

2008-023966 COV
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Sunnyside Valley Irrigation Dist
Benton County, Benton County Auditor's Office



After Recording Return to:
Robert Swackhamer
Department of Ecology
15 West Yakima Ave Suite 200
Yakima, WA 98902

RECEIVED

AUG 20 2008

DEPARTMENT OF ECOLOGY - CENTRAL REGIONAL OFFICE

Environmental Covenant

Grantor: Sunnyside Valley Irrigation District
Grantee: State of Washington, Department of Ecology
Legal: N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 31 Township 9 North Range 24 East W.M. Benton County
Tax Parcel Nos.: 131942000001000
Cross Reference: Not Applicable

Grantor, Sunnyside Valley Irrigation District, hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this 3rd day of June, 2008 in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Sunnyside Valley Irrigation District, its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the following document:

"Remedial Investigation Report Hicks Road Pit," April 25, 2007, prepared by Pacific Groundwater Group

This document is on file at Ecology's Central Regional Office in Yakima. The Remedial Action consisted of an investigation including monitoring wells and test pits, but did not include preparation or implementation of a Cleanup Action Plan.

This Covenant is required because the Remedial Action revealed residual concentrations of arsenic which exceed the Model Toxics Control Act Method A Cleanup Level for groundwater established under WAC 173-340-900.

The undersigned, Sunnyside Valley Irrigation District, is the fee owner of real property (hereafter "Property") in the County of Benton, State of Washington, that is subject to this Covenant. The Property is legally described as follows:

The North half of the Northeast quarter of the Northwest quarter of Section 31,
Township 9 North, Range 24 E. W.M.

Sunnyside Valley Irrigation District makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. A water well may be installed on the property after meeting the requirements of WAC 173-160-106. This process is intended to document the construction and operation of the well will not further degrade the environment and will not cause a public health risk. It is anticipated that a well in the uppermost aquifer will not meet this requirement, but a properly cased and sealed well to one of the lower aquifers might meet this requirement. The design for any well must be approved by Ecology.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited. Surface disturbance shall not exceed one foot in depth in the area of Inferred Refuse Distribution described in "Remedial Investigation Report Hicks Road Pit," April 25, 2007. Excavation deeper than one foot in the area of Inferred Refuse Distribution shall require written approval from the Department of Ecology prior to the excavation.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

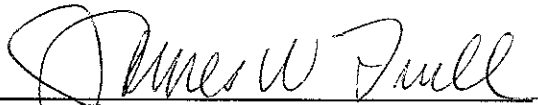
Section 5. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

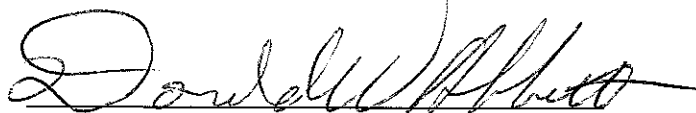
SUNNYSIDE VALLEY IRRIGATION DISTRICT



James W. Trull, Secretary/Manager

Dated: June 3, 2008

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

A handwritten signature in cursive script, appearing to read "Donald W. Abbott", written over a horizontal line.

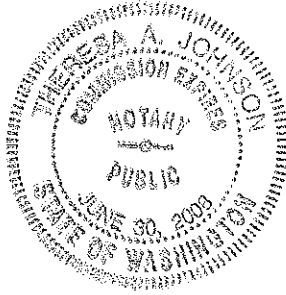
Donald W. Abbott
Section Manager

Dated: June 11 2008

[CORPORATE ACKNOWLEDGMENT]

STATE OF Washington
COUNTY OF Yakima

On this 3 day of June, 2008 I certify that James W. Trull personally appeared before me, acknowledged that **he/she** is the Secretary/Manager of the corporation that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that **he/she** was authorized to execute said instrument for said corporation.



Theresa A. Johnson
Notary Public in and for the State of
Washington, residing at
Prosser, WA
My appointment
expires June 30, 2008.

[REPRESENTATIVE ACKNOWLEDGEMENT]

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 20____, I certify that _____ personally appeared before me, acknowledged that **he/she** signed this instrument, on oath stated that **he/she** was authorized to execute this instrument, and acknowledged it as the _____ [type of authority] of _____ [name of party being represented] to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Notary Public in and for the State of
Washington, residing at _____
My appointment expires _____

Exhibit A
Legal Description

The North half of the Northeast Quarter of the
Northwest Quarter of Section 31, Township 9
North, Range 24 East Willamette Meridian
County of Benton, State of Washington