

2025-022942

RECORDED

07/01/2025 02:08 PM

Recording Requested By and
When Recorded Return to:



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RICK HOGABOAM

CANYON COUNTY RECORDER

Pgs=13 JWINSLOW

NO FEE

MISC

OWYHEE MOTOR SALES

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

**THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT IMPOSING
ACTIVITY AND USE LIMITATIONS PURSUANT TO THE UNIFORM ENVIRONMENTAL
COVENANTS ACT, IDAHO CODE § 55-3001, et seq.**

ENVIRONMENTAL COVENANT

Owyhee Motor Sales, Inc., GRANTOR, grants this Environmental Covenant. As provided in Idaho Code §55-3008, Owyhee Motor Sales, Inc., is the GRANTEE.

This instrument is an Environmental Covenant ("Environmental Covenant") executed by Owyhee Motor Sales, Inc., ("Owyhee Motor") and the Idaho Department of Environmental Quality ("Department") pursuant to the Uniform Environmental Covenants Act, Idaho Code §§ 55-3001 through 3015. This Environmental Covenant sets forth protective provisions, covenants, restrictions and conditions (collectively referred to as "Activity and Use Limitations") on the Property described below. The Activity and Use Limitations are designed to protect natural resources, human health and the environment. Owyhee Motor is a "holder" as defined in Idaho Code § 55-3002(6). Owyhee Motor, as the current property owner grants this Environmental Covenant to all signatories to this instrument.

Property. This Environmental Covenant concerns real property currently identified as 124 5th Street, Wilder, County of Canyon, State of Idaho, legally described as Parcel 37107000 0, a part of NW ¼ NW ¼ Township 4 North, Range 5 West, Section 23, Boise Meridian (hereafter referred to as "the Property"). The Property is legally described in the attached Schedule A. The Restricted Area of the Property is depicted as Schedule B.

Property Ownership. Owyhee Motor hereby represents and warrants to the other signatories to this Environmental Covenant that it is the sole owner of the property, holds fee simple title to the property and Owyhee Motor has the power and authority to enter into this Environmental Covenant.

Reason for Activity and Use Limitations. The Property described above consists of a commercial building and asphalt parking lot. The parcel south of the Property is Matteson's Country Store which is a convenience store and gas station. Matteson's Country Store has had 3 confirmed petroleum releases that have contaminated the groundwater. Groundwater flows north from Matteson's Country Store towards the Property. Contamination has migrated from Matteson's Country Store to underneath the Property.

This Environmental Covenant is required because residual concentrations of benzene, toluene, ethylbenzene, xylenes and naphthalene remain in groundwater underlying the Property. These concentrations are above allowable risk-based concentrations as determined by the Department, therefore, future use of the Property shall be limited to protect human health and the environment.

Name and Location of Administrative Record. A copy of Matteson's Country Store, facility identification number 3-140101, administrative records can be found at the DEQ Boise Regional Office, 1445 N. Orchard Street, Boise, ID 83706.

Activity and Use Limitations. By acceptance and recordation of this Environmental Covenant, Owyhee Motor, and any successors in interest, are hereby restricted from using the Property, now or at any time in the future, as specifically set forth below:

1. There shall be no extraction of groundwater under, the Property for any purpose, including, without limitation, drinking by animals or human beings, irrigation or an industrial or commercial use. Groundwater may be extracted as part of an environmental investigation or remediation project.
2. No basements are allowed on the Property.
3. The Property, and any portion thereof, may be used for commercial and industrial uses only. The Property shall not be used for residential purposes, agricultural purposes, or any permanently occupied human habitation (including hotels or motels), school, day care or hospital use.

Breach and Cure of Activity and Use Limitations. Owyhee Motor, or its successors in interest, shall be responsible for demonstrating that use on the Property is in conformity with the Activity and Use Limitations. If any event or action occurs that constitutes or may constitute a breach of the Activity and Use Limitations, Owyhee Motor, or any successors in interest, shall notify the Department within thirty (30) days of becoming aware of the event or action, and shall remedy the breach of the Activity and Use Limitations within sixty (60) days of becoming aware of the event or action, or such other time frame as may be agreed to by Owyhee Motor, or any successors in interest, and Department.

Amendment by Consent. This Environmental Covenant may be amended by consent pursuant to Idaho Code § 55-3010. Except for an assignment undertaken pursuant to a governmental reorganization, assignment of this Environmental Covenant to a new holder is an amendment. The holder waives their right to sign the amendment as provided in Idaho Code § 55-3010(1)(c).

Duration and Termination. The Activity and Use Limitations shall apply to the Property, or any subdivided portion thereof, in perpetuity unless terminated by court action as provided in Idaho Code § 55-3009 or by consent pursuant to Idaho Code § 55-3010. Owyhee Motor, or its successors in interest, may seek consent to terminate the Activity and Use Limitations that apply to the Property, or any subdivided portion thereof, pursuant to Idaho Code § 55-3010, by demonstrating with the record before the Department that:

Contaminated groundwater at levels the Department deems in writing to be adequate for the Property to be developed for unrestricted use.

Upon a request and demonstration of the record for termination of the Environment Covenant, the Department will take all reasonable steps to locate or identify holders to determine consent to terminate. If the Department finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence, the holder waives their right to sign the termination as provided in Idaho Code § 55-3010.

Provisions to Run With the Land. Each and all of the Activity and Use Limitations shall run with the land, and pass with each and every portion of the Property, and shall apply to and bind the respective successors in interest thereof. Each and all of the Activity and Use Limitations are imposed upon the entire Property unless expressly stated as applicable to a specific portion of the Property.

Concurrence of Subsequent Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, and their successors, that the Activity and Use Limitations as herein established must be adhered to and that their interest in the Property shall be subject to the Activity and Use Limitations contained herein.

Recording/Filing of Environmental Covenant. This Environmental Covenant and any amendment or termination of this Environmental Covenant shall be recorded in the county recorder's office of every county in which any portion of the Property subject to the Environmental Covenant is located. This Environmental Covenant or any amendment or termination shall be recorded by Owyhee Motor, or its successors in interest, within ten (10) days of receipt of this Environmental Covenant signed by the Department. Within ten (10) days of the recording of this Environmental Covenant, or any amendment or termination, Owyhee Motor, or its successors in interest, shall provide to the Department a copy of this recorded Environmental Covenant, or any amendment or termination of this Environmental Covenant. Upon receipt of the copy of the recorded Environmental Covenant, and any amendment or termination therein, the Department shall post the copy of the fully executed instrument in the Registry as required by Idaho Code Section 55-3012(1). In addition, a copy of this recorded Environmental Covenant, or any amendment or termination, shall be provided by Owyhee Motor, or by its successors in interest, to the following persons: (a) each person that signed this Environmental Covenant; (b) each person holding a recorded interest in the Property; (c) each person in possession of the Property; (d) each municipality or other local government in which the Property is located; and (e) any other person the Department requires. The validity of this Environmental Covenant is not affected by failure to provide a copy of this Environmental Covenant as required under this section.

Compliance Reporting. Owyhee Motor, or any successors in interest, shall submit to the Department on an annual basis written documentation verifying that the Activity and Use Limitations remain in place and their compliance with the activity and use limitations.

Enforcement. The Department and any party of this Environmental Covenant shall have authority to enforce the Activity and Use Limitations against Owyhee Motor, or its successors in interest, including subsequent owners of the Property and any other person using the Property. Failure of Owyhee Motor, or its successors in interest, to comply with any of the Activity and Use Limitations set forth herein shall be grounds for the Department, or its successor, and/or any party to this Environmental Covenant to require that Owyhee Motor Property correct or remove any violations of this Environmental Covenant. Violation of this Environmental Covenant shall be grounds for the Department, or its successor, and/or any persons identified in Idaho

Code § 55-3011 to file civil actions against Owyhee Motor, or its successors in interest, as provided by law or in equity, including without limitation, the Uniform Environmental Covenants Act, Idaho Code § 55-3011.

Non-Waiver. No failure on the part of the Department or any holder at any time to require performance of any term of this Environmental Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's or any holder's rights to enforce such term.

Property Access. The Department shall have a right of access to the Property at reasonable times for the purposes of evaluating compliance with this Environmental Covenant.

Notice of Conveyance of Property. Within thirty (30) days of the closing of any conveyance of the Property, or part thereof, the Conveyor of the Property, shall provide written notice to the Department and each municipality or other local government in which the Property is located, the name and address of all the owners and/or occupants of the Property, or part thereof, conveyed. The Department shall not, by reason of this Environmental Covenant, have authority to approve, disapprove, or otherwise affect any conveyance of the Property except as otherwise provided by law.

Notices. All notices required hereunder shall be in writing and mailed in the United States Mail, postage prepaid, by certified or registered mail, return receipt requested, to the appropriate address indicated below, or at such address as a party, or its successors to this Environmental Covenant, may designate in a written notice given to the other parties to this Environmental Covenant. Notices which are deposited in the United States Mail in accordance with the terms of this provision shall be deemed received three (3) days after the date of mailing thereof.

OWNER:

Owyhee Motor Sales, Inc.
ATTN: Lane Matteson
3 South Main Street
P.O Box 66
Homedale, ID 83628

THE DEPARTMENT:

Idaho Department of Environmental Quality
ATTN: Assessment and Compliance Bureau Chief
Waste Management and Remediation Division
1410 N. Hilton
Boise, ID 83706

Costs and Expenses. All costs of terminating this Environmental Covenant, including the cost of any remediation or abatement of any environmental condition related to Activity and Use Limitations pertaining to the Property, shall be borne by the party seeking such termination.

Partial Invalidity. If any portion of this Environmental Covenant or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such invalidated portion had not been included herein.

Headings. Headings at the beginning of each section of this Environmental Covenant are solely

for the convenience of the parties and are not a part of this Environmental Covenant.

Idaho Code References. All references to the Idaho Code sections include successor provisions.

Reservation of Rights. Notwithstanding any provision of this Environmental Covenant, the Department retains all of its access and enforcement authorities under any applicable statute or rule. Nothing in this Environmental Covenant shall affect the Department's ability to enforce the terms of any Consent Order or other agreement relating to remediation of the Property entered into between the Department and Owyhee Motor, or any other responsible party. Nothing in this Environmental Covenant shall affect the obligations of Owyhee Motor Property, or any other responsible party under such consent order or other agreement. The Department's acceptance hereunder is based upon the information presently known or available to the Department with respect to the environmental condition of the Property, and the Department reserves the right to take appropriate action under applicable authorities in the event the Department determines new information warrants such action.

Effective Date. The effective date of this instrument shall be the date the fully executed Environmental Covenant is recorded at the county recorder's office.

Signature and Acknowledgments
Accepted:

Owyhee Motor Sales, Inc.

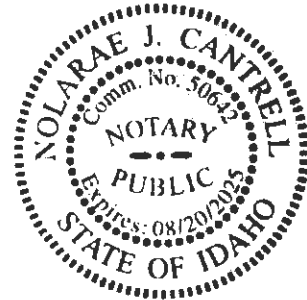
Signature: Kim Mackenzie
Printed Name: KIM MACKENZIE
Title: PRESIDENT
Date: 6-3-2025

State of Idaho, county of Owyhee, ss.

On this 3rd day of June, in the year 2025, before me, a Notary Public in and for said County and State, personally appeared Kim Mackenzie, identified to me to be the person that executed this Environmental Covenant.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Idaho: Nola Rae Cantrell
Residing at: 16 E. Oregon Ave, Homedale, ID
Commission Expires: 8/20/25



Schedule A - Legal Description
and Deed of Property



Order Number: 24520437

2024-029877
RECORDED
09/19/2024 01:09 PM
RICK HOGABOAM
CANYON COUNTY RECORDER
Pgs=3 TYOUREN \$15.00
TYPE: DEED
TITLEONE BOISE
ELECTRONICALLY RECORDED

Warranty Deed

For Value Received,

Michael R. McGarvin and Julie D. Marlatt, Husband and Wife who acquired title as Michael R. McGarvin and Julie D. Marlatt, the Grantor, does hereby grant, bargain sell and convey unto, **Owyhee Motor Sales, Inc., an Idaho corporation**, whose current address is **P.O Box 66, Homedale, ID 83628**, the Grantee, the following described premises, in **Canyon County, Idaho**, To Wit:

See Exhibit A, attached hereto and incorporated herein.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee; and subject to all existing patent reservations, easements, right(s) of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable, and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

Remainder of this page intentionally left blank.

Dated: 09/18/2024

Michael R. McGarvin
Michael R. McGarvin

Julie D. Marlatt
Julie D. Marlatt

State of Idaho, County of Canyon, ss.

On this 19 day of September in the year of 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared Michael R. McGarvin and Julie D. Marlatt, known or identified to me 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.

[Signature]
Notary Public
Residing In:
My Commission Expires:
(seal)

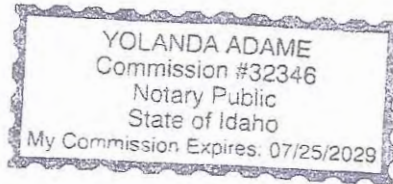


EXHIBIT A
LEGAL DESCRIPTION OF THE PREMISES

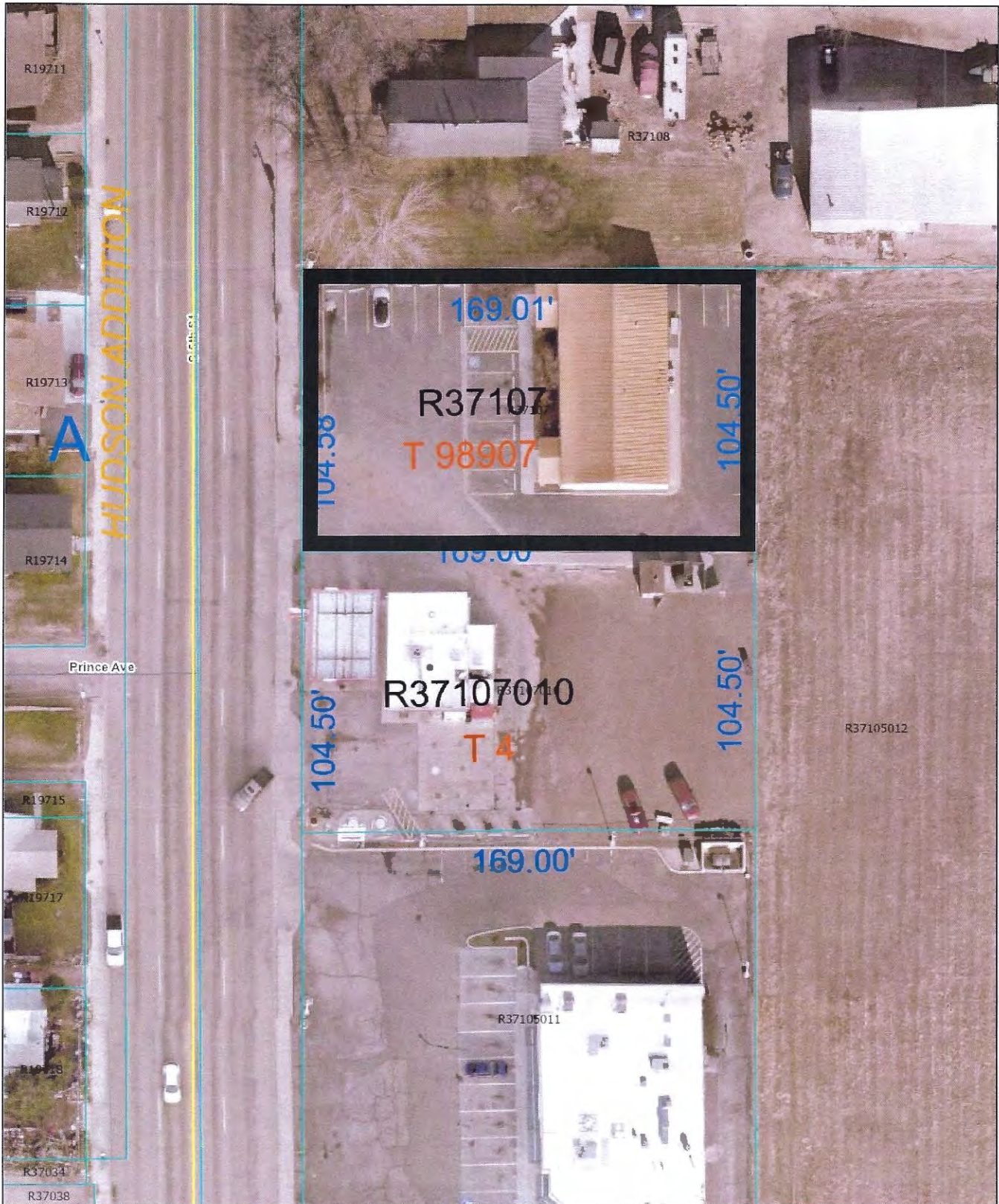
A part of the NW1/4 NW1/4 of Section 23, Township 4 North, Range 5 West, Boise Meridian, in Canyon County, Idaho, more particularly described to wit:

Commencing at the Northwest corner of said Section 23;
Thence South 00°14'16" East 334.28 feet along the West line of said Section 23 to the INITIAL POINT of this description;
Thence North 89°33'44" East 209.00 feet;
Thence South 00°14'16" East 104.50 feet parallel with the said West line;
Thence South 89°33'44" West 209.00 feet to a point on the said West line;
Thence North 00°14'16" West 104.50 feet along the said West line to the INITIAL POINT of this description.

EXCEPT that portion thereof conveyed to the State of Idaho by Deed recorded September 27, 1960 as Instrument No. 492345, records of Canyon County, Idaho.

Schedule B – Map of Restricted Area

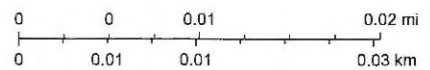
124 5th Street, Wilder



4/28/2025, 4:05:39 PM

- Highway
- CCPublicTaxParcels_Static2025
- Taxparcels
- Canyon County Roads
- Canyon County Roads
- Sections_Adjusted_for_Assessment
- County
- Imagery_2022
- Red: Band_1
- Green: Band_2
- Blue: Band_3
- County
- Sections-Adjusted for Assessment
- County

1:564



Restricted Area