

Remediation Program template: Environmental Covenant and Easement

Always grab the template from the MPCA webpage when starting a new EC. Do not edit an EC drafted for another property, as text applicable to the new EC may have been deleted from the one done previously. To minimize errors and avoid delays, please pay attention to the instructions.

Delete the above text and all red-italicized instructions upon completion of initial draft.

Email initial draft (Word document) to MPCA project staff for review and approval.

Once approved, print final version and obtain notarized signature(s) of Grantor.

Mail hard copy with original signature(s) and all attachments to Amy Hadiaris, MPCA Remediation Division, 520 Lafayette Road N., St. Paul MN 55155 for MPCA signature. Be sure to indicate who the fully-executed EC should be returned to for recording.

Record the final signed EC at appropriate County office.

Email full electronic copy of recorded EC, with recorder's stamp and document number, to MPCA project staff.

Leave three inches of space above title for recording information.

Tips for the user:

- *To make a paragraph break within a text field, use the Shift + Enter keys.*
- *To indent a line of text, use the Control +Tab keys.*
- *To retain/edit example text in a text box, select and copy the text, then paste as unformatted text back in the text box.*

ENVIRONMENTAL COVENANT AND EASEMENT

Preferred ID Enter BF# or SR#

This Environmental Covenant and Easement ("Environmental Covenant") is executed pursuant to the Uniform Environmental Covenants Act, Minn. Stat. ch. 114E ("UECA") in connection with an environmental response project approved by the Minnesota Pollution Control Agency ("MPCA").

1. Grantor and Property description.

A. Owner and legal description of Property.

Name(s) of current owner Select "is the fee owner of" or "are the fee owners of" certain real property located at Street address, if available, Name of City or Town, in Name of County County, State of Minnesota, with parcel identification number(s) Enter PIN(s), shown on **Exhibit 1** and legally described in **Exhibit 2** (hereinafter the "Property").

For "name of current owner": If the owner is an organization, include the legal form of that organization and indicate the state where it is organized, e.g., "ABC Company, a corporation organized under the laws of Delaware." Other forms of legal organizations include a limited liability company, partnership, trust, etc.

B. Grantor.

Name(s) of current owner Select "is" or "are" the Grantor of this Environmental Covenant.

Agenda Item: 04e

2. Grant of Covenant; Covenant runs with the land.

Grantor does hereby Covenant and Declare that the Property shall be subject to the Activity and Use Limitations and associated terms and conditions set forth in this Environmental Covenant including the Easement in Paragraph 9, and that these Activity and Use Limitations and associated terms and conditions constitute covenants which run with the Property and which shall be binding on Grantor, its heirs, successors and assigns, and on all present and future Owners of the Property and all persons who now or hereafter hold any right, title or interest in the Property. An Owner is bound by this Environmental Covenant during the time when the Owner holds fee title to the Property. Any other person that holds any right, title or interest in or to the Property is bound by this Environmental Covenant during the time the person holds the right, title or interest. An Owner ceases to be bound by this Environmental Covenant when the Owner conveys fee title to another person, and any other person that holds any right, title or interest in or to the Property ceases to be bound when the person conveys the right, title or interest to another person.

3. Environmental Agency; Grantee and Holder of Environmental Covenant; acceptance of interest in real Property.

A. Environmental agency.

The MPCA is the environmental agency with authority to approve this Environmental Covenant under UECA.

B. Grantee and Holder; acceptance of interest in Property.

The MPCA is the Grantee and Holder of the interest in real property conveyed by this Environmental Covenant. MPCA has authority to acquire an interest in real property, including an Environmental Covenant, Select “under Minn. Stat. § 115B.17, subd. 15” for hazardous substances or “under Minn. Stat § 115C.08, subd. 4(11)” for petroleum or “under Minn. Stat. § 115B.17, subd. 15 and Minn. Stat § 115C.08, subd. 4(11)” for both hazardous substances and petroleum, as the MPCA determines necessary for a Select “response action related to hazardous substances, pollutants or contaminants” or “corrective action related to petroleum” or “response action/corrective action related to both hazardous substances and petroleum”. MPCA’s signature on this Environmental Covenant constitutes approval of this Environmental Covenant under UECA and acceptance of the interest in real property granted herein for purposes of Select appropriate statute(s), as described above.

References to “petroleum” or “hazardous substances” should only be included in this environmental covenant (“EC”) if that type of contamination is a driver for this EC. The mere presence of petroleum or hazardous substances at the Property does not warrant their inclusion in this EC, either in chosen references or text, if their concentrations did not trigger the need for this EC

4. Environmental response project.

The Property is the location of releases or threatened releases of Select type of contamination that creates the need for this covenant that are addressed by an environmental response project under the MPCA Select appropriate MPCA program. MPCA has determined that an Environmental Covenant is needed for the Property because of State the basis for requiring the covenant, such as the presence and potential exposure to residual soil contamination and/or groundwater contamination; the affirmative obligation to operate, monitor, and maintain the vapor

intrusion mitigation system in the Property building(s); the presence of response action infrastructure at the Property, etc.

5. Statement of facts.

A. Facts about the release and response actions.

The purpose of this section is to present a brief site history and a description of the current environmental condition of the Property as it relates to the need for the environmental covenant, not to present an exhaustive chronological history of the investigation and cleanup. Do not cut-and-paste paragraphs from investigation/implementation reports into this section. That level of historical detail is not needed here and only obscures the main point of the EC. The last sentence of this section refers the reader to the site documents in the MPCA's file for additional detail. [To make a new paragraph use the Shift+Enter keys instead of just the Enter key.]

Briefly describe pertinent history of the Property as it relates to the release of contaminants. State facts about the nature and scope of the releases (Identified Releases) that are or were the subject of investigation and remedial action. If response actions have been taken, include a description of the response actions, including dates of the actions and whether approved by the MPCA. Describe residual contamination and any ongoing operation, maintenance, or monitoring of response actions needed to assure long-term protection of public health and welfare and the environment. Details regarding the Select from list. can be found in the MPCA's file for the **Enter name of site site**, MPCA Preferred ID **Enter BF# or SR#**.

To satisfy the Minnesota Environmental Response and Liability Act ("MERLA") Hazardous Substance Affidavit requirement, the above description must describe the identity, quantity, location, condition, and circumstances of the contamination to the full extent known or reasonably ascertainable. Available information should be summarized; do not present a sample-by-sample recitation of detected contaminants.

The following subparagraph (5.B) is necessary if this covenant addresses MERLA contaminants. If this is a petroleum-only covenant, delete subparagraph 5.B in its entirety and also delete the "A" that precedes "Facts about the Release and Response Actions", above.

B. Facts constitute affidavit under Minn. Stat. § 115B.16, subd. 2

The facts stated in Paragraph 5.A. are stated under oath by the person signing this Environmental Covenant on behalf of the Grantor, and are intended to satisfy the requirement of an affidavit under Minn. Stat. § 115B.16, subd. 2. In the event of a material change in any facts stated in Paragraph 5.A. requiring the recording of an additional affidavit under Minn. Stat. § 115B.16, subd. 2, the additional affidavit may be made and recorded without amending this Environmental Covenant.

6. Definitions.

The terms used in this Environmental Covenant shall have the meanings given in UECA, and in the Minnesota Environmental Response and Liability Act ("MERLA"), Minn. Stat. §115B.02. In addition, the definitions in this Paragraph 6 apply to the terms used in this Environmental Covenant.

A. "Commissioner" means the Commissioner of the MPCA, the Commissioner's successor, or other person delegated by the Commissioner to act on behalf of the Commissioner.

B. "MPCA" means the Minnesota Pollution Control Agency, an agency of the State of Minnesota, or its successor or assign under any governmental reorganization.

C. "Owner" means a person that holds fee title to the Property and is bound by this Environmental Covenant as provided in Paragraph 2. When the Property is subject to a contract for deed, both the contract for deed vendor and vendee are collectively considered the Owner.

D. "Political Subdivision" means the county, and the statutory or home rule charter city or township, in which the Property is located.

E. "Property" means the real property described in Paragraph 1 of this Environmental Covenant.

Delete Item F if there is no need to define a restricted area. An example of a restricted area is a subset of the Property where soil disturbance is prohibited. It is not necessary to define a restricted area based on the presence of an SSDS. A survey/legal description of the Restricted Area is not typically needed but may be required in some circumstances.

F. "Restricted Area" means a portion of the Property consisting of describe Restricted Area, as depicted in **Exhibit Enter exhibit number** and legally described in **Exhibit Enter exhibit number**.

7. Activity and use limitations.

The following Activity and Use Limitations shall apply to the Property:

A. Use limitations.

Use limitations are general limitations on the types of land uses that are allowed on the Property, such as residential, commercial, industrial or open-space. Common examples of Use Limitations are below. Delete/edit as needed.

Use of the Property is restricted to industrial or commercial purposes. Use of the Property for residential, daycare, or school purposes is specifically prohibited.

Use of the Property building is restricted to cold storage, due to the lack of vapor intrusion controls in the building.

The following text applies when, for example, a partial building SSDS was installed in a commercial building, leaving the unmitigated portion of the building with sub-slab soil vapor concentrations greater than residential action levels.

Use of the Specify portion of commercial building for daycare or school purposes is specifically prohibited.

The following text applies when, for example, soil meets unrestricted use criteria and sub-slab soil vapor concentrations beneath the entire building are being mitigated or, if a partial building mitigation system was installed, shown to be less than residential action levels in the unmitigated portion of the building.

There are no use limitations on the Property.

B. Activity limitations.

Activity limitations are restrictions on specific types of physical activities that may be conducted on the property. When the contamination that is driving the need for this EC is confined to a portion of the Property, the activity limitations may be limited to that portion of the Property, e.g. the “Restricted Area”, as defined in item 6.F. Common examples of Activity Limitations are below. Delete/edit as needed.

The following activities are prohibited Select appropriate area except as provided in Paragraph 8:

There shall be no disturbance or alteration of soils below a depth of X feet below grade within the Restricted Area(s) of any nature whatsoever, specifically including, but not limited to, grading, excavation, boring, drilling or construction. Any demolition, redevelopment, or other Property activities that will disturb soil within the Restricted Area(s) require the preparation of a Response Action Plan/Construction Contingency Plan governing the screening, testing, and management of the soil, which must be submitted to the MPCA for review and approval.

Except as required as part of an MPCA-approved environmental response project, there shall be no extraction of groundwater from beneath the Property for any purpose and no installation of any wells, borings, trenches or drains which could be used to extract such groundwater.

There shall be no disturbance, removal, or interference with the operation of any component of the vapor mitigation system within the Property building, as shown in **Exhibit Enter exhibit number**.

There shall be no disturbance, removal or interference with the operation of any of the response action equipment, installations or structures located on or beneath the Property, as shown in **Exhibit Enter exhibit number**.

There shall be no disturbance, removal or interference with the [pavement, building slab, engineered cap, soil vertical buffers, etc.] that [provide a barrier to infiltration of precipitation and/or human exposure to residual contamination, choose one or both as applicable].

Insert the following if Activity Limitations apply only to a Restricted Area(s); otherwise delete:

The limitations in this Paragraph 7.B. do not apply to activities on any part of the Property outside of the Restricted Area(s), including maintenance or repair of existing buildings, structures, underground sewer, water, electrical or telephone services, or installation of fencing and signage, when such activities are not expected to, or are not reasonably likely to, result in disturbance of contaminated soil, groundwater, or response action equipment, installations and structures.

C. Affirmative obligations of Owner.

Affirmative obligations are actions that the Owner must comply with to maintain the protectiveness of the environmental response project. Common examples of Affirmative Obligations are below. Delete/edit as needed.

The Activity and Use Limitations imposed under this Environmental Covenant include the following affirmative covenants and obligations:

Owner shall maintain the integrity of [pavements, building slab, established soil buffers, engineered cap, etc.] Select appropriate area to prevent [infiltration of precipitation and/or human exposure to residual soil contamination, choose one or both as applicable].

Owner shall maintain the integrity of the building floors at the Property to prevent intrusion of vapors into the building and disturbance of the sub-slab vapor mitigation system.

Owner shall operate, monitor, and maintain the vapor mitigation system in the Property building(s), in accordance with the Operation and Maintenance (“O&M”) Plan set forth in **Exhibit Enter exhibit number.**

Owner shall operate, monitor, and maintain the response action equipment at the Property, in accordance with the Operation and Maintenance (“O&M”) Plan set forth in **Exhibit Enter exhibit number.**

There are no affirmative obligations at the Property.

8. Prior MPCA approval required for activities limited under Environmental Covenant.

A. Approval procedure.

Any activity subject to limitation under Paragraph 7.B. shall not occur without the prior written approval of the Commissioner. The Commissioner’s approval may include conditions which the Commissioner deems reasonable and necessary to protect public health or welfare or the environment, including submission to and approval of a contingency plan for the activity. Within 60 days after receipt of a written request for approval to engage in any activities subject to a limitation under Paragraph 7.B., the MPCA shall respond, in writing, by approving such request, disapproving such request, or requiring that additional information be provided. A lack of response from the Commissioner shall not constitute approval by default or authorization to proceed with the proposed activity.

Include the following subparagraph (8.B) only if the activity limitations in 7.B include restriction on soil excavation.

B. Emergency procedures.

Owner shall follow the procedures set forth in this Paragraph 8.B. when an emergency requires immediate excavation affecting contaminated soil or other media at the Property or in the Restricted Area(s) to repair utility lines or other infrastructure on the Property, or to respond to other types of emergencies (e.g., fires, floods):

i. Notify the Minnesota Duty Officer, or successor officer, immediately of obtaining knowledge of such emergency conditions; the current phone numbers for the Duty Officer are 1-800-422-0798 (Greater Minnesota only); (651) 649-5451 (Twin Cities Metro Area and outside Minnesota); fax (any location) (651) 296-2300 and TDD (651) 297-5353 or 800-627-3529.

ii. Assure that the persons carrying out the excavation limit the disturbance of contaminated media to the minimum reasonably necessary to adequately respond to the emergency;

iii. Assure that the persons carrying out the excavation prepare and implement a site-specific health and safety plan for excavation and undertake precautions to minimize exposure to workers, occupants and neighbors of the Property to contaminated media (e.g., provide appropriate types of protective clothing for workers conducting the excavation, and establish procedures for minimizing the dispersal of contaminated dust); and

iv. Assure preparation and implementation of a plan to restore the Property to a level that protects public health and welfare and the environment. The plan must be submitted to and approved by the MPCA prior to implementation of the plan, and a follow-up report must be submitted to the MPCA after implementation so that the MPCA can determine whether protection of the public health and welfare and the environment has been restored.

9. Easement; right of access to the Property.

Owner grants to the MPCA, the *Select City or Town of Name of City or Town*, and *Name of County* County an easement to enter the Property from time to time, to inspect the Property and to evaluate compliance with the Activity and Use Limitations set forth in Paragraph 7. In addition, for the purpose of evaluating compliance, Owner grants to the MPCA the right to take samples of environmental media such as soil, groundwater, surface water, soil vapor, and air, and to install, maintain and close borings, probes, wells or other structures necessary to carry out the sampling.

Include the following paragraph if applicable; for example, if the Property is the site of an ongoing MPCA funded or supervised cleanup.

Owner further grants to the MPCA an easement to enter the Property to operate, maintain and monitor response actions on the Property connected to the MPCA-approved response action project, to take further response actions deemed reasonable and necessary by the MPCA to protect public health and welfare and the environment from the Identified Release of *hazardous substances, pollutants or contaminants and/or petroleum*, and to dismantle and close such response actions including closure of monitoring wells in accordance with State law and rules.

MPCA, the *Select City or Town of Name of City or Town*, and *Name of County* County, and their employees, agents, contractors and subcontractors, may exercise the rights granted under this Paragraph 9 at reasonable times and with reasonable notice to the then-current owner, in a manner that, to the extent possible, minimizes interruption with the activities of the authorized occupants, conditioned only upon showing identification or credentials by the persons seeking to exercise those rights. MPCA will be liable for injury to or loss of property or personal injury or death caused by any act or omission of any employee of the State of Minnesota in the performance of the work described above, under circumstances where the State of Minnesota, if a private person, would be liable to the claimant, in accordance with Minn. Stat. § 3.736.

10. Duration; amendment or termination of Environmental Covenant.

A. Duration of Environmental Covenant.

This environmental covenant is perpetual as provided in Minn. Stat. § 114E.40(a).

B. Amendment or termination by consent.

i. This Environmental Covenant may be amended or terminated in writing by the Owner and the MPCA. An amendment is binding on the Owner but does not affect any other interest in the real Property unless the current owner of that interest has consented to the amendment or agreed to waive its right to consent.

ii. The Grantor of this Environmental Covenant agrees that, upon conveying fee title to the Property to any other person, the Grantor waives the right to consent to amendment or termination of this Environmental Covenant.

C. Termination, reduction of burden, or modification by MPCA.

The MPCA may terminate, reduce the burden of, or modify this Environmental Covenant as provided in Minn. Stat. § 114E.40.

11. Disclosure in Property conveyance instruments.

The language below is not negotiable and applies to all instruments conveying an interest in and/or a right to use the Property.

Notice of this Environmental Covenant, and the Activity and Use Limitations and Affirmative Obligations set forth in Paragraph 7 and Compliance Reporting Requirements set forth in Paragraphs 8, 18 and 19 of this Environmental Covenant, shall be incorporated in full or by reference into all instruments conveying an interest in and/or a right to use the Property (e.g., easements, mortgages, leases). The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT UNDER MINN. STAT. CH. 114E, DATED _____, RECORDED IN THE OFFICIAL PROPERTY RECORDS OF _____ COUNTY, MINNESOTA AS DOCUMENT NO. _____. THE ENVIRONMENTAL COVENANT INCLUDES THE FOLLOWING ACTIVITY AND USE LIMITATIONS AND AFFIRMATIVE OBLIGATIONS:

Copy and paste here the activity/use limitations and affirmative obligations from Section 7 A, B, and C.

12. Recording and notice of Environmental Covenant, amendments and termination.

A. The original Environmental Covenant.

Within 30 days after the MPCA executes and delivers to Grantor this Environmental Covenant, the Grantor shall record this Environmental Covenant in the office of the County Recorder or Registrar of Titles of Name of County County.

B. Termination, amendment or modification.

Within 30 days after MPCA executes and delivers to Owner any termination, amendment or modification of this Environmental Covenant, the Owner shall record the amendment, modification, or notice of termination of this Environmental Covenant in the office of the County Recorder or Registrar of Titles of Name of County County.

C. Providing notice of covenant, termination, amendment or modification.

Providing notice to the parties listed below is required by MN Statute 114E.30 and is not negotiable. Electronic transmittal is acceptable.

Within 30 days after recording this Environmental Covenant, the Grantor shall transmit a copy of the Environmental Covenant in recorded form to:

- i. each person that signed the covenant or their successor or assign;
- ii. each person holding a recorded interest in the Property;
- iii. each person in possession of the Property;
- iv. the environmental officer of each political subdivision in which the Property is located; and
- v. any other person the environmental agency requires.

Within 30 days after recording a termination, amendment, or modification of this Environmental Covenant, the Owner shall transmit a copy of the document in recorded form to the persons listed in items i to v above.

13. Notices to Grantor and environmental agency.

A. Manner of giving notice.

Any notice required or permitted to be given under this Environmental Covenant is given in accordance with this Environmental Covenant if it is placed in United States first class mail postage prepaid; or deposited cost paid for delivery by a nationally recognized overnight delivery service; or transmitted by electronic mail to instcontrols.pca@state.mn.us.

B. Notices to the Grantor.

If there is more than one Grantor, position the cursor at the far right of the last text box and do a few hard returns. This will create editable space to enter the name and contact information of the additional Grantor(s).

Notices to the Grantor shall be directed to:

Name(s) of Grantor

Name of Contact Person

Street address

City, State, Zip code

Enter telephone number of person who is contact for Grantor

Enter email address of person who is contact for Grantor

C. Notices to MPCA.

All notices, including reports or other documents, required to be submitted to the MPCA shall reference the MPCA Preferred ID. ***Email submittal is preferred.***

Minnesota Pollution Control Agency
Remediation Division – Institutional Controls Coordinator
MPCA Preferred ID: **Enter BF# or SR#**
520 Lafayette Road North
St. Paul, MN 55155
Email: instcontrols.pca@state.mn.us

14. Enforcement and compliance.

A. Civil action for injunction or equitable relief.

This Environmental Covenant may be enforced through a civil action for injunctive or other equitable relief for any violation of any term or condition of this Environmental Covenant, including violation of the Activity and Use Limitations under Paragraph 7 and denial of Right of Access under Paragraph 9. Such an action may be brought by:

- i. The MPCA;
- ii. A political subdivision in which the Property is located;
- iii. A person whose interest in the Property or whose collateral or liability may be affected by the alleged violation of the covenant;
- iv. A party to the covenant, including all holders; or
- v. Any person to whom the covenant expressly grants power to enforce.

B. Additional rights of enforcement by MPCA.

In addition to its authority under subparagraph A of this Paragraph 14, the MPCA may enforce this Environmental Covenant using any remedy or enforcement measure authorized under UECA or other applicable law, including remedies pursuant to Minn. Stat. §§ 115.071, subds. 3 to 5, or 116.072.

C. No waiver of enforcement.

Failure or delay in the enforcement of this Environmental Covenant shall not be considered a waiver of the right to enforce, nor shall it bar any subsequent action to enforce, this Environmental Covenant.

D. Former Owners and interest holders subject to enforcement.

Subject to any applicable statute of limitations, an Owner or other person holding any right, title or interest in or to the Property, that violates this Environmental Covenant during the time when the Owner or other person is bound by this Environmental Covenant remains subject to enforcement with respect to that violation regardless of whether the Owner or other person has subsequently conveyed the fee title, or other right, title or interest, to another person.

E. Other authorities of MPCA not affected.

Nothing in this Environmental Covenant affects MPCA's authority to take or require performance of response actions to address releases or threatened releases of hazardous substances or pollutants or contaminants at or from the Property, or to enforce a consent order, consent decree or other settlement agreement entered into by MPCA, or to rescind or modify a liability assurance issued by MPCA, that addresses such response actions.

15. Administrative record.

Subject to the document retention policy of the MPCA, reports, correspondence and other documents which support and explain the environmental response project for the Property are maintained by the MPCA Select program name at the MPCA's office at Select street address and City of central or regional office, as appropriate Minnesota in the file maintained for Enter site name, MPCA Preferred ID Enter BF# or SR#.

16. Representations and warranties.

Grantor hereby represents and warrants to the MPCA and any other signatories to this Environmental Covenant that, at the time of execution of this Environmental Covenant:

- A. Every fee owner of the Property has been identified;
- B. Grantor holds fee simple title to the Property which is Select title description and add Exhibit number if applicable to this Environmental Covenant.

All persons with an existing interest in the Property must be identified in the exhibit. Note that a mortgage, lease, or easement is an encumbrance, so do not choose "free and clear" if there is a mortgage, lease, or easement on the Property.

The Grantor is responsible to provide this information and to get subordination agreements signed, as needed (see guidance below).

- C. Grantor has authority to grant the rights and interests and carry out the obligations provided in this Environmental Covenant;
- D. Nothing in this Environmental Covenant materially violates, contravenes, or constitutes a default under any agreement, document or instrument that is binding upon the Grantor.

Delete the following subparagraph 16.E ONLY if there are no interests or encumbrances. This would be atypical. Listed below are some tips for determining if a subordination agreement is needed for the identified interests and encumbrances, based on common scenarios. It is not an exhaustive list; if a site-specific situation is not reflected in the examples below, contact MPCA project staff for assistance.

A subordination agreement is always required of the mortgagee. This ensures continuity of the covenant in case of foreclosure.

For other interest holders, a rule of thumb is that a subordination agreement is required if the interest in real property is affected by the Activity and Use Restrictions in this Environmental Covenant, e.g. if the interest holder, through exercising its interest, might run afoul of the activity or use restrictions. For example:

A holder of a surface easement would not need to provide a subordination agreement if the activity restrictions pertain to contaminated soil at depth.

A holder of a utility easement would need to provide a subordination agreement if the easement intersects a contaminated area/depth that has activity restrictions.

A tenant who has a ground lease (e.g. a long-term lease that allows the tenant to develop and control the Property during the lease period) would need a subordination agreement.

A tenant whose lease allows control over building systems would need a subordination agreement if the building has a vapor mitigation system.

A tenant who has vapor mitigation components in its tenant space, but whose lease does not allow control over building systems, does not need to provide a subordinate agreement.

E. Except as otherwise directed by MPCA, Grantor has obtained, from each person holding an interest and encumbrance in the Property identified in **Exhibit Enter exhibit number**, a Subordination Agreement, or other agreement satisfactory to the Commissioner, assuring that such person is bound by this Environmental Covenant and that this Environmental Covenant shall survive any foreclosure or other action to enforce the interest. Such an agreement may include a waiver of that person's right to consent to any amendment of this Environmental Covenant. Executed agreements by such persons are included in **Exhibit Enter exhibit number** of this Environmental Covenant. **OR** The MPCA has determined that no subordination agreements are necessary from the persons identified in **Exhibit Enter exhibit number**.

17. Governing law.

This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Minnesota.

18. Compliance reporting.

The Owner shall submit to MPCA on an annual basis a written report confirming compliance with the Activity and Use Limitations and Affirmative Obligations provided in Paragraph 7 and summarizing any actions taken pursuant to Paragraph 8 of this Environmental Covenant. Reports shall be submitted on the first July 1 that occurs at least six months after the effective date of this Environmental Covenant, and on each succeeding July 1 thereafter.

Owner shall notify the MPCA as soon as possible of any actions or conditions that would constitute a breach of the Activity and Use Limitations in Paragraph 7.

19. Notice of conveyance of interest in Property.

Owner shall provide written notice to MPCA within 30 days after any conveyance of fee title to the Property or any portion of the Property. The notice shall identify the name and contact information of the new Owner, and the portion of the Property conveyed to that Owner.

20. Severability.

In the event that any provision of this Environmental Covenant is held by a court to be unenforceable, the other provisions of this Environmental Covenant shall remain valid and enforceable.

21. Effective date.

This Environmental Covenant is effective on the date of acknowledgement of the signature of the MPCA.

Keep every signatory on a separate one-sided page.

Use next sentence if Grantor is an organization rather than an individual.

THE UNDERSIGNED REPRESENTATIVE OF THE GRANTOR REPRESENTS AND CERTIFIES THAT THEY ARE AUTHORIZED TO EXECUTE THIS ENVIRONMENTAL COVENANT

IN WITNESS WHEREOF, THIS INSTRUMENT HAS BEEN EXECUTED ON THE DATES INDICATED BELOW:

FOR THE GRANTOR:

By _____

(Signature of Grantor)
Print name of Grantor 1
Title of Grantor 1
Company name

STATE OF NAME OF STATE)
) SS.
COUNTY OF NAME OF COUNTY)

Use the following language when this instrument IS intended to meet the hazardous substance affidavit requirement of Minn. Stat. § 115B.16, subd. 2:

On _____, 20 __, this instrument was acknowledged before me, and the facts stated herein were Select "sworn to by" or "affirmed by" Name of signer, *use the following when Grantor is an organization:* Title of signer of Name of Grantor, on behalf of Name of Grantor.

Use the following language when this instrument is NOT intended to meet the hazardous substance affidavit requirement of Minn. Stat. § 115B.16, subd. 2

On _____, 20 __, this instrument was acknowledged before me by Name of signer, *use following when Grantor is an organization:* Title of signer of Name of Grantor, on behalf of Name of Grantor.

_____ (signature)
Notary Public

My Commission Expires _____

Use this page if there is a second Grantor – if not delete this page.

Keep every signatory on a separate one-sided page.

Use next sentence if Grantor is an organization rather than an individual.

THE UNDERSIGNED REPRESENTATIVE OF THE GRANTOR REPRESENTS AND CERTIFIES THAT THEY ARE AUTHORIZED TO EXECUTE THIS ENVIRONMENTAL COVENANT

IN WITNESS WHEREOF, THIS INSTRUMENT HAS BEEN EXECUTED ON THE DATES INDICATED BELOW:

FOR THE GRANTOR:

By _____

(Signature)

Print name of Grantor 2

Title of Grantor 2

Company name

STATE OF NAME OF STATE)
) SS.
COUNTY OF NAME OF COUNTY)

Use the following language when this instrument IS intended to meet the hazardous substance affidavit requirement of Minn. Stat. § 115B.16, subd. 2:

On _____, 20 __, this instrument was acknowledged before me, and the facts stated herein were Select “sworn to by” or “affirmed by” Name of signer, *use the following when Grantor is an organization:* Title of signer of Name of Grantor, on behalf of Name of Grantor.

Use the following language when this instrument is NOT intended to meet the hazardous substance affidavit requirement of Minn. Stat. § 115B.16, subd. 2

On _____, 20 __, this instrument was acknowledged before me by Name of signer, *use following when Grantor is an organization:* Title of signer of Name of Grantor, on behalf of Name of Grantor.

_____ (signature)

Notary Public

My Commission Expires _____

FOR THE ENVIRONMENTAL AGENCY AND HOLDER:

MINNESOTA POLLUTION CONTROL AGENCY

By _____ (signature)

Choose most appropriate signature block.

Either Manager can sign any EC, their delegation is not section-specific. Only one MPCA signatory is needed. Delete the one you don't use.

Thomas Higgins, Manager
Site Remediation and Redevelopment Section
Remediation Division
Delegate of the Commissioner of the
Minnesota Pollution Control Agency

Or

NAME PENDING, Manager
Petroleum Remediation Section
Remediation Division
Delegate of the Commissioner of the
Minnesota Pollution Control Agency

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

This instrument was acknowledged before me on _____, 202_, by Select name of MPCA representative Thomas Higgins, Manager of the Site Remediation and Redevelopment Section OR [Name Pending], Manager of the Petroleum Remediation Section of the Remediation Division, and a Delegate of the Commissioner of the Minnesota Pollution Control Agency, on behalf of the Minnesota Pollution Control Agency.

_____ (signature)
Notary Public

My Commission Expires _____

THIS INSTRUMENT WAS DRAFTED BY
AND WHEN RECORDED RETURN TO:

Name and address of person or corporation
who drafted this document