

Recording Requested By and
When Recorded Return to:

Jeffrey S. Clark
521 South Boyer
Sandpoint, ID 83864

Instrument # 893475

BONNER COUNTY, SANDPOINT, IDAHO
8-17-2016 01:09:05 PM No. of Pages: 10
Recorded for : JEFFREY S CLARK
MICHAEL W ROSEDALE Fee: 37.00
Ex-Officio Recorder Deputy *MB*
Index to: MISC

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 Clark Oil Company and the Idaho Department of Environmental Quality ("Department") pursuant to the Uniform Environmental Covenants Act, Idaho Code §§ 55-3001 through 3015 ("Act"). This Environmental Covenant sets forth restrictions and/or obligations (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. Clark Oil Company is a "holder" as defined in Idaho Code § 55-3002(6). Clark Oil Company, as the current property owner, grants this Environmental Covenant to all signatories to this instrument; provided, however, that the rights of the Department and its successors are those of an agency as set forth in the Act. Neither the Department nor its successors own any interest in the Property.

Property. This Environmental Covenant concerns that certain real property located at 523 Larch Street, Sandpoint, Idaho, referred to as Parcel RPS00SE01000010, and more particularly described in the Warranty Deed attached hereto and marked as Attachment A (the "Property"). The Restricted Area of the Property is illustrated on the map attached hereto and marked as Attachment B.

Property Ownership. Clark Oil Company 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 Clark Oil Company has the power and authority to enter into this Environmental Covenant.

Reason for Activity and Use Limitations. The Property was previously used to operate a fueling facility and became contaminated with Petroleum Chemicals of Interest including benzene, toluene, ethylbenzene, xylenes, naphthalene, and MTBE. On February 6, 1996, and as updated on December 5, 2005, the Department issued a Schedule and Criteria which required investigation and remediation of the Property. A corrective action plan ("CAP") was prepared and assessment and cleanup of the Property was initiated in 2009. Remediation consisted of the removal and treatment of over 3,000 tons of soil and injection of groundwater amendments to address the remaining groundwater contamination along the borders of the Property. This Environmental Covenant is required because residual concentrations of benzene, ethylbenzene, and MTBE in groundwater underlying the Property are above allowable risk-based concentrations for groundwater ingestion as defined by current regulations. Therefore,

future use of the Property in the Restricted Area shall be limited to protect human health and the environment until such time as contaminate concentrations are found to be below regulatory action levels.

Name and Location of Administrative Record. A copy of the Clark Oil file can be found at the DEQ Coeur d'Alene Regional Office, 2110 Ironwood Parkway, Coeur d'Alene, ID 83814.

Activity and Use Limitations. By acceptance and recordation of this Environmental Covenant, the Restricted Area of the Property is restricted as specifically set forth below:

There shall be no extraction of groundwater under the Restricted Area for any purpose, including, without limitation, drinking by animals or human beings, irrigation, or an industrial or commercial use.

Breach and Cure of Activity and Use Limitations The owner of the Property shall be responsible for demonstrating that use of 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, the owner of the Property 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 of the Property and Department.

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, assignment of the Environmental Covenant to a new holder is an amendment. The Department will not withhold its consent if the other parties agree to assignment of the Environmental Covenant to a new holder.

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. Any party to the Environmental Covenant and any person with an interest in the Property 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 below regulatory action levels and the Department confirms in writing that it meets standards suitable for extraction and 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 this Environmental Covenant shall be recorded in the County Recorder's Office of the county in which the Property subject to this Environmental Covenant is located. The owner of the Property shall record this Environmental Covenant, and any amendment or termination thereof, within ten (10) days following receipt of the Department's signature hereon. Within ten (10) days of the recording of this Environmental Covenant, or any amendment or termination, the owner of the Property 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 thereof, 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 of the Property 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) 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. The owner of the Property 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. An example compliance form is attached hereto and marked as Attachment C.

Enforcement. The Department and any party to the Environmental Covenant shall have authority to enforce the Activity and Use Limitations against the owner of the Property and any other person using the Property. Failure of the owner or any other user of the Property 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 the owner or user of the Property 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 the owner or user of the Property 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 purposes 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 owners and 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 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 either the owner of the Property, or its 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.

OWNER: Clark Oil Company
Jeffrey S. Clark
521 South Boyer
Sandpoint, ID 83864

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 Clark Oil Company or any other responsible party. Nothing in this Environmental Covenant shall affect the obligations of Clark Oil Company 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.

Attachment A Legal Description and Deed of Property

297587

WARRANTY DEED

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KNOW ALL MEN BY THESE PRESENTS that GRANTORS, LEE C. LYMAN and JOAN W. LYMAN, husband and wife, for value and consideration received, do hereby GRANT, BARGAIN, SELL, WARRANT and CONVEY unto the GRANTEE, CLARK OIL COMPANY, a Partnership consisting of DAVE T. CLARK, JEFFREY S. CLARK and DAVE C. CLARK, P.O. Box 796, Sandpoint, ID 83864, the following described real property situate in the County of Bonner, State of Idaho, to-wit:

Lots 5, 6 and 7, Block A, Farmin's Fifth Addition to the City of Sandpoint, County of Bonner, State of Idaho, as recorded in Book 1 of Plats on Page 56, Records of Bonner County, Idaho, TOGETHER WITH any portion of any streets or alleys adjacent thereto which have been or may be vacated and become a part of such lots.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

AND the above named Grantors hereby covenant that the above described premises are free from all encumbrances, and that they and their heirs, executors and assigns will warrant and defend the above premises against all lawful claims and demands whatsoever.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands on this 9th day of January, 1985.

Lee C. Lyman

Joan W. Lyman

First American Title

1-11-85

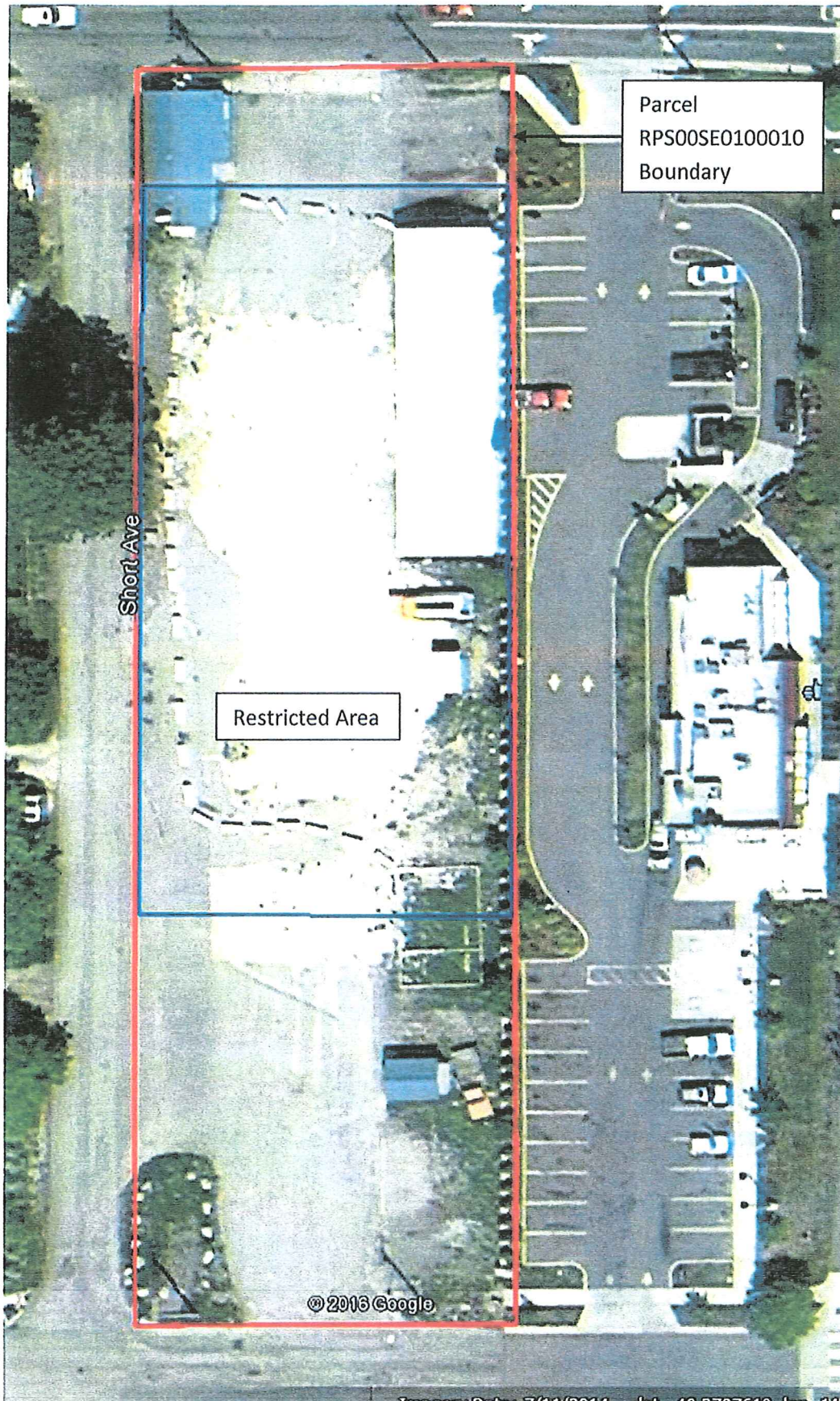
RECORDED IN BOOK 1 OF PLATS PAGE 56 RECORDS OF BONNER COUNTY, IDAHO

297587

Lee C. Lyman

Joan W. Lyman

Attachment B Map of Restricted Area



Attachment C

**NOTICE OF ANNUAL COMPLIANCE REPORTING
FOR ENVIRONMENTAL COVENANT**

This Notice of Annual Compliance Reporting for Environmental Covenant form is to assist property owners with the Compliance Reporting provision included in the Environmental Covenant. Owner[s] 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. This annual report requirement runs from the effective date of the Environmental Covenant, the date on which the Environmental Covenant was officially recorded with the property deed.

MAIL ANNUAL NOTICE TO:

Idaho Department of Environmental Quality
State Response Program Manager
1410 N. Hilton
Boise, ID 83706

CURRENT PROPERTY OWNER NAME: _____

DATE OF ANY OWNERSHIP CHANGES THIS PAST YEAR: _____

PROPERTY NAME AND ADDRESS: _____

ENVIRONMENTAL COVENANT

COUNTY RECORDERS INSTRUMENT NUMBER: _____

GENERAL DESCRIPTION OF ACTIVITY AND USE LIMITATION(S):

OWNER(S) VERIFIES COMPLIANCE WITH THE ACTIVITY AND USE LIMITATIONS IDENTIFIED IN THE ABOVE REFERENCED ENVIRONMENTAL COVENANT IN THIS ANNUAL REPORT FILED WITH THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY.

PROPERTY OWNER REPRESENTATIVE (PRINT/TYPE)

TITLE

SIGNED

DATE