

Recording Requested By and
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Timothy A. Haley
Barnes & Thornburg
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Instrument # 592253

HAILEY, BLAINE, IDAHO
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JOLYNN DRAGE Fee: 43.00
Ex-Officio Recorder Deputy
Index to: COVENANTS & RESTRICTIONS

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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 DeNovo Independence LLC, a Delaware limited liability company, ("DeNovo"), and the Idaho Department of Environmental Quality ("Department") pursuant to the Uniform Environmental Covenants Act, Idaho Code §§ 55-3001 through 3015, and pursuant to the Voluntary Remediation Work Plan submitted by DeNovo, and approved by the Department. DeNovo believes that it satisfies all requirements to qualify as a "bona fide prospective purchaser" under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et. seq.*, because it performed "all appropriate inquiries" and because it intends that the remediation work performed under the VCP (including the restrictions set forth herein) will satisfy any requirement to take "reasonable steps". This Environmental Covenant sets forth protective provisions, covenants, restrictions and conditions (collectively referred to as "Activity and Use Limitations") on the Property described below, which has been referred to as the Independence Neighborhood Area in the course of DeNovo's environmental remediation work at the Property. The Activity and Use Limitations are designed to protect natural resources, human health and the environment. DeNovo is a "holder" as defined in Idaho Code § 55-3002(6), and as the current property owner, grants this Environmental Covenant to all signatories to this instrument.

Property. This Environmental Covenant concerns real property in County of Blaine, State of Idaho, legally described in the attached Schedule A (hereafter referred to as "the Property"). A Map of the Property is attached as Schedule B.

Property Ownership. DeNovo 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 which it acquired on October 6, 2008, and DeNovo has the power and authority to enter into this Environmental Covenant.

Reason for Activity and Use Limitations. On December 2, 2008, the Department executed a Voluntary Remediation Agreement with DeNovo to remediate residual impacts of waste remaining from the former mining activities at neighboring real estate. As part of the work performed at a neighboring parcel,

DeNovo performed limited groundwater sampling at the Property. Groundwater sampled met all applicable state drinking water quality standards. Given the potential that contaminated groundwater may migrate onto the property, this Environmental Covenant is imposed to ensure that prior to using groundwater for human consumption, the then-current owner confirms that groundwater used for human consumption meets applicable state and federal drinking water requirements.

Name and Location of Administrative Record. A copy of the environmental file for the Property can be found at the Department's State Office at 1410 North Hilton, Boise, Idaho 83706.

Activity and Use Limitations. By acceptance and recordation of this Environmental Covenant, DeNovo, and each future owner of any right, title or interest in, or lien or encumbrance against, the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, installment contract buyers, mortgagees, easement holders and/or lessees acquiring or owning any right, title, lien or interest in, or possessing any portion of, the Property and their respective heirs, successors, assigns, personal representatives, executors, administrators and devisees (collectively, the "Bound Parties") are hereby restricted from using the Property, now or at any time in the future, in the manner specifically set forth below:

There shall be no extraction of groundwater for drinking water purposes under the Property until the owner ensures that groundwater meets applicable state and federal drinking water criteria pursuant to Blaine County Code 10-5-1.F.1.a. (1998) Prior to using the groundwater for purposes other than drinking water, the current property owner shall consult with DEQ to verify the intended use does not pose a threat to human health or the environment.

Breach and Cure of Activity and Use Limitations. The owners and occupants of the Property shall be responsible for demonstrating that use of the Property is in conformity with the Activity and Use Limitations set forth above throughout the duration of their ownership and/or occupancy. If any event or action occurs that constitutes or may constitute a breach of the activity and use limitations, the 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 the Owner or any successors in interest, and Department. All other uses are permitted in accordance with all applicable local, state and federal laws, ordinances and rules

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, an 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 terminated by court action as provided in Idaho Code § 55-3009 or by consent pursuant to Idaho Code § 55-3010. DeNovo, or its successors in interest, may seek consent to terminate any or all of 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:

1. the Property or any subdivided portion thereof is shown in a Department-approved document not to contain contaminated soils or groundwater; or
2. contaminated soils and groundwater are at levels the Department deems in writing to be

adequate for the Property 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 Bound Parties. Each and all of the Activity and Use Limitations are imposed upon the entire Property unless expressly stated as applicable solely to a specific portion of the Property.

Concurrence of Subsequent Owners, Etc. Presumed. All Bound Parties, including without limitation, any purchasers, lessees, or possessors of any portion of the Property, shall be deemed by their purchase, leasing, possession or other taking of any right, title or interest in 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 Official Records of Blaine County Idaho. The Environmental Covenant or any amendment or termination shall be recorded by DeNovo, or the then-current owner(s) of fee simple title thereto, within thirty (30) days of receipt of this Environmental Covenant or any amendment or termination of this Environmental Covenant signed by the Department. Within thirty (30) days of the recording of this Environmental Covenant, or any amendment or termination, DeNovo, or the then-current owner(s) of fee simple title thereto, 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 DeNovo, or the then-current owner(s) of fee simple title thereto, to the following persons:

- each person that signed the Environmental Covenant;
- each person holding a recorded interest in the Property;
- each person in possession of the Property pursuant to a lease or written occupancy agreement;
- each municipality or other local government in which the Property is located; and
- 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. If groundwater wells are installed, Owner[s] or/and any successors in interest, shall submit to the Department written documentation verifying that the groundwater meets applicable state and federal drinking water standards.

Enforcement. The Department and any holder shall have authority, to enforce the Activity and Use Limitations against DeNovo, its successors-in-interest, or the other Bound Parties, including subsequent owners of the Property and any other person using the Property who have violated the Activity and Use Limitations. Failure of any of the Bound Parties to comply with any of the Activity and Use Limitations set forth herein shall be grounds for the Department, or its successor, to require that the then-current owner of the Property to correct or remove any violations of this Environmental Covenant. Violation of this Environmental Covenant shall be grounds for the Department, or its successor, to file civil actions against the then-current owner of fee simple title to the Property and other Bound Parties in violation

hereof 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 by any of the Bound Parties 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 and/or its agents shall have a right of access to the Property at reasonable times for the purposes of evaluating compliance with this Environmental Covenant.

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 DeNovo or any of the Bound Parties or their 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.

DENOVO

DeNovo Independence LLC
1300 Randolph Street
Chicago IL 60607

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 Property, 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 Property entered into between the Department and DeNovo or any other responsible party. Nothing in this Environmental Covenant shall affect the obligations of DeNovo 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 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.

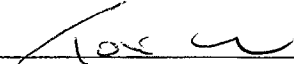
Effective Date. The effective date of this instrument shall be the date the fully executed Environmental Covenant is recorded at the county recorder's office.

[SIGNATURE PAGES FOLLOW]

Signature and Acknowledgments

Accepted:

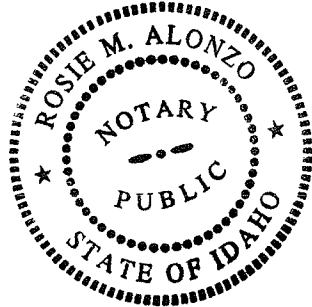
Idaho Department of Environmental Quality

Signature: 
 Printed Name: Toni Hardesty
 Title: Director, Idaho Department of Environmental Quality
 Date: 11/7/11

State of Idaho)
) ss.
 County of Ada)

On this 7 day of November, in the year _____, 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, Idaho
 Commission Expires: 11/30/2015

Signature and Acknowledgments

Accepted:

DeNovo Independence LLC

Signature: _____

Printed Name: _____

Title: _____

Date: _____

[Handwritten Signature]

State of ^{FL}Idaho, county of ^{Cook}....., ss.

On this ^{5th} day of ^{Aug}....., in the year ²⁰¹¹....., before me (here insert the name and quality of the officer), personally appeared ^{Jonathan Markoff}....., known or identified to me (or proved to me on the oath of), to be the manager or a member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company 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.



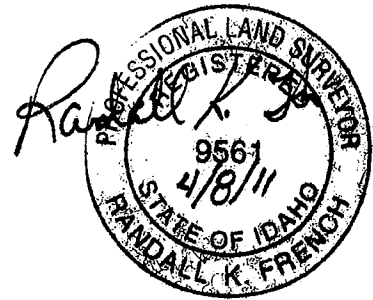
Notary Public for Idaho: ^{FL}*[Signature]*
Residing at: _____
Commission Expires: ¹²⁻¹⁹⁻¹¹_____

Schedule A

Legal Description of the Property

Legal Description of:

INDEPENDENCE NEIGHBORHOOD AREA



Sections 22 & 23, T.4N.,
R.18E., B.M., Blaine County, Idaho

A parcel of land situated in Sections 22 and 23, Township 4 North, Range 18 East, Boise Meridian, Blaine County, Idaho more particularly described as follows;

All of the Harper MS No. 2907, all of the Ben Harrison MS No. 1239, all of the Midland MS No. 1239, a portion of the Eula MS No. 2907, a portion of the Edhem Pasha MS No. 1239, a portion of the Union MS No. 1239, all of the Chicago MS No. 2907 and a portion of the Western MS No. 1239, said parcel being more particularly described as follows;

Commencing at the west corner of Government Lot 14 in said Section 23 as shown on the Record of Survey recorded under Instrument Number 561929, said corner being the Point of Beginning;
Thence N44°38'40"W, 258.34 feet along the southwest boundary of the Ben Harrison; thence N90°00'00"W, 843.45 feet to the southwest boundary of the Union; thence N44°13'12"W, 1052.89 feet to the west corner of the Union; thence N06°55'26"W, 975.24 feet to the north corner of the Union; thence N44°22'19"W, 299.90 feet to the west corner of the Midland; thence N84°25'11"E, 513.79 feet along the north boundary of the Midland to the west boundary of the Chicago; thence N15°55'32"W, 446.34 feet to the northwest corner of the Chicago; thence N89°04'16"E, 1497.68 feet to the northeast corner of the Chicago; thence S16°00'40"E, 594.98 feet to the southeast corner of the Chicago; thence S15°58'59"E, 476.18 feet along the east boundary of the Harper to the north boundary of the Eula; thence S23°40'31"E, 1642.66 feet to the southeast corner of the Ben Harrison; thence S83°10'51"W, 760.00 feet along the south boundary of the Ben Harrison to the Point of Beginning.

The above described parcel contains approximately 107.62 acres (4,688,030 sq ft).

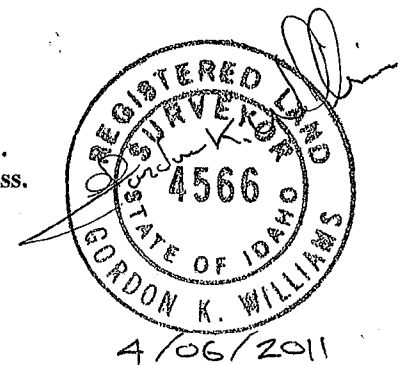
Excepting therefrom: Government Lot 10, Section 23

A parcel of land situated in Section 23, Township 4 North, Range 18 East, B.M., Blaine County, Idaho, being more particularly described as follows:

Commencing at the west one-quarter (W 1/4) corner of said Section 23, being marked a BLM brass cap, from which the northwest corner of said Section 23, being marked a BLM brass cap, bears North 00°14'05" East, 2630.74 feet and proceeding North 40°41' 19" East, 633.97 feet to an aluminum cap, PLS 9561 & 4566 being a point on the south line of Patented Mineral Claim Harper, Mineral Survey 2907 and the Point of Beginning;
Thence North 89°01' 53" East, 138.18 feet along the southerly line of the Patented Mineral Claim Harper, Mineral Survey 2907, to a BLM brass cap also marking Corner No.2 of the Patented Mineral Claim Eula, Mineral Survey 2907;
Thence South 15°56'22" East, 208.88 feet along the west line of the Patented Mineral Claim Eula, Mineral Survey 2907 to an aluminum cap, PLS 9561 & 4566;
Thence North 44°33'55" West, 278.63 feet to the Point of Beginning.

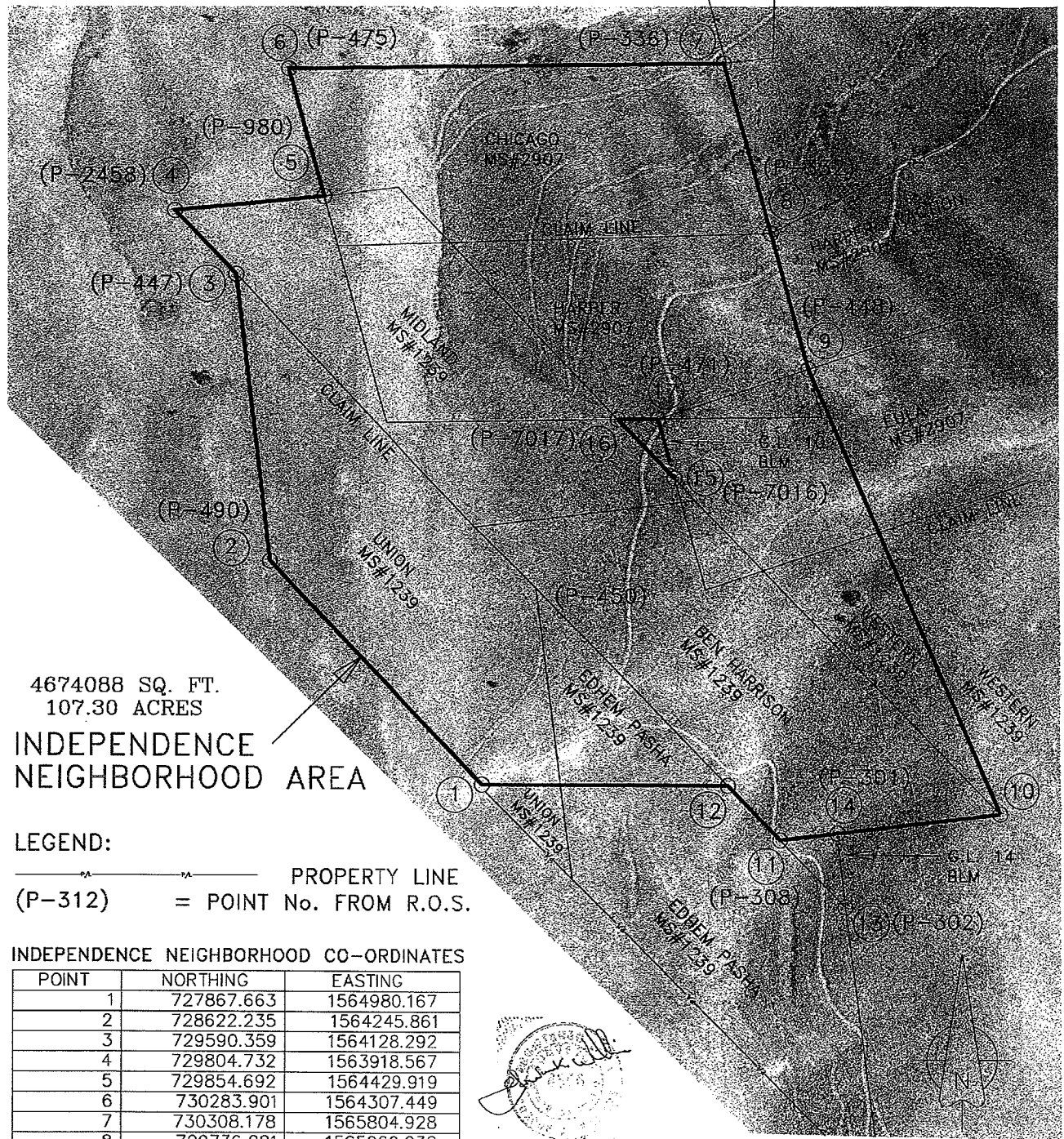
This above described parcel contains approximately 0.32 acres (13,942 square feet).

**Gross area of the Independence Neighborhood Area is 107.62 acres, more or less.
Exception area of the Independence Neighborhood Area is 0.32 acres, more or less.
Net area of the Independence Neighborhood Area is 107.30 acres, more or less.**



Schedule B

Map of the Property



4674088 SQ. FT.
107.30 ACRES

INDEPENDENCE NEIGHBORHOOD AREA

LEGEND:

————— PROPERTY LINE
(P-312) = POINT No. FROM R.O.S.

INDEPENDENCE NEIGHBORHOOD CO-ORDINATES

POINT	NORTHING	EASTING
1	727867.663	1564980.167
2	728622.235	1564245.861
3	729590.359	1564128.292
4	729804.732	1563918.567
5	729854.692	1564429.919
6	730283.901	1564307.449
7	730308.178	1565804.928
8	729736.281	1565969.038
9	729278.509	1566100.156
10	727774.101	1566759.774
11	727683.862	1566005.150
12	727867.663	1565823.616
13	727457.097	1566230.157
14	727707.352	1566201.586
15	728906.719	1565639.297
16	729105.232	1565443.773
17	729107.568	1565581.934

Gordon K. Williams
3/10/2011

SEC. 22 & 23, T4N, R18E, B.M.
BLAINE COUNTY, IDAHO
SEE RECORD OF SURVEY (R.O.S.)
INSTRUMENT No. 561929

FIGURE 7-7

INSTITUTIONAL CONTROLS
DENOVO INDEPENDENCE

