



**BOISE COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**

P. O. Box 1300  
Idaho City, Idaho 83631  
(208) 392-4431  
FAX (208) 392-4473

RECEIVED  
JAN 13 2010  
DEPT. OF ENVIRONMENTAL QUALITY  
WASTE PROGRAM

January 11, 2010

Idaho Department of Environmental Quality  
Attn: Joe Nagel  
1410 N. Hilton  
Boise, Idaho 83706

RE: Warm Springs Ridge Landfill Deed Notification

Dear Mr. Nagel,

The Boise County Board of Commissioners is providing notice that the requirements for deed notification contained in 40 CFR 258.60(i) and Idaho Code 39-7415(4) have been met.

Two Environmental Covenants have been executed and recorded to provide for the restrictions on the closed Warm Springs Ridge Landfill. The covenants address properties owned by Boise County and the State of Idaho. These covenants are recorded as Instrument #225844 and Instrument #226067 in Boise County, Idaho. Recorded copies of these documents are enclosed.

A copy of this letter will be placed in the Warm Springs Ridge Landfill operating record.

Sincerely,

A handwritten signature in blue ink, appearing to read "Terry C. Day".

Terry C. Day  
Chairman, Boise County Board of Commissioner

Land Board  
Set Back

ES600001

**Instrument # 225844**

IDAHO CITY, BOISE COUNTY, IDAHO  
12-1-2009 04:39:31 No. of Pages: 9  
Recorded for : STATE OF ID. DEPT. OF LANDS  
CONSTANCE SWEARINGEN Fee: 0.00  
Ex-Officio Recorder Deputy *Shirley Dunge*  
Index to: MISCELLANEOUS

OR 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.**

**CORRECTED ENVIRONMENTAL COVENANT**

This instrument is an Environmental Covenant ("Environmental Covenant") executed by STATE BOARD OF LAND COMMISSIONERS, STATE OF IDAHO, AND THE IDAHO DEPARTMENT OF LANDS ("OWNER"), BOISE COUNTY, ("COUNTY") 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. COUNTY is a "holder" as defined in Idaho Code § 55-3002(6). OWNER, as the current property owner grants this Environmental Covenant to all signatories to this instrument.

**Property.** This Environmental Covenant concerns real property located in the South 1/2 of the South 1/2 of Section 16, Township 6 North, Range 5 East, Boise Meridian, County of Boise, State of Idaho, legally described as BEGINNING at the South 1/4 corner of said Section 16, being the REAL POINT OF BEGINNING; thence North 89°46'00" West along the South boundary of said Section 16 1304.58 feet to the West 1/16 corner of said Section 16; thence leaving said South boundary North 00°14'00" East on a line perpendicular to the South boundary of said Section 16 200.00 feet; thence South 89°46'00" East 1304.58 feet; thence South 00°14'00" East on a line perpendicular to the South boundary of said Section 16 200.00 feet to the REAL POINT OF BEGINNING; Containing 5.99 acres of land, more or less (hereafter referred to as "the Property"). The Property is legally described in the attached Schedule A.

**Property Ownership.** OWNER 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 OWNER has the power and authority to enter into this Environmental Covenant.

**Reason for Activity and Use Limitations.** The Property borders a parcel of land owned by the Boise County that was a Municipal Solid Waste Landfill called the Warm Springs Ridge Landfill.



Idaho Code Section 39-7407(2)© provides that all MSWLF units shall not be located so that the active portion is closer than two hundred (200) feet to the property line of adjacent land. The Warm Springs Ridge Landfill has solid waste disposed within the required 200-foot setback from the property boundary. These activity and use limitations on the Property are established to create a "buffer zone", or setback around a portion of the sanitary landfill to mitigate landfill gas migration and reduce the potential for impacts to ground water supply sources. Methane, which is explosive under certain conditions, makes up 50% of landfill gas. Under current Idaho landfill regulations the Warm Springs Landfill is not required to monitor ground water. This Environmental Covenant is required to protect human health and the environment from potential landfill gas migration and ground water impacts.

Name and Location of Administrative Record. A copy of the files related to the Warm Springs Municipal Solid Waste Facilities Landfill (MSWFL) in Boise County can be found at the DEQ Boise Regional office.

Activity and Use Limitations. By acceptance and recordation of this Environmental Covenant, OWNER, 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.
2. No buildings of any kind or nature shall be constructed or located on the Property. Open, unoccupied structures such as cell towers or antennas may be allowed with written approval from the Department. Prior to any construction of Open, unoccupied structures such as cell towers or antennas, a plan shall be submitted to the Department for review and written approval.
3. The Property, and any portion thereof, may be used for commercial uses, industrial uses or may be used for agricultural purposes, including silvicultural practices and timber harvest. The Property shall not be used for residential purposes, or any permanently occupied human habitation (including hotels or motels), school, day care or hospital use.
4. Limited excavation of soil may be allowed with written authorization from the Department. Solid concrete footings (no cavities or openings of any nature) for cell phone towers or antennas may be an acceptable use for this property. Excavations shall be limited to the immediate area of the footing. All open footing excavations shall be monitored daily for methane. Appropriate precautions shall be implemented until such time that an excavation is filled with concrete or soil. Prior to any excavation a plan shall be submitted to the Department for written approval. The plan shall address the distance from the property boundary with Boise County, depth and length of footings and methane monitoring plan during construction activities.

OWNER, or its successors in interest, shall be solely responsible for demonstrating that use on the Property is in conformity with the Activity and Use Limitations. The Activity and Use Limitations are imposed due to conditions resulting from former uses of the adjacent COUNTY land for landfill purposes.

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.

Termination by Consent. The Activity and Use Limitations shall apply to the Property, or any subdivided portion thereof, unless OWNER, or its successors in interest, applies to the Department to have this Environmental Covenant terminated pursuant to Idaho Code § 55-3010 and demonstrates that:

1. The solid waste disposed in the adjacent MSWFL has been excavated to 200 feet from the Property boundary.

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 the Environmental Covenant shall be recorded in the county recorder's office of every county in which any portion of the Property subject to the Environmental Covenant is located. The Environmental Covenant or any amendment or termination shall be recorded by OWNER, or its 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, OWNER, or its 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 the recorded Environmental Covenant, or any amendment or termination, shall be provided by OWNER, or by its successors in interest, 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 the Environmental Covenant is not affected by failure to provide a copy of the Environmental Covenant as required under this section. The Activity and Use Limitations set forth herein shall be incorporated by reference in each and all deeds and leases of any portion of the Property.

Enforcement. The Department and any party of the Environmental Covenant shall have authority to enforce the Activity and Use Limitations against OWNER or its successors-in-interest, including subsequent owners of the Property and any other person using the Property. Failure of OWNER, or its successor in interest, 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 Owner 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 Owner as provided by law or in equity, including without limitation, the Uniform Environmental Covenants Act, Idaho Code § 55-3011.

Property Access. The Department shall have a right of access to the Property for the purposes of ensuring 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 then 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 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 OWNER or its successors, COUNTY 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: Idaho Department of Lands  
Southwest Area Office  
Attn: Area Supervisor  
8355 West State St.  
Boise, ID 83714

COUNTY: Boise County  
PO Box 1300  
Idaho City, ID 83631

THE DEPARTMENT: Idaho Department of Environmental Quality  
ATTN: Joe Nagel  
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 OWNER or any other responsible party. Nothing in this Environmental Covenant shall affect the obligations of OWNER 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.

This environmental covenant is being corrected to delete the reference to an address and to accurately describe the location of the property and replaces the Environmental Covenant recorded on August 6, 2009 as Instrument Number 224324, records of Boise County, Idaho.

## Signature and Acknowledgments

Accepted:

Idaho Department of Environmental Quality

**Signature:**

Printed Name: Toni Hardesty

Title: Director, Idaho Department of Environmental Quality

Date: 11/3/09

State of Idaho

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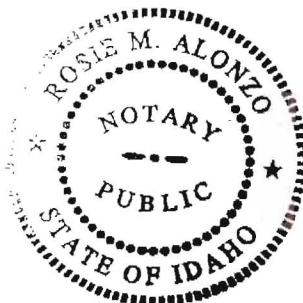
) \$\$

County of Ada

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On this 3rd day of November, in the year 2009, 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:**

Residing at: nampe Idaho

Commission Expires: 11/30/2015



Signature and Acknowledgments

Accepted:

Property Owner

IN WITNESS WHEREOF, the State Board of Land Commissioners has caused these presents to be executed by its President, the Governor of the State of Idaho, and countersigned by the Secretary of State and the Director, Idaho Department of Lands.

STATE BOARD OF LAND COMMISSIONERS

  
Governor of the State of Idaho and President  
of the State Board of Land Commissioners

Countersigned:

  
Secretary of State  
  
Director, Idaho Department of Lands



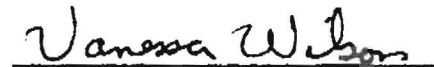
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STATE OF IDAHO     )  
                              ) ss.  
COUNTY OF ADA    )

On this 19<sup>th</sup> day of November, 2009, before me, a Notary Public in and for said State, personally appeared C.L. "BUTCH" OTTER, known to me to be the Governor of the State of Idaho and President of the State Board of Land Commissioners; BEN YSURSA, known to me to be the Secretary of State for the State of Idaho; and GEORGE B. BACON, known to me to be the Director of Department of Lands of the State of Idaho, that executed the same instrument and acknowledged to me that such State of Idaho and State Board of Land Commissioners executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year written above.



  
NOTARY PUBLIC for Idaho  
Residing at Boise, Idaho  
My Commission expires: 8-1-2014



Signature and Acknowledgments

Accepted:

Boise County

Signature: *Linda W. Zimmer*

Printed Name: Linda W. Zimmer

Title: Chairman, Boise County Board of Commissioners

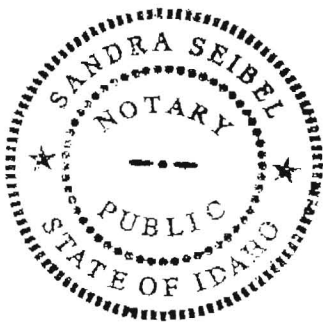
Date: \_\_\_\_\_

State of Idaho, )

County of Boise ) ss.

On this 8 day of Oct, in the year 2009, before me, a Notary Public in and for said County and State, personally appeared Linda W. Zimmer, known or identified to me to be the Chairman of the Boise County Board of Commissioners that executed this Environmental Covenant, and acknowledged to me that the Boise County Board of Commissioners 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: *Sandra Seibel*

Residing at: Horseshoe Bend

Commission Expires: 2/10/10

