

Recording Requested By and
When Recorded Return to:

Instrument # 198944

POWER COUNTY, IDAHO

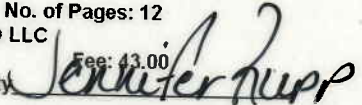
9-20-2010 11:31:01 No. of Pages: 12

Recorded for : FMC IDAHO LLC

CHRISTINE STEINLICHT

Ex-Officio Recorder Deputy

Fee: 43.00



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

FMC Idaho LLC ("FMC") as the owner of the Property described below grants this Environmental Covenant pursuant to the Uniform Environmental Covenants Act, Idaho Code §§ 55-3001 through 3015. FMC grants this Environmental Covenant to itself and its assigns as "holders" as defined at Idaho Code § 55-3002(6). 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. The U.S. Environmental Protection Agency ("EPA") and the Idaho Department of Environmental Quality (the "Department") are signing this Environmental Covenant as "agencies" as that term is defined in Idaho Code § 55-3002(2). The rights granted to EPA and the Department under UECA and this Environmental Covenant are not interests in real property and they are not "holders" under this Environmental Covenant.

Property. This Environmental Covenant concerns FMC-owned property located north of Highway 30 in Power County, Idaho that is within the FMC Plant Operable Unit of the Eastern Michaud Flats ("EMF") Superfund Site, a National Priorities List site under the federal Comprehensive Environmental Response, Compensation and Liability Act. The Property consists of Parcel 3 of the property conveyed to FMC under Instrument Number 174944 as recorded in the Power County recorder's office, also designated as Supplemental Remedial Investigation Addendum ("SRIA") Parcels 4, 5 and 6, and is legally described in the attached Schedule A (hereinafter referred to as the "Property"). The general location of the Property is shown on the map attached as Schedule B.

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

Reason for Activity and Use Limitations. FMC never conducted elemental phosphorus processing, phosphate ore handling or process waste management at the Property. However, its location directly north of other FMC property at which FMC carried out these operations prior to shutdown in 2001 and near the J.R. Simplot Company ("Simplot") phosphorus ore processing plant that remains in operation has caused soil and ground water contamination at the Property as detailed in the administrative record referenced below. EPA issued a Record of Decision ("ROD") in June 1998 that selected remedial action for the EMF Superfund Site including the Property, but EPA is reviewing that ROD with respect to the FMC Plant Operable Unit including what remedial action, if any, may be required at the Property. The Activity and Use Restrictions set forth herein are not inconsistent with the remedial action that EPA selected in the June 1998 ROD. EPA has concluded that it is appropriate to issue a Ready for Reuse Determination for the Property notwithstanding the current remedial action re-evaluation, based on the environmental characterization that FMC has conducted at the Property, the levels of soil and groundwater contaminants that have been found, the activity and use restrictions placed by this Environmental Covenant, and other factors. This Environmental Covenant supports the EPA Ready for Reuse Determination.

Name and Location of Administrative Record. A copy of the administrative record for the EMF Superfund Site, which encompasses the Property, can be found at the Idaho State University Library, 921 South 8th Avenue, Pocatello, Idaho 83209.

Activity and Use Limitations. By acceptance and recordation of this Environmental Covenant, FMC and any successors in interest (i.e., future owners of the Property or any portion thereof) are hereby restricted from using the Property, now or at any time in the future, as specifically set forth below:

1. The Property, and any portion thereof, shall not be used for any residential purposes, child care, hospitals, schools, churches or other religious premises, or residential use associated with commercial premises such as managers' housing at hotels or motels.
2. There shall be no extraction of ground water under the Property for human consumption that exceeds the Maximum Contaminant Levels prescribed by the federal Safe Drinking Water Act.
3. The Property shall not be used for growing fruits and vegetables for human consumption.

FMC or its successors in interest shall be solely 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, FMC or any successors in interest shall notify EPA and 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 FMC or any successors in interest, EPA and the 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 the Environmental Covenant to a new holder is an amendment.

Duration and Termination. The Activity and Use Limitations shall apply to the Property, or any subdivided portion thereof, in perpetuity unless FMC or its successors in interest apply to EPA and the Department to have this Environmental Covenant terminated pursuant to Idaho Code § 55-3010 and demonstrate that contaminated soils and ground water are at levels the EPA and the Department deem in writing to be adequate for the Property, or any subdivided portion thereof, 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 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 the Environmental Covenant shall be recorded in the Power County recorder's office. This Environmental Covenant shall be recorded by FMC or its successors in interest within fifteen (15) days of receipt of this Environmental Covenant signed by all parties. Any amendment or termination shall be recorded by the owner at that time within fifteen (15) days of receipt of such amendment or termination signed by all parties. Within thirty (30) days of the recording of this Environmental Covenant or any amendment or termination, FMC, its successors in interest or the owner at the time of amendment or termination shall provide to EPA and 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, 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 the owner at that time to the

following persons: (a) each person that signed the Environmental Covenant; (b) each person holding a recorded interest in the Property; (c) each person in possession of the Property; (d) Power County; and (e) any other person as EPA or the Department may require. 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. FMC, and/or any successors in interest, shall submit annually to the Department and EPA written documentation verifying that the activity and use limitations remain in place and compliance with the activity and use limitations.

Enforcement. EPA, the Department and any party to the Environmental Covenant shall have authority to enforce the Activity and Use Limitations against the owner at the time of a violation of this Environmental Covenant and any other person then using the Property. Failure to comply with any of the Activity and Use Limitations set forth herein shall be grounds for EPA, the Department, or their successors, to require the owner at that time to correct or remove any violations of this Environmental Covenant. Violation of this Environmental Covenant shall be grounds for EPA, the Department or their successors to file civil actions against the owner at that time 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 EPA, 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 rights of EPA, the Department or any holder to enforce such term.

Property Access. EPA and 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 after the closing of any conveyance of the Property, or part thereof, the conveyor of the Property shall provide written notice to EPA, the Department and Power County regarding the name and address of all the then owners and/or occupants of the Property, or part thereof, conveyed. EPA and 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 FMC or its successors, EPA or its successors, or the Department or its successors, may, from time to time, respectively, designate in a written notice given to the other parties. Notices that 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.

4/12

FMC IDAHO LLC: FMC Corporation
ATTN: Barbara Ritchie
Associate Director, Environmental
1735 Market Street
Philadelphia, Pennsylvania 19103

EPA: U.S. Environmental Protection Agency
ATTN: Kira Lynch
EMF Superfund Project Manager
Office of Environmental Cleanup (ECL-113)
1200 Sixth Avenue
Seattle, Washington 98101

THE DEPARTMENT: Idaho Department of Environmental Quality
ATTN: State Response Program Manager
1410 N. Hilton
Boise, Idaho 83706

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, EPA and the Department retain all of their access and enforcement authorities under any applicable statute or rule. Nothing in this Environmental Covenant shall affect the ability of EPA or the Department to enforce the terms of any consent decree or other agreement or order relating to remediation of the Property entered into between EPA and/or the Department, on the one hand, and FMC and/or other parties. Nothing in this Environmental Covenant shall affect the obligations of FMC or other parties under any consent decree or other agreement or order. Acceptance by EPA and the Department hereunder is based upon the information presently known or available to EPA and the Department with respect to the environmental condition of the Property, and EPA and the Department reserve the right to take appropriate action under applicable authorities in the event EPA or the Department determines that 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 Power County recorder's office.

Signature and Acknowledgments

Accepted:

Idaho Department of Environmental Quality

Signature: Toni Hardesty

Printed Name: Toni Hardesty

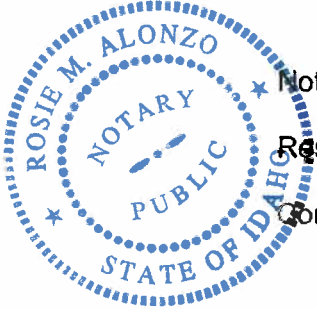
Title: Director, Idaho Department of Environmental Quality

Date: 9/2/10

State of Idaho)
) ss.
County of Ada)

On this 2 day of September, in the year 2010, before me, a Notary Public in and for said County and State, personally appeared Toni Hardesty, 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: Nampa, ID
Commission Expires: 1/30/2015

4/12

Signature and Acknowledgments

Accepted:

FMC Idaho LLC

Signature: 

Printed Name: John T. Bartholomew

Title: President

Date: 8/9/2010

State of Pennsylvania)
) ss.
County of Philadelphia)

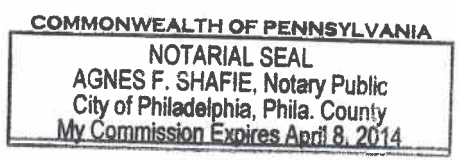
On this 9th day of August, in the year 2010, before me, a Notary Public in and for said County and State, personally appeared John T. Bartholomew, known or identified to me to be the President of FMC Idaho, LLC that executed this Environmental Covenant, and acknowledged to me that FMC Idaho LLC executed 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 Agnes F. Shafie : _____

Residing at: FMC Corporation, 1735 Market Street, Philadelphia PA 19103

Commission Expires: April 8, 2014



8/13

