 FEET;  
THENCE S01°19'31"E, A DISTANCE OF 300.71 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 163,780 SQUARE FEET OR 3.760 ACRES.



A. JOHN BURI P.L.S. #24302  
FOR AND ON BEHALF OF  
SCOTT, COX & ASSOCIATES, INC.  
1530 55TH STREET  
BOULDER, COLORADO 80303  
303.444.3051 09/12/14 PROJECT NO. 14474

