

ENTERED AS INSTRUMENT NO

0201100671

HALL CO. REGISTER OF DEEDS

STATE OF NEBRASKA) SS
COUNTY OF HALL)

2011 JUN 27 AM 10 16
Griffith Clark

CASH _____
CHECK 50.50

REFUNDS:
CASH _____
CHECK _____

*Industrial Service Corp
1731 N Roosevelt Ave Ste 1
Burlington IA 52601*



201100671

Space Above for Recorder's Use Only

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by and between Northwestern
Plastics, Ltd., an Iowa corporation, as Grantor, and Rodney A. Wittkamp, as
Grantee/Holder, 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 3304 Engleman Road South in
Grand Island, Hall County, Nebraska, legally described as:

50 50

A tract of land comprising a part of the Southeast Quarter of the Southeast
Quarter (SE 1/4 SE 1/4) of Section Twenty Seven (27), Township Eleven (11)
North, Range Ten (10) West of the 6th P.M., in Hall County, Nebraska, more
particularly described as follows: Beginning at a point on the East line of said
Section Twenty Seven (27), said point being Fifty Five (55.0) feet North of the
Southeast corner of said Section Twenty Seven (27); thence Westerly parallel to
the South line of said Section Twenty Seven (27), and along the North line of
Husker Highway, a distance of Five Hundred Seventy Nine (579.0) feet; thence
Northerly parallel to the East line of said Section Twenty Seven (27), a distance
of Eight Hundred (800.0) feet thence Easterly parallel to the South line of said
Section Twenty Seven (27), a distance of Five Hundred Seventy Nine (579.0) feet
to the East line of said Section Twenty Seven (27); thence Southerly along the
East line of said Section Twenty Seven (27), a distance of Eight Hundred (800.0)
feet to the place of beginning, and containing 10.633 acres, more or less, of which
0.606 acres, more or less, are occupied by County road right-of-way,

the "Property."

B. Grantor has operated a warehouse and service center for the storage and assembly of rubber tires and steel wheels for agricultural equipment at the Property under the name Industrial Service Corp. since acquiring the Property in September 2002.

C. Grantee/Holder, Rodney A. Wittkamp, is an officer of Grantor.

D. The Property was previously owned and operated by Heinzman Engineering, Inc. as an irrigation equipment manufacturing facility from about 1973 to about 1982. The Property was the site of release(s) of certain hazardous substances, pollutants or contaminants onto the ground and into the groundwater underlying the Property.

E. The Property is part of the Parkview Well Superfund Site (EPA ID no. NEN000704456). On April 19, 2006, the Parkview Well Superfund Site was placed on the National Priorities List (NPL). The NPL is a list compiled by the United States Environmental Protection Agency (EPA) of uncontrolled hazardous substance releases in the United States that are priorities for long-term remedial evaluation and response.

F. In 2006, EPA, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 - 9675, conducted an environmental response project at the Property. 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. These contaminants include tetrachloroethene (PCE); 1,1,1-trichloroethane (1,1,1-TCA); 1,1-dichloroethene (1,1-DCE); and 1,1-dichloroethane (1,1-DCA).

G. As provided for in Neb. Rev. Stat. § 76-2602, the Nebraska Department of Environmental Quality (NDEQ) and EPA are each an Agency under this Environmental Covenant.

H. The administrative record for the Parkview Wells Superfund Site is available to the public and is located at the Edith Abbot Memorial Library, 211 N. Washington, Grand Island 68801, and at EPA's offices located at 901 North 5th Street, Kansas City, Kansas 66101

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 11 below.

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

- a. It is the sole fee title owner of the Property;

- b. It 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. It 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 which may result in unacceptable exposures to residual contamination.

3. Running with the Land. This Environmental Covenant is perpetual and conveys to the Grantee/Holder real property rights that run with the land, and gives to each of the Agencies 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 the Agencies 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 under the approved environmental response project.

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, child care or school use.
- b. Extraction and use of the ground water underlying the Property, except for investigation or remediation approved by EPA or NDEQ, is prohibited.
- c. Any digging, drilling, excavating, constructing, earth moving, or other land disturbing activities that extend beyond the depth of ten feet below ground surface, including any repair, renovation or demolition of existing structures on the Property that extend beyond such depth, are prohibited without the prior written approval of EPA or NDEQ in order to protect remedial systems and prevent exposure.

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. 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 Agencies written documentation verifying that the activity and use limitations remain in place and are being complied with. Grantor and/or Grantee/Holder shall notify the Agencies as soon as possible of conditions that would constitute a breach of the activity and use limitations set forth above.

7. Enforcement. This Environmental Covenant may be enforced in a civil action for injunctive or other equitable relief by Grantee/Holder and by each of the Agencies 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 Agencies 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.

8. Rights of Access. Grantor and any then-current owner hereby grants to the Agencies, 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 Agencies' right of entry and access or the Agencies' 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 Agencies with a certified copy of said instrument and its recording reference in the Hall County Register of Deeds.

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT DATED 11-2-10, RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS OF HALL 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, child care or school use.
- b. Extraction and use of ground water underlying the Property, except for investigation or remediation approved by EPA or NDEQ, is prohibited.

- c. Any digging, drilling, excavating, constructing, earth moving, or other land disturbing activities that extend beyond the depth of ten feet below ground surface, including any repair, renovation or demolition of existing structures on the Property that extend beyond such depth, are prohibited without the prior written approval of EPA or NDEQ in order to protect remedial systems and prevent exposure.

10. 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.

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 NDEQ, 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.

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 Agencies' approvals of this Environmental Covenant, the Grantor shall record the Environmental Covenant, in the same manner as a deed to the Property, with the Hall 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 Hall 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 each person identified in Neb. Rev. Stat. §§ 76-2607(a) and 76-2608(c), including but not limited to the City of Grand Island, Nebraska.

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

If to the Agencies:

Remediation Section
Waste Management Division
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, NE 68509-8922

Director
Superfund Division
U.S. Environmental Protection Agency
901 North 5th Street
Kansas City, KS 66101

If to Grantor and Grantee/Holder:

Rodney A. Wittkamp
Northwestern Plastics, Ltd.
d/b/a Industrial Services Corporation
1731 North Roosevelt Avenue
Burlington, IA 52601

If to the City of Grand Island:

Mayor
City Hall
100 East First Street
Grand Island, Nebraska 68801

FOR GRANTOR:

NORTHWESTERN PLASTICS, LTD.

By: Samuel J. West
Samuel J. West
Its President

STATE OF IOWA)
)
COUNTY OF DES MOINES)

The foregoing instrument was acknowledged before me this 2nd day of November, 2010, by Samuel J. West, the President, of Northwestern Plastics, Ltd., an Iowa corporation, 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.



Linda D. Tickel
Notary Public

FOR GRANTEE/HOLDER:

201100671

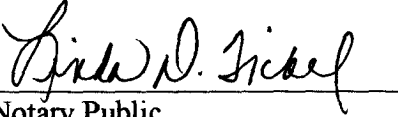


RODNEY A. WITTKAMP

STATE OF IOWA)
)
COUNTY OF DES MOINES)

The foregoing instrument was acknowledged before me this 2nd day of November, 2010, by Rodney A. Wittkamp, a natural person, having executed the instrument for the purposes therein stated.

 **LINDA D. TICKEL**
COMMISSION NO. 127496
MY COMMISSION EXPIRES
02-09-13



Notary Public

FOR AGENCY:

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By: 
Cecilia Tapia, Director
Superfund Division

STATE OF KANSAS)
)
COUNTY OF WYANDOTTE)

The foregoing instrument was acknowledged before me this 23rd day of November, 2010, by Cecilia Tapia, the 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.


KENT JOHNSON
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 7/23/11


Notary Public

FOR AGENCY:

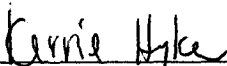
IN WITNESS WHEREOF, the Nebraska Department of Environmental Quality, as an Agency defined in Neb. Rev. Stat. § 76-2602(2), is not a party to this Environmental Covenant and does not acquire or assume any liability, obligation, or responsibility under state or federal law by virtue of signing this Environmental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

**NEBRASKA DEPARTMENT
OF ENVIRONMENTAL QUALITY**

By: 
Michael J. Ginder
Director

STATE OF Nebraska)
)
COUNTY OF Lancaster)

The foregoing instrument was acknowledged before me this 8th day of November, 2010, by Michael Ginder the Director of the Nebraska Department of Environmental Quality, having acknowledged that he/she holds the position set forth above and that he/she signed the instrument on behalf of the Nebraska Department of Environmental Quality by proper authority and that the instrument was the act of such entity for the purpose therein stated.


Notary Public

