

Recording Requested By and
When Recorded Return to:

JIM BRANNON 10 P 2579307000
KOOTENAI COUNTY RECORDER
PRP Date 01/17/2017 10:21 AM
REQ OF PILOT FLYING J

RECORDING FEE: \$37.00

XX



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

This instrument is an Environmental Covenant ("Environmental Covenant") executed by Pilot Travel Centers LLC ("OWNER"), as successor in interest to CFJ Plaza III LLC and the Idaho Department of Environmental Quality ("Department") pursuant to the Uniform Environmental Covenants Act, Idaho Code §§ 55-3001 through 3015. Pilot Travel Centers LLC merged with CFJ Plaza III LLC in July 2010 and now operates under the company name of Pilot Travel Centers LLC. 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. Pilot Travel Centers LLC, is a "holder" as defined in Idaho Code § 55-3002(6). Pilot Travel Centers LLC, as the current property owner, grants this Environmental Covenant to all signatories to this instrument.

Property. This Environmental Covenant concerns certain real property located at 3636 West 5th Avenue, County of Kootenai, State of Idaho, legally described as Parcel P-390005042AA, located in the Southwest ¼ of the Northwest ¼ of Section 5, Township 50 North, Range 5 West of the Boise Base and Meridian (hereafter referred to as "the Property"). The Property is legally described in the attached Schedule A. A copy of the current property deed is also included in Schedule A.

Restricted Areas. The following specific area on the Property is the "Restricted Area" to which this Environmental Covenant applies: The area identified on Figure C-1 of attached Schedule B shows a site map with the Restricted Area identified.

Property Ownership. OWNER 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 OWNER has the power and authority to enter into this Environmental Covenant.

Reason for Activity and Use Limitations. The Property described above is, and was previously used, to operate a retail petroleum fueling station (known as Flying J Travel Plaza #639). The

Property has become contaminated with gasoline and diesel fuels. Site assessments at the Property indicated that residual soil concentrations of benzene, ethylbenzene, xylenes, and naphthalene exceeded the Department Screening Levels for direct contact and vapor intrusion in soil underlying the Property in multiple locations, all included within the Restricted Area. These concentrations are above allowable risk-based concentrations as determined by the Department; therefore future use of the Restricted Area, shall be limited to protect human health and the environment. The report which describes these contaminated soil locations, and the specific petroleum constituent concentrations, is titled "Additional Site Assessment Report", dated July 2, 2013, submitted by Pangean-CMD Associates to the Department.

Name and Location of Administrative Record. A copy of Flying J Travel Plaza #639 (Facility Identification Number 1-280035) record can be found at the Idaho Department of Environmental Quality, located at 2110 Ironwood Parkway, Coeur D'Alene, Idaho 83814.

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

1. The Restricted Area may be used for commercial and industrial uses only. The Restricted Area 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. No buildings shall be built over the Restricted Area.
2. Any excavation of soil from the Restricted Area will be conducted by workers who are aware of the presence of contaminated soils, and take the proper precautions to protect themselves and the public from contact with the soils. Additionally, a Soils Management Plan will be submitted to the Department for their approval, sixty (60) calendar days prior to any exposure and soil excavation within the Restricted Area.

Breach and Cure of Activity and Use Limitations. OWNER, or its successors in interest, shall be responsible for demonstrating that use on the Restricted Area 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, OWNER, 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 OWNER, or any successors in interest, and Department.

Amendment by Consent. The 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 the Environmental Covenant to a new holder is an amendment; provided, however, nothing herein shall prevent or prohibit OWNER from selling or leasing the Property, or any portion thereof.

Duration and Termination. The Activity and Use Limitations shall apply to the Restricted Area, 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. OWNER, 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 soils are at levels the Department deems in writing to be adequate for the Restricted Area to be developed for unrestricted use.

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 Restricted Area, 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 Restricted Area.

Concurrence of Subsequent Owners Presumed. All purchasers, lessees, or possessors of any portion of the Restricted Area shall be deemed by their purchase, leasing, or possession of such Restricted Area, 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 Restricted Area 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 the Environmental Covenant shall be recorded in the county recorder's office of every county in which any portion of the Restricted Area subject to the Environmental Covenant is located. The Environmental Covenant or any amendment or termination shall be recorded by OWNER, 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, OWNER, 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 the recorded Environmental Covenant, or any amendment or termination, shall be provided by OWNER, or by its successors in interest, to the following persons: (a) each person that signed the Environmental Covenant; (b) each person holding a recorded interest in the Restricted Area; (c) each person in possession of the Restricted Area; (d) each municipality or other local government in which the Restricted Area is located; and (e) any other person the Department requires. The validity of the Environmental Covenant is not affected by failure to provide a copy of the Environmental Covenant as required under this section.

Compliance Reporting. OWNER, or and 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 the Environmental Covenant shall have authority to enforce the Activity and Use Limitations against OWNER or its successors-in-interest, including subsequent owners of the Restricted Area and any other person using the Restricted Area. Failure of OWNER, or its successor 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 the OWNER 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 the OWNER 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 Restricted Area at reasonable times for the purposes of evaluating compliance with this Environmental Covenant.

Notice of Conveyance of Restricted Area. Within thirty (30) days of the closing of any conveyance of the Restricted Area, or part thereof, the conveyer of the Restricted Area, shall provide written notice to the Department and each municipality or other local government in which the Restricted Area is located, the name and address of all the then owners and/or occupants of the Restricted Area, 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 or permitted to be given 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 other place or places as either OWNER or its successors, or the Department or its successors, may, from time to time, respectively, designate in a written notice given to the other. 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:

**Pilot Travel Centers LLC
5508 Lonas Road
Knoxville, TN 37909**

THE DEPARTMENT:

Idaho Department of Environmental Quality
ATTN: State Response Program Manager
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 Restricted Area, shall be borne by the party seeking such termination.

Partial Invalidity. If any portion of the 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 the Environmental Covenant.

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

provisions.

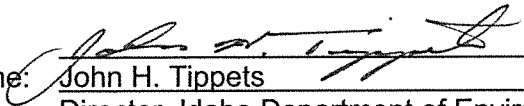
Reservation of Rights. Notwithstanding any provision of this Environmental Covenant, the Department retains all of its access and enforcement authorities under any applicable statute or rule. Nothing in this Environmental Covenant shall affect the Department's ability to enforce the terms of any voluntary consent order or other agreement relating to remediation of the Restricted Area entered into between the Department and OWNER or any other responsible party. Nothing in this Environmental Covenant shall affect the obligations of OWNER or any other responsible party under such voluntary 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 Restricted Area, 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:

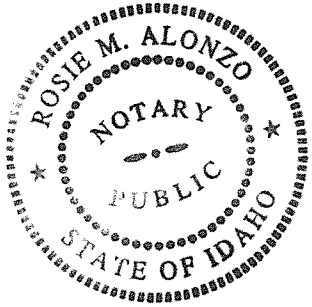
Idaho Department of Environmental Quality

Signature: 
 Printed Name: John H. Tippetts
 Title: Director, Idaho Department of Environmental Quality
 Date: _____

State of Idaho)
) ss.
 County of Ada)

On this 6 day of December, in the year 2016, before me, a Notary Public in and for said County and State, personally appeared John H. Tippetts, known or identified to me to be the Director of the Idaho Department of Environmental Quality that executed this Environmental Covenant, and acknowledged to me that the Idaho Department of Environmental Quality executed the same.

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: Rosie M. Alonzo
 Residing at: Naampa, ID
 Commission Expires: 11/21/2020

Signature and Acknowledgments

Accepted:

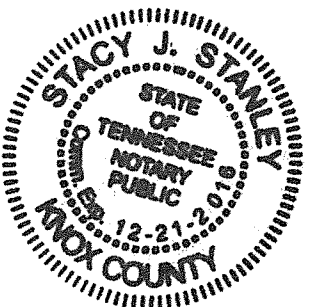
OWNER: Pilot Travel Centers LLC

Signature: [Handwritten Signature]
Printed Name: Joey Cupp
Title: Sr. Environmental Mgr.
Date: 11-30-16

State of Tennessee)
) ss.
County of Knox)

On this 30th day of November, in the year 2016, before me, a Notary Public in and for said County and State, personally appeared Joey Cupp, known or identified to me to be the Sr. Environmental Mgr. of Pilot Travel Centers LLC that executed this Environmental Covenant, and acknowledged to me that Pilot Travel Centers LLC executed the same.

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 (State): Tennessee
Residing at: Knox County
Commission Expires: 12/21/2018

SCHEDULE A

Property Legal Description

IN THE STATE OF IDAHO, COUNTY OF KOOTENAI

Tracts 42 and 55, EAST GREENACRES IRRIGATION DISTRICT, Plat 9, according to the plat recorded in Book "B" of Plats at Page 86, records of Kootenai County, Idaho.

LESS AND EXCEPT THEREFROM that portion of Tract 55 conveyed to the State of Idaho, described as follows:

A parcel of land being on the Northwesterly side of the centerline of Interstate 90, Project No. I-IG-90-1(91)0 Highway Survey as shown on the plans thereof now on file in the office of the Department of Highways of the State of Idaho, and being a portion of Tracts 41, 55 and 56, Plat No. 9, EAST GREENACRES, according to the plat recorded in Book "B" of Plats, page 86, described as follows:

Beginning at the Southwest corner of Tract 56 of said Plat No. 9, EAST GREENACRES, Kootenai County, Idaho;

thence South 88 degrees, 05' 13" East along the South line of Tracts 55 and 56 of said Plat No. 9, EAST GREENACRES, 1278.66 feet to the Southeast corner of said Tract 55;

thence North 1 degree, 04' 12" East along the East line of said Tract 55, a distance of 133.04 feet;

thence North 87 degrees, 36' 12" West, 1161.0 feet, more or less, to a point 351.23 feet Northwesterly and radially from Station 122+81.97 of said Interstate 90, Project No. I-IG-90-1(91)0 Highway Survey;

thence North 20 degrees, 37' 49" West, 270.69 feet to a point 620.04 feet Northwesterly and radially from Station 122+53.76 of said Highway Survey;

thence North 88 degrees, 57' 30" West, 25.01 feet to a point in the West line of Tract 41 of said Plat No. 9, EAST GREENACRES;

thence South 1 degree, 02' 39" West along the West line of said Tract 41 and 56, a distance of 392.43 feet to the Place of Beginning.

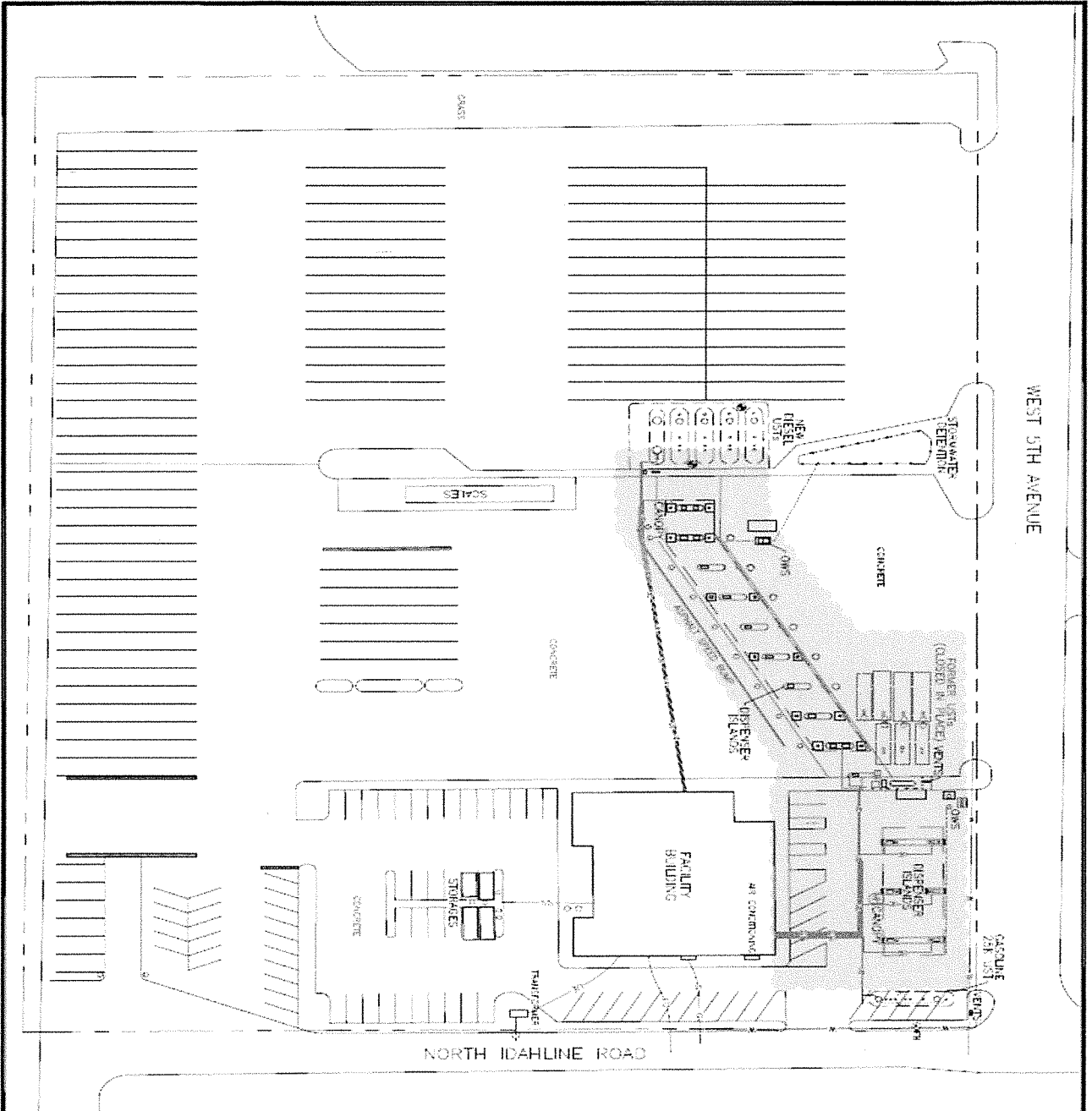
Interstate 90, Highway Survey Station Reference: 121+50 to 133+60.

The bearings as shown in the above land description, unless otherwise noted, are from the Idaho Plane Coordinate System, based on the transverse mercator projection for the West Zone of Idaho. To convert to geodetic bearings, a correction of 0 degrees, 55' 32" must be subtracted from all Northeast and Southwest bearings and added to all Northwest and Southeast bearings.

SCHEDULE B

Figure C-1 Restricted Area

[SEE ATTACHED]



WEST 5TH AVENUE

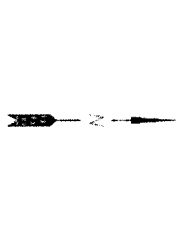
NORTH IDAHLINE ROAD

LEGEND

- ◆ GENERATION WELL LOCATION
- PROPERTY LINE
- FENCE
- OWS OIL/WATER SEPARATOR
- OWS OIL/WATER SEPARATOR
- UNDERGROUND ELECTRIC LINE
- FRIER DRAIN LINE
- STORM WATER SEWER LINE
- GAS LINE
- WATER LINE
- POWER POLE
- ELECTRIC BOX/TRANSFORMER
- PPE MOUNT
- ⊗ MANHOLE
- STORM SEWER BASIN

Dead restricted areas
(minimum 50 ft from
"source" areas)

AND SHOWS NEAR ROAD CENTER LINE



APPROX. SCALE FEET



**PANJEAN-CMD
ASSOCIATES**

SITE PLAN

CLIENT	PILOT SITE NO. 639	DATE	12-2-12
LOCATION	3636 WEST 5TH AVENUE POST FALLS, IDAHO	PROJECT NO.	PT-000839
OWNER	EL	PROJECT NO.	PT-000839
PROJECT	EL	PROJECT NO.	PT-000839
PROJECT	EL	PROJECT NO.	PT-000839