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Fee \$		P&M \$	7.00
Fees Pd \$	64.00	Gen Fee \$	57.00
Ckt#	0201		
Refund		Due	

THE STATE OF NEBRASKA }
MADISON COUNTY } ss.

This instrument filed for record
the 19 day of December 20 14
at 2:10 P.M. and recorded in
Book 2014 Page 05415
Nancy J. Proso
Register of Deeds

Black Hills Energy Po Box 1249 Norfolk NE 68702-1249

Space Above for Recorder's Use Only

After filing, return to: Mike Pogany, Black Hills/Nebraska Gas Utility Company, PO Box 1400,
Rapid City, SD 57709-1400

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into this 27th day of December 2014, by and between Black Hills /Nebraska Gas Utility Company, LLC, a Delaware limited liability company, ("Grantor" and "Holder/Grantee"), and the United States Environmental Protection Agency (EPA) ("Agency") pursuant to the Nebraska Uniform Environmental Covenants Act, Neb. Rev. Stat. §§ 76-2601 to 76-2613.

RECITALS:

A. Grantor is the owner of certain real property located at 701 Norfolk Avenue, Norfolk, Madison County, Nebraska, which is legally described as follows (the "Property"):

Lots 1 and 2 of Chas. B. Durland's subdivision of Lots 1, 2, and 3 in Block 1 of Koenigstein's Third Addition to Norfolk, Madison County, Nebraska; and Lot 4, Block 1, Koenigstein's Third Addition to Norfolk, Madison County, Nebraska.

B. Holder/Grantee is Black Hills /Nebraska Gas Utility Company, LLC, a Delaware limited liability company, owner of the Property.

C. The Property was previously owned and operated by Centel Corporation, a Delaware corporation ("Centel") and its corporate predecessors used the Property for the production of manufactured gas from approximately 1902-1948.

D. The Property was identified as the site of potential releases of hazardous substances, pollutants and/or contaminants onto the ground and into the groundwater underlying the Property, and is referred to as the Iowa/Nebraska Light & Power Former Manufactured Gas Plant ("MGP") Superfund site, EPA ID No. NED986373678.

E. Pursuant to an August 22, 2013 Administrative Settlement Agreement and Order on Consent issued by the U.S. Environmental Protection Agency ("EPA") under Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9607 and 9622, as amended ("CERCLA"),

Centel and Nebraska Public Power District (NPPD) conducted an environmental response project at the Property and certain adjoining areas. This environmental response project involved the removal and off-site disposal of the most heavily contaminated soils at the Property, however, residual contamination remains at various depths in the saturated soils beneath the Property and in the groundwater underlying the Property and certain adjoining areas. These contaminants include polynuclear aromatic hydrocarbon ("PAH") constituents; benzene, toluene, ethylbenzene and total xylenes ("BTEX") compounds; and/or contaminants from MGP-related processes; hereinafter known collectively as "Site Contaminants."

F. Grantor and Centel have entered into that certain Memorandum of Easement Agreement dated as of March 11, 2011 and recorded in the Office of the Register of Deeds of Madison County, Nebraska, on March 23, 2011, Book 2011-03, Page 1139-1143 Inc., wherein Grantor granted to Centel an easement for purposes of Centel completing the following: (a) carrying out investigation and remediation work, engineering controls or institutional controls on the Property in accordance with the Administrative Settlement Agreement and Order on Consent For Removal Action and any such administrative or judicial orders and agreements, including those arising from or as may be ordered by a local, state or federal government, regulatory agency or authority; or (b) carrying out the intention of the Allocation, Indemnification and Access Agreement dated as of March 11, 2011, by and between Grantor and Centel.

G. The Agency, as defined in Neb. Rev. Stat. § 76-2602, is the EPA.

H. The administrative record for the Iowa/Nebraska Light & Power FMGP Superfund Site is available to the public and is located at the Norfolk Public Library, 308 Prospect Avenue, Norfolk, Nebraska, 68701, and at EPA's offices located at 11201 Renner Boulevard, Lenexa, Kansas, 66219.

NOW, THEREFORE,

Grantor hereby declares that the Property will hereinafter be bound by, held, sold and conveyed subject to the terms, conditions, obligations, and restrictions set forth herein, which will run with the land, in perpetuity, unless amended or terminated pursuant to Paragraph 10 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. Except for the above-referenced Memorandum of Easement Agreement by and between Grantor and Centel, Grantor has identified no other persons holding legal or equitable interests, including but not limited to contract buyers, mortgage holders, other consensual lien holders, and lessees.

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 which may result in unacceptable exposures to residual contamination.

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 set forth in Paragraph 4 below. The terms, conditions, obligations, and limitations in this Environmental Covenant are binding on Grantor, its successors, assigns, and transferees, and all persons, corporations or other entities obtaining or succeeding to any right, title or interest in the Property. Acceptance of any conveyance, transfer, lease or sublease of the Property, or any part thereof, will bind each transferee, and its successors, transferees, heirs, 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 EPA 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, NPPD or Centel from their duties and obligations, if any, under the above-referenced Administrative Settlement Agreement and Order on Consent.

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, recreational child care or school use.
 - b. Existing remedial systems to control and/or abate vapor intrusion of Site Contaminants into any existing enclosed buildings at the Property must be operated and maintained in accordance with standards for protectiveness of human health and the environment.
 - c. Any new construction of enclosed buildings at the Property must prevent, or include remedial systems to control and/or abate, vapor intrusion of Site Contaminants into any such new construction at the Property, and must be operated and maintained in accordance with standards for protectiveness of human health and the environment.
 - d. Extraction and use of the groundwater underlying the Property, except for investigation or remediation approved by EPA is prohibited.
 - e. Except where excavation is necessary to prevent or address a previously unknown threat to human health or the environment, including without limitation a natural gas pipeline leak, any digging, drilling, excavating, constructing, earth moving or other land disturbing activities that extend below the depths of contaminated soil excavated during the environmental removal action conducted at the Property, as depicted on the Removal Action Site Map attached to this Environmental Covenant as Exhibit A, are prohibited without five days' prior written notice to EPA.

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 activity and limitations set forth above.

6. 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 limit the Agency from exercising any authority under applicable law. The prevailing party in any action to enforce this Environmental Covenant is entitled to recover all costs of such action, including reasonable attorney fees and damages pursuant to Neb. Rev. Stat § 76-2611(d).

7. Rights of Access. Grantor and any then-current owner hereby grants to the Agency, their 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.

8. 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 Madison County Register of Deeds.

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

- a. The Property shall not be used for residential, recreational, child care or school use.
- b. Existing remedial systems to control and/or abate vapor intrusion of Site Contaminants into any existing enclosed buildings at the Property must be operated and maintained in accordance with standards for protectiveness of human health and the environment.
- c. Any new construction of enclosed buildings at the Property must prevent, or include remedial systems to control and/or abate, vapor intrusion of Site Contaminants into any such new construction at the Property, and must be operated and maintained in accordance with standards for protectiveness of human health and the environment.

- d. Extraction and use of ground water underlying the Property, except for investigation or remediation approved by EPA is prohibited.
- e. Except where excavation is necessary to prevent or address a previously unknown threat to human health or the environment, including without limitation a natural gas pipeline leak, any digging, drilling, excavating, constructing, earth moving or other land disturbing activities that extend below the depths of contaminated soil excavated during the environmental removal action conducted at the Property, as depicted on the Removal Action Site Map attached to this Environmental Covenant as Exhibit A, are prohibited without five days' prior written notice to EPA.

9. Waiver of Certain Defenses. The parties 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.

10. 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 EPA, 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.

11. 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.

12. 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.

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

14. 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 Madison County Register of Deeds.

15. 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 Madison County Register of Deeds.

16. 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 each person identified in Neb. Rev. Stat. §§ 76-2607(a) and 76-2608(c), including but not limited to the City of Norfolk, Nebraska.

17. 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:

Director
Superfund Division
U.S. Environmental Protection Agency
11201 Renner Boulevard
Lenexa, KS 66219

If to Grantor and Holder/Grantee:

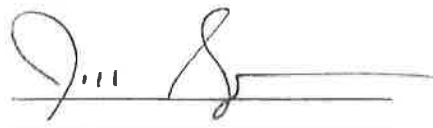
Black Hills/Nebraska Gas Utility Company, LLC
P. O. Box 1400
Rapid City, SD 57709-1400

[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]
[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

FOR GRANTOR:

**BLACK HILLS/NEBRASKA GAS
UTILITY COMPANY, LLC**

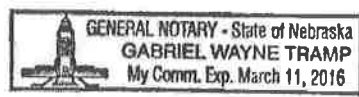
By: 

Title: VP NEBRASKA OPERATIONS

STATE OF Nebraska)
)
COUNTY OF Lancaster) ss.

The foregoing instrument was acknowledged before me this 5th day of November, 2014, by Jeffrey Sylvester the Vice President, by _____ of Black Hills/Nebraska Gas Utility Company, LLC, a Delaware limited liability company, having acknowledged that he/she held the position or title set forth above and that he/she signed the instrument on behalf of the corporation by proper authority and that the instrument was the act of the corporation for the purpose therein stated.


Notary Public



IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

FOR HOLDER/GRANTEE:

**BLACK HILLS/NEBRASKA
GAS UTILITY COMPANY, LLC**

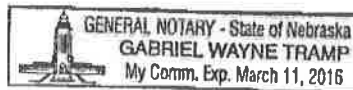
By: 

Title: VP NEBRASKA OPERATIONS

STATE OF Nebraska)
)
COUNTY OF Lancaster) ss.

The foregoing instrument was acknowledged before me this 5th day of November, 2014, by Jeffrey Sylvester the Vice President, by _____ of Black Hills/Nebraska Gas Utility Company, LLC, a Delaware limited liability company, having acknowledged that he/she held the position or title set forth above and that he/she signed the instrument on behalf of the corporation by proper authority and that the instrument was the act of the corporation for the purpose therein stated.



Notary Public



IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

FOR AGENCY:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

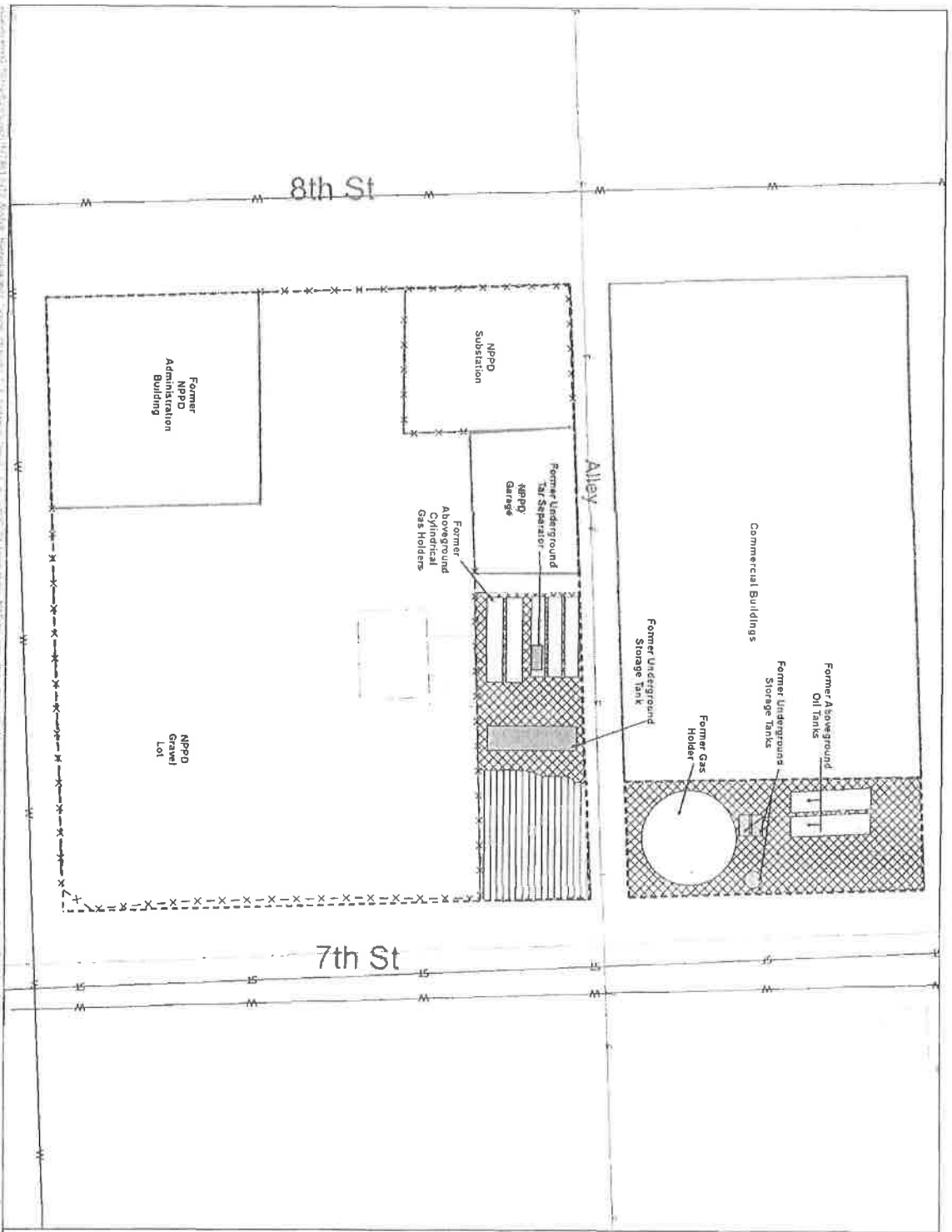
By: 
Robert Jackson
Acting Director
Superfund Division

STATE OF KANSAS)
)
COUNTY OF JOHNSON) ss.

The foregoing instrument was acknowledged before me this 2nd day of December, 2014, by Robert Jackson, the Acting Director of the United States Environmental Protection Agency, Region 7, Superfund Division, having acknowledged that she holds the position set forth above and that she signed the instrument on behalf of the United States Environmental Protection Agency by proper authority and that the instrument was the act of such entity for the purpose therein stated.

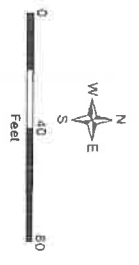

Notary Public

KENT JOHNSON
NOTARY PUBLIC
STATE OF KANSAS
My Appl. Exp. 7/23/15



- Legend**
- X - X Fence (Existing)
 - ST - Storm Sewer
 - SS - Sanitary Sewer
 - W - Water
 - FO - Fiber Optic
 - Gas
 - Former MGP Structure
 - Concrete Slab
 - Site Boundary
 - Current Structures
 - Excavation Depths (ft)
 - 11
 - 17

Note: Utility Locations are Approximate



Sources:
 EDR, Inc. 2007
 EPA 2001
 City of Norfolk 2006
 Sanborn 1909, 1916, 1925, 1946
 Trunkham 2009

**REMOVAL ACTION
 EXCAVATION AREAS -
 BLACK HILLS ENERGY
 PROPERTY**

BLACK & VEATCH
 Building a World of Difference.

