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State of Nebraska Gage County ss. Entered
Numerical Index and filed for record the
12 day of Apr, 2023
at 01:50 o'clock PM, and recorded as
INSTRUMENT NO. **2023-01006**

K-186C
0-51

REGISTER'S NOTE: FILE
AS-IS PER SUBMITTER



Register of Deeds

Pages 10 By KT
Recording Fees \$64.00
Totals Fees \$64.00

RETURN TO: Michael S. Mostek, 1111 N. 13th St. #305, Omaha, Nebraska 68102
Space Above for Record's Use Only

For Signature

ENVIRONMENTAL COVENANT

This Environmental Covenant is executed this 1st day of March, 2023, by **ROBERT L. TIEMANN and BARBARA J. TIEMANN** (collectively the "Grantor") and **ROBERT L. TIEMANN and BARBARA J. TIEMANN** (collectively the "Holder/Grantee"), pursuant to the Nebraska Uniform Environmental Covenants Act, Neb. Rev. Stat. §§76-2601 to 76-2613.

RECITALS:

A. Grantor is the owner of real property (the "Property") located in Beatrice, Nebraska, legally described as follows:

See Exhibit "A" attached hereto

B. Holder/Grantee is **ROBERT L. TIEMANN and BARBARA J. TIEMANN**.

C. The Property has been used for a manufacturing facility which was the site of release(s) of certain hazardous substances, pollutants or contaminants.

D. The Property is the subject of an environmental response project or action pursuant to the Nebraska Voluntary Cleanup Program authorized by the Remedial Action Plan Monitoring Act, Neb. Rev. Stat. §§81-15,181 to 81-15,188 ("RAPMA") due to the existence of "water pollution" and "land pollution," as defined by Neb. Rev. Stat. §81-15,182(1) and (2) at the Property. The environmental response project is being conducted by **HOOVER GROUP, INC.**, a Delaware corporation ("Hoover"), Grantee's immediate predecessor in title.

E. The Agency, as defined in Neb. Rev. Stat. § 76-2602, is the Nebraska Department of Environment and Energy ("NDEE" or the "Agency").

F. The selected environmental response project or action is documented in an Interim Remedial Action Plan prepared by Hoover that has been approved by the Agency, and will be subject to a Final Remedial Action Plan pending approval by the Agency. The administrative record for the Property is available to the public and is available online at <http://dee.ne.gov> by selecting "Public Records Search" at the bottom of the NDEE webpage and providing the site-specific Facility Number "86076" and the Program "RAP".

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NOW, THEREFORE,

Grantor hereby declares that the Property will hereinafter be bound by, held, sold and conveyed subject to the following terms, conditions, obligations and restrictions set forth herein, which will run with the land, in perpetuity, unless amended or terminated pursuant to Paragraph 11 below.

1. Representations and Warranties. Grantor warrants to the other signatories to this Covenant that:

- a. The Grantor is the sole fee title owner of the Property;
- b. The Grantor holds sufficient fee title to the Property to grant the rights and interests described in this Environmental Covenant free of any conflicting legal and equitable claims; and
- c. The Grantor has identified all other persons holding legal or equitable interests, including but not limited to contract buyers, mortgage holders, other consensual lien holders, and lessees and secured their consent.

2. Purpose. The purpose of this Environmental Covenant is to ensure protection of human health and the environment by minimizing the potential for exposure to the contamination that remains on the Property and to ensure that the Property is not developed, used, maintained or operated in a manner incompatible with the approved remediation.

3. Running with the Land. This Environmental Covenant is perpetual and conveys to the Holder/Grantee real property rights that run with the land and gives to the Agency the right to enforce the activity and use limitations described in Paragraph 4 below. The terms, conditions, obligations, and limitations in this Environmental Covenant are binding on Grantor, its successors, heirs, executors, assigns, and transferees, and all persons, corporations or other entities obtaining or succeeding to any right, title or interest in the Property after the effective date of this Environmental Covenant. All real estate, lots, or parcels located within the Property are subject to the terms, conditions, obligations and limitations in this Environmental Covenant. Acceptance of any conveyance, transfer, lease or sublease of the Property, or any part thereof, will bind each transferee, its heirs, executors, successors, transferees and assigns to the terms, conditions, obligations, and limitations set forth herein during their respective period of ownership or occupancy, as applicable. Notice of any transfer of any interest in the Property must be promptly provided to the Agency by the transferor. Grantor is bound by the terms, conditions, obligations and limitations in this Environmental Covenant only during its period of ownership or occupancy after the effective date. This Environmental Covenant in no way amends, modifies, limits, or releases Grantor from its duties and obligations, if any, under the approved environmental response project or action.

4. Activity and Use Limitations. The Property is subject to the following activity and use limitations:

- a. The Property shall not be used for residential, childcare or school uses;
- b. Extraction and use of groundwater underlying the Property, except for investigation or remediation approved by the NDEE is prohibited;

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- c. The cement slab and foundations underlying the main building on Parcel 1 shall not be modified or removed except in accordance with an approved Materials Management Plan, which will be included as an appendix to the Final Remedial Action Plan.
 - d. Prior to engaging in any construction activity in the areas exhibiting the potential for vapor intrusion into substructures, a plan must be submitted to and approved by NDEE that describes how vapor intrusion will be evaluated and potentially mitigated prior to construction. If a passive vapor barrier or active vapor mitigation system is constructed as part of the Final Remedial Action Plan to reduce the potential for vapor intrusion, then such barrier or system shall be continuously maintained and operated.
5. Reserved Rights of Grantor. Grantor hereby reserves unto itself and its successors all rights and privileges in and to the use of the Property which are not incompatible with the limitations set forth herein.
6. Compliance Reporting. One year from the effective date of this Environmental Covenant, and on an annual basis thereafter until such time as this Environmental Covenant is terminated, the then-current fee simple owner of the Property shall submit to the Agency written documentation verifying that the activity and use limitations remain in place and are being complied with. Any signatory to this Environmental Covenant shall notify the Agency as soon as possible of conditions that would constitute a breach of the activity and use limitations.
7. Enforcement. The terms of this Environmental Covenant may be enforced in a civil action for injunctive or other equitable relief by Holder/Grantee and by the Agency in accordance with Neb. Rev. Stat. §76-2611. Failure to exercise such rights of enforcement will in no event bar subsequent enforcement and shall not be deemed a waiver of any right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict or limit the Agency from exercising any authority under applicable law. The prevailing party in any action to enforce any provision of this Environmental Covenant is entitled to recover all costs of such action, including reasonable attorney fees. Any Holder/Grantee and the Agency shall be entitled to recover damages for violations of this Environmental Covenant or for any injury to the remedial action required by the Agency, to the public or to the environment protected by this Environmental Covenant.
8. Rights of Access. Grantor and any then-current owner hereby grants to the Agency, its agents, contractors, and employees, the right of access to the Property to monitor compliance with the terms, conditions, obligations, and limitations of this Environmental Covenant. Nothing in this Environmental Covenant shall limit or otherwise affect the Agency's right of entry and access or the Agency's authority to take response actions under applicable law.
9. Notice Upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property, including but not limited to, deeds, leases, and mortgages, shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recording information for this Environmental Covenant. The notice shall be in substantially the form set forth below. Within thirty (30) days of the date any such instrument of conveyance is executed, the Grantor or then-owner must provide the Agency with a certified copy of said instrument and its recording reference in the Gage County Register of Deeds.

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NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT DATED _____, RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS OF GAGE COUNTY, NEBRASKA ON _____, IN [DOCUMENT _____, BOOK _____, PAGE _____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

Activity and Use Limitations. The Property is subject to the following activity and use limitations:

- a. The Property shall not be used for residential, childcare or school uses;
- b. Extraction and use of groundwater underlying the Property, except for investigation or remediation approved by the NDEE is prohibited;
- c. The cement slab and foundations underlying the main building on Parcel 1 shall not be modified or removed except in accordance with an approved Materials Management Plan, which will be included as an appendix to the Final Remediation Action Plan.
- d. Prior to engaging in any construction activity in the areas exhibiting the potential for vapor intrusion into substructures, a plan must be submitted to and approved by NDEE that describes how vapor intrusion will be evaluated and potentially mitigated prior to construction. If a passive vapor barrier or active vapor mitigation system is constructed as part of the Final Remedial Action Plan to reduce the potential for vapor intrusion, then such barrier or system shall be continuously maintained and operated.

10. Waiver of Certain Defenses. The persons and entities bound by this Environmental Covenant hereby waive any defense to the enforcement of this Environmental Covenant based on laches, estoppel, statute of limitations, or prescription.

11. Amendment and Termination. Amendment or termination of this Environmental Covenant shall comply with Neb. Rev. Stat. §76-2610. The terms of this Environmental Covenant may be modified or terminated by written consent of the Director of the Agency, the then current fee simple title owner, and all original signatories unless exempted by Neb. Rev. Stat. § 76-2610. The amendment or termination is not effective until the document evidencing consent of all necessary persons is properly recorded. If not by consent, any amendment or termination of this Environmental Covenant shall be as provided by Neb. Rev. Stat. § 76-2609 and such additional terms as specified in this Environmental Covenant. As provided in Neb. Rev. Stat. § 76-2610(c), except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment.

12. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

13. Captions. The captions in this Environmental Covenant are for convenience and reference only and are not a part of this instrument and shall have no effect upon construction or interpretation.

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14. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Nebraska.

15. Recordation. Within thirty (30) days after the date of the Agency's approval of this Environmental Covenant, the Grantor shall record the Environmental Covenant, in the same manner as a deed to the Property, with the Gage County Register of Deeds.

16. Effective Date. The effective date of this Environmental Covenant is the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Gage County Register of Deeds.

17. Distribution of Environmental Covenant. Within sixty (60) days of the effective date, the Grantor shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: Grantor, Grantee/Holder, the Agency, the City of Beatrice, any persons holding a recorded interest in the Property, and any other person the Agency requires.

18. Notice. Unless otherwise notified in writing by the Agency, any document or communication required by this Environmental Covenant shall be submitted to:

If to the Agency:

Nebraska Dept. of Environment
and Energy
245 Fallbrook Blvd., Suite 100
Lincoln, NE 68521

If to Grantor and/or Holder/Grantee:

Robert and Barbara Tiemann
2401 Centennial Drive
Beatrice, NE 68310

With a copy to:

NELSON, CLARK & TIMAN, P.C.
Attention: James L. Nelson
1025 N 6th Street, Suite 2
Beatrice, Nebraska 68310
Phone: (402) 228-8900
Fax: (402) 228-6917
E-Mail: jim@nctlaw.net

ACKNOWLEDGEMENTS


GRANTOR AND HOLDER/GRANTEE

IN WITNESS WHEREOF, Grantor, as the owner of the Property and the Holder of this Environmental Covenant, has caused this Environmental Covenant to be executed on this 1st day of March, 2023.

GRANTOR AND HOLDER/GRANTEE:



 Robert L. Tiemann



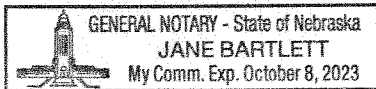
 Barbara J. Tiemann

STATE OF Nebraska)
)
 COUNTY OF Gage)

The foregoing instrument was acknowledged before me this 1st day of March, 2023, by Robert L. Tiemann.

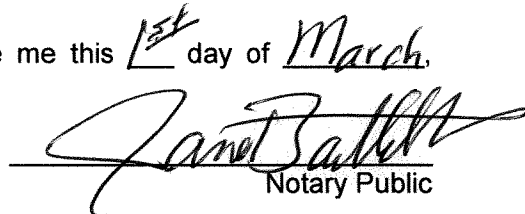


 Notary Public

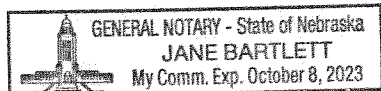


STATE OF Nebraska)
)
 COUNTY OF Gage)

The foregoing instrument was acknowledged before me this 1st day of March, 2023, by Barbara J. Tiemann.



 Notary Public

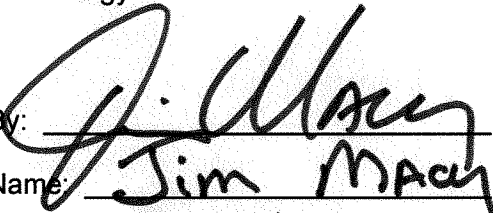


AGENCY

IN WITNESS WHEREOF, NDEE, as an Agency defined in Neb. Rev. Stat. § 76-2602(2), is not a party to this Environmental Covenant and does not acquire or assume any liability, obligation, or responsibility under state or federal law by virtue of signing this Environmental Covenant, nor is NDEE a Holder under Neb. Rev. Stat. §§ 76-2602(6) and 76-2603(a).


AGENCY:

Nebraska Department of Environment
and Energy

By: 
Name: Jim Macy
Its: Director

STATE OF Nebraska)
)
COUNTY OF Lancaster)

The foregoing instrument was acknowledged before me this 20 day of March, 2023, by Jim Macy, the Director of the Nebraska Department of Environment and Energy, having acknowledged that s/he holds the position set forth above and that s/he signed the instrument on behalf of the Nebraska Department of Environmental and Energy by proper authority and that the instrument was the act of such entity for the purpose therein stated.


Notary Public

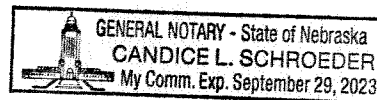


EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

INSTRUMENT NO. 2023-01006

The land referred to herein is described as follows:

Parcel 1:

The East Half of Lots 1 and 2, First Addition to South Beatrice, Lots 1 through 11 inclusive and Lots 13 through 21 inclusive, Block 12, Second Addition to South Beatrice, all of the vacated alley in said Block 12, the South 12.50 feet of Perkins Street adjacent to said Block 12, and the West 19.50 feet of 8th Street lying between the South line of Perkins Street and the Northeast Right of Way line of the abandoned Union Pacific Railroad Right of Way, and a part of the abandoned Chicago, Rock Island and Pacific Railroad Right of Way in the Northwest Quarter of Section 3, Township 3 North, Range 6 East of the 6th Principal Meridian, Gage County, Nebraska, and being more particularly described as follows:

For the purpose of this legal description, the basis of bearings is the North line of the East Half of Lot 1, First Addition to South Beatrice, having an assumed reference bearing of N 89°43'25" W.

Beginning at a 5/8" Rebar marking the Northeast Corner of the East Half of Lot 1, First Addition to South Beatrice; thence westerly N 89°43'25" W, on the North line of the East Half of said Lot 1, 149.98 feet, to a 5/8" Rebar marking the Northwest Corner of the East Half of said Lot 1; thence southerly S 00°12'53" W, on the West line and the southerly extension of the West line of the East Half of Lots 1 and 2, First Addition to South Beatrice, 277.36 feet, to a 5/8" Rebar marking a point of intersection on the Northeast Right of Way line of the abandoned Union Pacific Railroad; thence southeasterly S 59°15'16" E, on said Northeast Right of Way line, 661.51 feet, to a point of intersection on the centerline of 8th Street; thence northerly N 00°13'38" E, on said centerline, 64.40 feet, to a point of intersection on the Northeast Right of Way line of the abandoned Chicago, Rock Island and Pacific Railroad; thence northwesterly N 59°16'20" W, on said Right of Way line, 23.79 feet, to a point of intersection on the East line of the West 19.50 feet of the 8th Street Right of Way; thence northerly N 00°13'22" E, on the East line of the West 19.50 feet of the 8th Street Right of Way, 536.75 feet, to a 5/8" Rebar marking a point of intersection of the East line of the West 19.50 feet of the 8th Street Right of Way with the easterly extension of the South Right of Way line of Perkins Street; thence westerly S 89°48'53" W, on the easterly extension of the South Right of Way line of Perkins Street, 19.46 feet, to the Northeast Corner of Lot 1, Block 12, Second Addition to South Beatrice; thence northerly N 01°01'07" E, on the northerly extension of the West Right of Way line of 8th Street, 12.44 feet, to a 5/8" Rebar marking a point of intersection of the West Right of Way line of 8th Street with the North line of the South 12.50 feet of the Perkins Street Right of Way; thence westerly N 89°43'38" W, on the North line of the South 12.50 feet of the Perkins Street Right of Way, 300.01 feet, to a 5/8" Rebar marking the point of intersection of the North line of the South 12.50 feet of the Perkins Street Right of Way with the East Right of Way line of 7th Street; thence southerly S 00°14'44" W, on the East Right of Way line of 7th Street, 361.10 feet, to a 5/8" Rebar; thence southerly S 00°07'25" W, on the East Right of Way line of 7th Street, 6.02 feet, to a 5/8" Rebar marking a point of intersection of the East Right of Way line of 7th Street with the Northeast Right of Way line of the abandoned Chicago, Rock Island and Pacific Railroad; thence northwesterly N 59°19'15" W, on said Right of Way line, 178.41 feet, to a 5/8" Rebar marking a point of intersection of the Northeast Right of Way line of the abandoned Chicago, Rock Island and Pacific Railroad with the South line of the East Half of Lot 2, Second Addition to South Beatrice; thence easterly S 89°45'37" E, on the South line of the East Half of said Lot 2, 73.84 feet, to a 5/8" Rebar marking a point of intersection of the South line of the East Half of said Lot 2 with the West Right of Way line of 7th Street, said point also being the Southeast Corner of said Lot 2; thence northerly N 00°13'08" E, on the West Right of Way line of 7th Street, said line also being the East line of Lots 1 and 2, Second Addition to South Beatrice, 264.12 feet, to a 5/8" Rebar marking the Northeast Corner of the East Half of Lot 1, said Corner also being the True Point of Beginning.

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Parcel 2:

All of Lot 12, Block 12, Second Addition to South Beatrice, and a part of the Republican Valley Railroad Right of Way across the West Half of the Northwest Quarter of Section 3, Township 3 North, Range 6 East of the 6th Principal Meridian, Gage County, Nebraska, adjacent to said Lot 12, and being more particularly described as follows:

For the purpose of this legal description, the basis of bearings is the West line of said Lot 12, Second Addition to South Beatrice, having an assumed reference bearing of S 00°12'10" W.

Beginning at a 5/8" Rebar marking the Northwest Corner of Lot 12, Second Addition to South Beatrice; thence southerly S 00°12'10" W, on the West line of said Lot 12, said line also being the East Right of Way line of 7th Street, 131.71 feet, to a 5/8" Rebar; thence easterly S 89°45'58" E, 223.71 feet, to a 5/8" Rebar marking a point of intersection on the Southwest Right of Way line of the abandoned Union Pacific Railroad, said line also being the southeasterly extension of the North line of said Lot 12; thence northwesterly N 59°17'11" W, on said Right of Way line, the southeasterly extension of, and on the North line of said Lot 12, 259.66 feet, to a 5/8" Rebar marking the Northwest Corner of Lot 12, Second Addition to South Beatrice, said Corner also being the True Point of Beginning.

3-6-23 jb