

Recording Requested By and  
When Recorded Return to:

477099

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SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

**ENVIRONMENTAL COVENANT**

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

This instrument is an Environmental Covenant executed by Shaun P. Kelly (hereinafter "Grantor"), the United States Environmental Protection Agency ("EPA"), the Idaho Department of Environmental Quality ("Department") and The City of Osburn ("Holder") pursuant to Idaho law including but not limited to the Uniform Environmental Covenants Act, Idaho Code §§ 55-3001 through 3015.

**Property.** This Environmental Covenant concerns real property located in the County of Shoshone, State of Idaho, legally described as Parcel #48N04E190775 (hereafter referred to as "the Property." The legal description of the affected portion of the property is described in the attached Exhibit "A". Grantor hereby represents and warrants to the other signatories to this instrument that he/she is the sole owner of the Property as of the date this instrument is executed, holds fee simple title to the Property, and has the power and authority to enter into this instrument.

**Reason for Activity and Use Limitations.** Historic mining activity in the Coeur d'Alene Basin (hereinafter "Basin") has left residual contamination throughout the communities and flood plains of the Basin. Pursuant to CERCLA, EPA and the Department have been implementing remedies throughout the Basin designed to protect human health and the environment. Certain aspects of these remedies are threatened by the potential for recontamination due to uncontrolled flooding. During these events, contaminated sediments from un-remediated areas may be deposited in already cleaned properties necessitating further remedial actions. This instrument is necessary because the EPA and the Successor Coeur d'Alene Custodial and Work Trust ("CDA Trust") require access to implement remedy protection measures on the Property which are intended to protect implemented remedies on the Property or other parcels of property in the vicinity, and the EPA, Department, and Holder require access for continued maintenance and repair of the work. This instrument ensures EPA, the Trust, the Department, and the Holder necessary access and requires that activities on the Property protect and do not interfere with remedy protection features on the Property that will be implemented.

**Name and Location of Administrative Record.** A copy of the administrative record for EPA decision-making at the Bunker Hill Mining and Metallurgical Complex Superfund Site (which

includes the Property) can be found at the Molstead Library, North Idaho College, 1000 Garden Avenue, Coeur d'Alene 83814 or Superfund Records Center, EPA Region 10, 1200 Sixth Avenue (Suite 900), Seattle, Washington 98101.

**Access and Activity and Use Limitations.** By acceptance and recordation of this Environmental Covenant, Grantor and any successor in interest with respect to the Property, are hereby restricted from using the Property, or any portion thereof, now or at any time in the future, as specifically set forth below unless such use has been expressly approved in writing by the Department:

- 1. Access.** A right of access is granted to the EPA, CDA Trust and Department, their respective contractors and third parties authorized by them for the purpose of performing the remedy protection work from June 1, 2014 to May 30, 2015, and as necessary to ensure continued maintenance and repair of the work, as described in Exhibit "C" together with all necessary fixtures and appurtenances "facilities" on, over, across and under the Property shown on Exhibit "A" at the location shown on Exhibit "B". Holder, its contractors and third parties authorized by it shall have a perpetual right of access necessary to perform maintenance and repair of facilities constructed under this agreement.
- 2. Activity and Use Limitations.** By acceptance and recordation of this instrument, Grantor, and any successors in interest with respect to the Property, are hereby restricted from using the Property, or any portion thereof, now or at any time in the future, in a manner that will materially interfere with or adversely affect the integrity or protectiveness of the remedy protection measures taken on the Property and as described in Exhibit C, unless such use has been expressly approved in writing by the Department.

**Grantor's Use of the Property.** Except as provided herein, Grantor reserves the right to the use and enjoyment of the Property subject to this Environmental Covenant, but such use shall not conflict or interfere with the Department's, EPA's, CDA Trust's or the Holder's rights herein granted.

**Duration, Amendment and/or Termination by Consent.** This Environmental Covenant shall be perpetual and may only be amended or terminated pursuant to Idaho Code §§ 55-3009 and 3010. Except for an assignment undertaken pursuant to a governmental reorganization, assignment of the Environmental Covenant to a new Holder is an amendment requiring consent.

**Recording/Filing.** This Environmental Covenant, once fully executed, and any amendment or termination of the Environmental Covenant, shall be recorded for the Grantor by the Department in the county recorder's office of every county in which any portion of the Property subject to the Easement and Environmental Covenant is located. Upon receipt of the copy of the recorded Easement and 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 § 55-3012(1).

477099

**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.

**No Third-Party Beneficiaries.** There are no intended third-party beneficiaries, and the parties hereto expressly disclaim any unintended third-party beneficiaries to this Environmental Covenant or any part hereof.

**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**

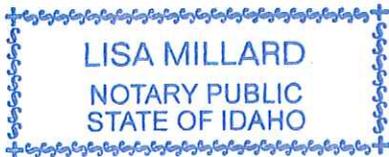
  
\_\_\_\_\_  
Grantor/ Property Owner

By: Shaun P. Kelly, Owner

STATE OF IDAHO )  
 )ss.  
COUNTY OF Shoshone )

On this 11th day of March, 2014, before me, a Notary Public in and for said State, personally appeared, Shaun P. Kelly, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she 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 the State of Idaho  
Residing at: Silverton, ID  
My Commission Expires: 11-30-2017

Dated, 11th of March, 2014.

Kip W. McGillivray, Mayor  
Holder  
By: Kip McGillivray, Mayor  
City of Osburn

STATE OF IDAHO )  
 )ss.  
COUNTY OF Shoshone )

On this 6<sup>th</sup> day of March, 2014, before me, a Notary Public in and for said State, personally appeared, Kip McGillivray, known or identified to me to be the Mayor of The City of Osburn and the person whose name is subscribed to the within instrument, and acknowledged to me that he/she 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.



[Signature]  
Notary Public for the State of Idaho  
Residing at: Silverton, ID  
My Commission Expires: 11-30-2017

Dated, March 6<sup>th</sup>, 2014.

477099

Meyer Creek Remedy Protection Project

February 4, 2014

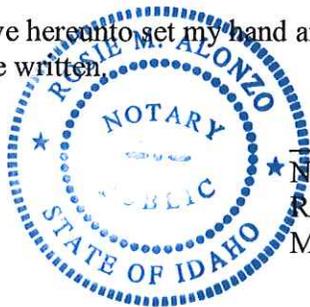
Bary N. Bunnell

IDEQ for  
By: Curt Fransen, Director

STATE OF IDAHO )  
 ) ss.  
COUNTY OF Ada )

On this 1 day of April, 2014, before me, a Notary Public in and for said State, personally appeared, Curt Fransen, known or identified to me to be the Director of the Idaho Department of Environmental Quality and whose name is subscribed to the within instrument, and acknowledged to me that he 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.



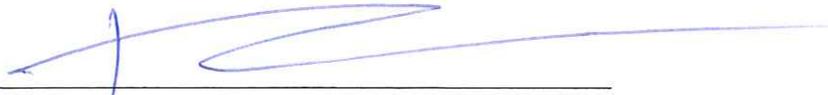
Rosie M. Alonzo  
Notary Public for the State of Idaho  
Residing at: Nampa, ID  
My Commission Expires: 11/30/2015

Dated, April 1, 2014

477099

Meyer Creek Remedy Protection Project

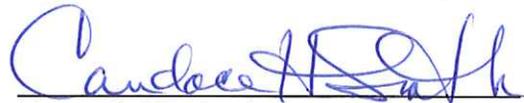
February 4, 2014

  
 \_\_\_\_\_  
 EPA  
 By: Richard Albright, Director Office of Environmental Cleanup

STATE OF WASHINGTON     )  
   ) ss.  
 COUNTY OF King     )

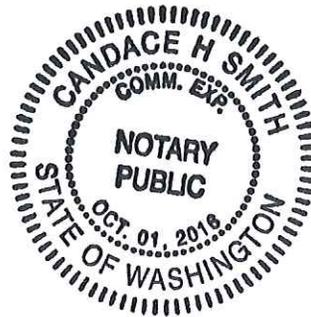
On this 10<sup>th</sup> day of April, 2014, before me, a Notary Public in and for said State, personally appeared, Richard Albright, known or identified to me to be the Director of the Office of Environmental Cleanup, Environmental Protection Agency Region 10 and whose name is subscribed to the within instrument, and acknowledged to me that he 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.



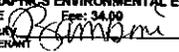
Notary Public for the State of  
 Washington Residing at:  
Seattle, Washington  
 My Commission Expires: 10-1-2016

Dated, April 10, 2014.



TERRAGRAPHS ENVIRON. ENG.  
108 W. IDAHO AVE.  
KELLOGG, ID 83837

477099

Instrument # 477099  
WALLACE, SHOSHONE COUNTY, IDAHO  
4-28-2014 11:42:00 No. of Pages: 9  
Recorded for : TERRAGRAPHS ENVIRONMENTAL ENG  
PEGGY DELANGE-WHITE Fee: 34.00  
Ex-Officio Recorder Deputy   
Index to: ENVIRONMENTAL COVENANT

2014 APR 28 AM 11 42

477099



**TerraGraphics**  
Environmental Engineering, Inc.

www.terragraphics.com

**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**FOR**  
**An Environmental Covenant and Access Agreement for Construction and**  
**Maintenance Purposes**

All that real property being a portion of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ ) of Section 19, Township 48 North, Range 4 East, B.M., Shoshone County, Idaho, described as follows:

A strip of land forty-four feet (44.00') wide, adjoining the west boundary of Amended Short-Plat No. SP-027-92 (as shown on that plat on file with the Shoshone County Recorder as Instrument No. 356146), and lying westerly of and parallel with said west boundary; said west boundary was more recently shown on that record-of-survey map recorded with the Shoshone County Recorder as Instrument No. 381913. The westerly sideline of said strip of land is to be lengthened on its northerly end to the southerly line of Ramey Ranch Addition to the City of Osburn (as shown on that plat on file with the Shoshone County Recorder as Instrument No. 248719), and shortened on its southerly end to the northerly line of "Parcel 0800" as shown on said record-of-survey map.

Contains 10,193 square feet (0.234 acres), more or less.



*Kenneth Fisher*

Kenneth Fisher, P.L.S.

*5/22/13*

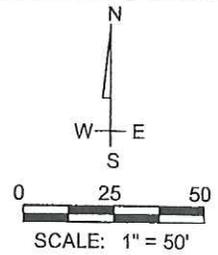
Date

**Principal**  
108 West Idaho Avenue  
Kellogg, Idaho 83837  
(208) 786-1206  
(208) 786-1209 (fax)

**Offices also in:**  
Boise, ID  
Helena, MT  
Deer Lodge, MT  
Las Vegas, NV

**Corporate**  
121 South Jackson Street  
Moscow, Idaho 83843  
208-882-7858  
208-883-3785 (fax)

477099



IN THE  
NE $\frac{1}{4}$  SECTION 19,  
T.48N., R.4E., B.M.  
SHOSHONE COUNTY, ID

48N04E190775

AREA OF ENVIRONMENTAL COVENANT  
& ACCESS AGREEMENT FOR  
CONSTRUCTION AND MAINTENANCE  
PURPOSES = 10,193 SQ.FT.

RECORD OF SURVEY  
INST. #381913

LOT 1  
BLOCK 4

ST. ELMO  
MINE ROAD

RAMEY RANCH  
ADDITION TO  
OSBURN  
INST. #248719

LOT 1  
BLOCK 3

PARCEL 1

48N04E190760

AMENDED SHORT PLAT  
SP-027-92  
INST. #356146

PARCEL 2

48N04E190750

EX. WATERLINE EASEMENT  
PER INST. #380901

PARCEL 3

48N04E190790

48N04E190800

N69°58'44"W  
45.16'

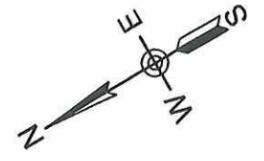


DRAWN BY: KF  
PROJECT NO: 13014-01-03  
DATE: 5/22/2013

EXHIBIT B  
ENVIRONMENTAL COVENANT & ACCESS AGREEMENT  
FOR CONSTRUCTION AND MAINTENANCE PURPOSES

477099

\\BARYE\kellogg\Projects\Engineering\Remedy Protection\2012 Basin RP Projects\Meyer Creek\CAD\DWG\Exhibits\Meyer Creek Storm Drain ESMT.dwg 2/6/2014



E. FIR AVE

EXISTING INLET STRUCTURE

EXISTING DETENTION POND

CONCRETE INLET STRUCTURE

CHDPE STORM DRAIN

ENVIRONMENTAL COVENANT & ACCESS AGREEMENT BOUNDARY

CENTRAL SHOSHONE COUNTY WATER DIST.  
48N04E190800

STORM DRAIN MANHOLE

EXISTING WATERLINE EASEMENT

CHDPE STORM DRAIN

ENVIRONMENTAL COVENANT & ACCESS AGREEMENT BOUNDARY

EXCAVATE & HAUL UNSUITABLE MATERIAL.  
RE-CONTOUR SLOPES TO EXISTING GRADES AND REMEDIATE WITH CLEAN TOPSOIL AND HYDROMULCH

S. KELLY  
48N04E190775

CHDPE STORM DRAIN

STORM DRAIN MANHOLE

DRAFT

NO.	DATE	REVISIONS	BY	CHK	DATE:	FEBRUARY 6, 2014	DATE:	FEBRUARY 7TH, 2014
					DRAWN:	J. WINKLESETH	COORDINATE SYSTEM:	NAD83, ISP, WEST ZONE, US FT
					ENGINEER:	S. BROWN	SCALE:	
					CHECKED:	D. McCracken	APPROVED:	D. FORSETH



MEYER CREEK  
REMEDY PROTECTION

ENVIRONMENTAL COVENANT  
& ACCESS AGREEMENT  
EXHIBIT C

SHEET NAME:	EC
DATE:	2/6/2014
PROJECT NO.:	14009-02-01
SHEET:	1 OF 1