

Instrument # 285157

TETON COUNTY, IDAHO

5-16-2024 01:30:00 PM No. of Pages: 11

Recorded for : STATE OF IDAHO DEQ

KIM KEELEY

Fee: 0.00

Ex-Officio Recorder Deputy

Index to: MISCELLANEOUS RECORDING



Recording Requested By and
When Recorded Return to:

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

James and Karen Hartshorn, GRANTOR, grant this Environmental Covenant. As provided in Idaho Code §55-3008, James and Karen Hartshorn are the GRANTEE.

This instrument is an Environmental Covenant ("Environmental Covenant") executed by James and Karen Hartshorn 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. James and Karen Hartshorn are also "holders" as defined in Idaho Code § 55-3002(6). James and Karen Hartshorn, as the current property owners grant this Environmental Covenant to all signatories to this instrument.

Property. This Environmental Covenant concerns real property located at 120 West Little Avenue, city of Driggs, county of Teton, state of Idaho, parcel number RPA00000352863A (hereafter referred to as "the Property"). The Property is legally described in the attached Schedule A.

Property Ownership. James and Karen Hartshorn hereby represent and warrant to the other signatories to this Environmental Covenant that they are the sole owners of the property, hold fee simple title to the property and James and Karen Hartshorn have the power and authority to enter into this Environmental Covenant.

Reason for Activity and Use Limitations. From 1952 until November 2021, the Property was occupied by a bulk-fuel (petroleum) storage facility comprised of six above-ground storage tanks, a pump house to off-load bulk fuel, and a card-lock dispenser. Multiple small petroleum releases were reported or known to have occurred around the off-loading and fuel dispenser locations. In 2015 approximately 250 cubic yards of petroleum contaminated soil was encountered and removed during road construction activities along West Little Road. Subsequent site investigations activities were conducted to assess the extent of the subsurface petroleum contamination. As part of the investigations, two off-site and one on-site groundwater monitoring wells were installed and monitored. This Environmental Covenant is required

because residual concentrations of benzene, toluene and ethylbenzene 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 the Hartshorn Oil file, electronic data management system file number 2015BAZ189, can be found at the Idaho Department of Environmental Quality Idaho Falls Regional Office, 900 N. Skyline Drive, Suite B, Idaho Falls, ID 83402.

Activity and Use Limitations. By acceptance and recordation of this Environmental Covenant, James and Karen Hartshorn, 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. 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. James and Karen Hartshorn, or their 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, James and Karen Hartshorn, 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 James and Karen Hartshorn, 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. James and Karen Hartshorn, or their 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 is 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 the Holders to determine their 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 Holders waive 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, 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 Teton County Recorder's Office. This Environmental Covenant or any amendment or termination shall be recorded by James and Karen Hartshorn, or their 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, James and Karen Hartshorn, or their 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 James and Karen Hartshorn, or by their 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. James and Karen Hartshorn, or their 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 James and Karen Hartshorn, or their successors in interest, including subsequent owners of the Property and any other person using the Property. Failure of James and Karen Hartshorn, or their 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 James and Karen Hartshorn 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 James and Karen Hartshorn, or their 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 purpose 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: James and Karen Hartshorn
P O Box 668
Driggs, Idaho 83422

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 James and Karen Hartshorn, or any other responsible party. Nothing in this Environmental Covenant shall affect the obligations of James and Karen Hartshorn, 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 Acknowledgment
Accepted:

Property Owner

Signatures: Karen Hartshorn

Printed Name: Karen Hartshorn

Title: Property Owner

Date: 9 April 2024

State of Nevada, county of Clark, ss.

On this 9th day of April, in the in the year 2024, before me, a Notary Public in and for said County and State, personally appeared Karen Hartshorn, known or identified to me to be the property owner 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 Kelly Cronkleton
Residing at: Overton, NV
Commission Expires: 4-29-2024



Signature and Acknowledgment
Accepted:

Property Owner

Signatures:

James Hartshorn

Printed Name: James Hartshorn
Title: Property Owner
Date: 4-9-24

State of Nevada, county of Clark, ss.

On this 9th day of April, in the in the year 2024, before me, a Notary Public in and for said County and State, personally appeared James Hartshorn, known or identified to me to be the property owner 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 Kelly Cronkleton
Residing at: Overton, NV
Commission Expires: 4-29-2024



Schedule A Property Deed

Instrument # 267173
TETON COUNTY, IDAHO
03-22-2021 14:45:00 No. of Pages: 2
Recorded for: FIRST AMERICAN TITLE - DRIGGS
KIM KEELEY Fee: \$16.00
Ex-Officio Recorder Deputy, Kim Keeley
Index to: DEED, WARRANTY

RECORDING REQUESTED BY
James and Karen Hartshorn

AND WHEN RECORDED MAIL TO:
James and Karen Hartshorn
P.O. Box 668
Driggs Idaho 83422

Space Above This Line for Recorder's Use Only

WARRANTY DEED

For Value Received, **David L. Hartshorn aka David Hartshorn and Janice B. Hartshorn, husband and wife**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **James Hartshorn and Karen Hartshorn, husband and wife**, hereinafter called the Grantee, whose current address is **P.O. Box 668, Driggs Idaho 83422**, the following described premises, situated in Teton County, Idaho, to-wit:

Beginning 553 Feet West of the North Quarter Corner of Section 35, Township Five (5) North, Range 45 East, Boise Meridian, running thence west 90 feet, thence south 120.5 feet, thence east 90 feet, thence North 120.5 feet to the point of beginning.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances, unto the said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

