



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

Covenant Information:

Covenant Date 3/18/2015

Self Reporting

Media of Concern:

Surface Water:

Ground Water:

Air:

Soil:

Other:

Covenant ID RSNOT00014

Site Contact Information:

Owner Corp: Minnesota Corn Processors, LLC

Contact Name: Stuart Funderburg, Vice President

Contact Address: 4666 Faries Parkway

Contact City: Decatur

Contact State: IL

Contact Zip: 62526

Contact Phone: 217-451-4847

Contaminants of Concern:

Asbestos

Property Restrictions:

- 1: No excavation, drilling, grinding, tilling or any soil-disturbing activity permitted unless in accordance with the TSOP
- 2:
- 3:
- 4:
- 5:

Site Information:

ID:

Name: ADM Denver Terminal

Address: 111 South Navajo St.

City: Denver

State: CO

Zip: 80223

Legal Description:

See Institutional Control

ADM Denver Terminal 031

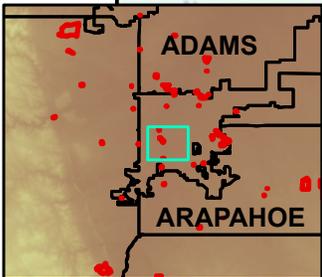


Featured Institutional Control



RSONT00014

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community, Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors



RSONT00014



COLORADO
Hazardous Materials
& Waste Management Division
Department of Public Health & Environment

**This property is subject to a
Notice of Environmental Use Restrictions
imposed by the
Colorado Department of Public Health and Environment
pursuant to section 25-15-321.5, Colorado Revised Statutes**

Notice of Environmental Use Restrictions

WHEREAS, Minnesota Corn Processors, LLC (“MCP”) is the owner of certain property commonly referred to as the “ADM Denver Terminal,” located at 111 South Navajo Street, Denver, State of Colorado, more particularly described in Attachment A, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as “the Property”); and

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 Notices of Environmental Use Restrictions (a/k/a “Restrictive Notices”) pursuant to § 25-15-320(4)(a) of the Colorado Hazardous Waste Act, § 25-15-101, *et seq.* (“CHWA”); and

WHEREAS, for purposes of indexing in the County Clerk and Recorder’s office Grantor-Grantee index only, MCP shall be considered the **Grantor**, and the Colorado Department of Public Health and Environment shall be considered the **Grantee**. Nothing in the preceding sentence shall be construed to create or transfer any right, title or interest in the Property; and

WHEREAS, the Property is the subject of enforcement and removal action pursuant to an Action Memorandum dated August 26, 2003 issued by Region 8 of the United States Environmental Protection Agency (“EPA”) pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601, *et seq.* (CERCLA); and

WHEREAS, the Property is the location of the former Western Minerals plant. The Western Minerals plant operations included the exfoliation of amphibole asbestos-containing vermiculite concentrate from the Libby Vermiculite Mine; this process resulted in the release of elevated levels of amphibole asbestos into soils on the Property; and

WHEREAS, pursuant to the Action Memorandum, EPA conducted a CERCLA Trust Fund-lead removal action on the Property. While this removal action resulted in the removal of all known surface contamination of amphibole asbestos from the Property, it did not address asbestos contamination known to exist below some asphalt and concrete surfaces on the Property, and left asbestos contamination at depths of 18 inches and deeper under clean soil backfill on other portions of the Property. Because this contamination was left in place, the Department, in

conjunction with the EPA, has determined that the following activity and use restrictions are necessary with respect to the Property; and

WHEREAS, the purpose of this Restrictive Notice is to ensure protection of human health and the environment by prohibiting the excavation of asbestos-contaminated soils except in accordance with an approved materials management plan; and

WHEREAS, MCP has requested that the Department approve this Restrictive Notice as provided in Article 15 of Title 25, Colorado Revised Statutes;

NOW, THEREFORE, the Department approves this Restrictive Notice pursuant to section 25-15-321.5. The Property described in Attachment A shall hereinafter be subject to the following requirements set forth in paragraphs 1 through 11 below, which shall be binding on MCP and all persons now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the Property, as described herein. As used in this Restrictive Notice, 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 and Activity restrictions. No excavation, drilling, grading, digging, tilling or any other soil-disturbing activity is permitted on the Property unless conducted in accordance with:
 - a) the “*Terminal Standard Operating Procedure Regulated Asbestos-Contaminated Soil (RACS) Management SOP (“TSOP”)*” for the ADM Denver Terminal, dated 4/7/2014, and any subsequent modifications thereto that have been approved by the Department. The TSOP is on file with the Department and with EPA; or
 - b) a remedial decision document or environmental sampling plan that has been approved by the Department or EPA.

- 2) Modifications. This Restrictive Notice shall remain and continue in full force and effect unless modified or terminated in accordance with this paragraph and pursuant to C.R.S. § 25-15-321.5 or any successor statute. OWNER may request that the Department approve a modification or termination of the Restrictive Notice. 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 Restrictive Notice will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Restrictive Notice shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:
 - a) a proposal to perform additional remedial work;
 - b) new information regarding the risks posed by the residual contamination;
 - c) information demonstrating that residual contamination has diminished;

- d) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
- e) other appropriate supporting information.

3) Conveyances. OWNER shall notify the Department at least fifteen (15) days prior to any 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 Restrictive Notice 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 Restrictive Notice. Nothing in this Restrictive Notice 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, Archer Daniels Midland Company and the EPA are third party beneficiaries with the right to enforce the provisions of this Restrictive Notice 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 approving this Restrictive Notice.

9) Enforcement. The Department may enforce the terms of this Restrictive Notice pursuant to §25-15-322, C.R.S. MCP, Archer Daniels Midland Company and EPA may file suit in district court to enjoin actual or threatened violations of this Restrictive Notice.

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 Restrictive Notice.

11) Severability. If any part of this Restrictive Notice shall be decreed to be invalid by any court of competent jurisdiction, all of the other provisions hereof shall not be affected thereby and shall remain in full force and effect.

12) Notices. Any document or communication required under this Restrictive Notice shall be sent or directed to:

As to Colorado Department of Public Health and the Environment -

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

As to OWNER -

Stuart Funderburg
Vice President
Minnesota Corn Processors, LLC
4666 Faries Parkway
Decatur, Illinois 62526

and

Matthew J. Hubych ASP
ADM Sweeteners Safety and Environmental Manager
111 South Navajo Street
Denver, State of Colorado

The Department and the OWNER may each change the names and addresses of the contacts in this paragraph by written notice to the other without amending this Restrictive Notice.

[DOCUMENT CONTINUES ON NEXT PAGE]

Minnesota Corn Processors, LLC, has caused this instrument to be executed this 10th day of this day of February, 2015

Minnesota Corn Processors, LLC

By: [Signature] SM

Title: Vice President & Assistant Secretary

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 10th day of February, 2015 by Stuart E. Funderburg on behalf of Minnesota Corn Processors, LLC.

Becky S. Garrett
Notary Public

4666 Faries Parkway
Address
Decatur, IL 62526



My commission expires: 2-15-2016

[DOCUMENT CONTINUES ON NEXT PAGE]

Approved by the Colorado Department of Public Health and Environment this 3rd day of March, 2015.

By: Gary W. Baughman

Title: Director, AMWMD

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 3 day of MARCH, 2015 by GARY W. BAUGHMAN on behalf of the Colorado Department of Public Health and Environment.

Claudette M. Ferris
Notary Public

4300 Cherry Creek Dr S
Denver, CO 80246

My commission expires: October 21, 2015

[DOCUMENT CONTINUES ON NEXT PAGE]

ATTACHMENT "A"
to the
Notice of Environmental Use Restrictions

Lots 1 through 6 and Lots 43 through 48, TOGETHER WITH the vacated alley lying between said lots, Block 17, Valverde, City and County of Denver, State of Colorado.