

CORRECTED RECORDING ENVIRONMENTAL CONVEANT



Environmental Convention... Colorado Department of Environmental Protection...

WHEREAS, the State of Colorado...

Handwritten notes and signatures on the right side of the page.

ATTEST AND SIGN: DEWEY COOPER, ATTORNEY GENERAL

RECORDED AS RECEIVED

This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, C.R.S.



ENVIRONMENTAL COVENANT

Broderick Investment Company ("BIC") grants an Environmental Covenant ("Covenant") this 14 day of August, 2006 to the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department") pursuant to § 25-15-321 of the Colorado Hazardous Waste Act, § 25-15-101, et seq. The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, BIC is the owner of certain property commonly referred to as Broderick Wood Products Superfund Site, located at 5800 Galapago Street, Adams County, Colorado, more particularly described in Attachment A, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § § 9601, et seq. ("CERCLA"), the Property is the subject of an enforcement and remedial action pursuant to the Broderick Wood Treatment Site Record of Decisions ("ROD"), Broderick Wood Products Operable Units 1 and 2, dated March 24, 1992 and the Explanation of Significant Differences ("ESD") dated February 1995, modifying the ROD, the Consent Decree between the United States of America, the Department, and BIC in Civil Action No. 86-Z-369, entered June 26, 1995 ("Consent Decree"), and the Statement of Work ("SOW") required pursuant to that Consent Decree (collectively "the CERCLA Remedial Action Documents"); and

WHEREAS, BIC desires to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind BIC, its heirs, successors, assigns, and any grantees of the Property, their heirs, successors, assigns and grantees, and any users of the Property, for the benefit of the Department and the United States Environmental Protection Agency ("EPA") as a third party beneficiary.

NOW, THEREFORE, BIC hereby grants this Environmental Covenant to the Department, and declares that the Property as described in Attachment A shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 11, below, which shall run with the Property in perpetuity and be binding on BIC and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land. As used in this Environmental Covenant, the term OWNER means the record owner of the Property and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the

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Certified to be a full, true and correct copy of the
Recorded Document consisting of 24 pages

In my custody.
KAREN LONG, Adams County Clerk & Recorder

By [Signature] Date 1/22/07

X X

(00320693.2)

X

RETURN TO:
DUFFORD AND BROWN
1700 BROADWAY, SUITE 2100
DENVER, CO 80202
ATTN: AMY WILSON

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*** This Environmental Covenant is being re-recorded to include the complete version of Figure G-1.

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Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

1. Use Restrictions

A. Prohibition on Residential and Public Use. No residential use shall be permitted on the Property, including, but not limited to, any single family or multi-family residential dwelling or living unit, whether permanent or temporary, and no playgrounds, parks, schools, daycare centers (whether independent or ancillary to a permitted use), recreational facilities of any type, community centers, hospitals, or adult care centers shall be located at the Property.

B. Prohibition on Agricultural Use. No agricultural use of the Property is permitted, including but not limited to, the cultivation or storage of any crop or the grazing, feeding or keeping of any animal for agricultural or commercial purposes. Ornamental landscaping may be permitted at the Property, provided all such landscaping activities are done in accordance with the Materials Management and Health and Safety Plan set forth in Subparagraph C, immediately below.

C. Restriction on Excavation. No excavation of any soils at the Property or underneath the soil cover shall occur except pursuant to the Materials Management and Health and Safety Plan (the "Plan"), attached hereto and incorporated herein as if set forth in full.

D. Prohibition on Use of Water. No development of surface water on the Property or groundwater under the Property shall occur except as provided in the CERCLA Remedial Action Documents.

E. Prohibition on Well Construction. No digging, boring, drilling, or constructing of well of any kind on the Property shall occur except for those wells used for groundwater monitoring purposes as provided in the CERCLA Remedial Action Documents.

F. Protection of the Integrity of CERCLA Remedial Actions. Owner shall not use the Property in any way that interferes with the operation and/or maintenance of the CERCLA Remedial Actions, including, but not limited to, the groundwater monitoring wells, any equipment or infrastructure constructed or used for the CERCLA Remedial Actions, or any cap or other covering intended to prevent contact with contaminated materials in the ground or at the surface.

2. Purpose of This Covenant. The purpose of this Covenant is to ensure protection of human health and the environment by minimizing the potential for exposure to any hazardous substances that remain on the Property. The Covenant will accomplish this by minimizing those activities that result in disturbing the ground surface, and by implementing the institutional controls called for in the CERCLA Remedial Action and by insuring that no action interferes with the CERCLA Remedial Action features at the Property.

3. Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. BIC or its successors and assigns may request that

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the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information, and may request additional information. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Covenant shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:

- a) a proposal to perform additional remedial work;
- b) new information regarding the risks posed by the residual contamination;
- c) information demonstrating that residual contamination has diminished;
- d) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and other appropriate supporting information.

4. Conveyances. Owner shall notify the Department at least fifteen (15) days in advance of any proposed grant, transfer or conveyance of any interest in any or all of the Property.

5. Notices to Lessees. Owner agrees to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.

6. Notification for Proposed Construction and Land Use. Owner shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use.

7. Inspections. The Department shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant. Nothing in this Covenant shall impair any other authority the Department may otherwise have to enter and inspect the Property.

8. No Liability. The Department does not acquire any liability under State law by virtue of accepting this Covenant, nor does EPA acquire any liability under State law by virtue of being a third-party beneficiary.

9. Enforcement. The Department may enforce the terms of this Covenant pursuant to § 25-15-322, C.R.S. BIC and the EPA may file suit in district court to enjoin actual or threatened violations of this Covenant.

10. Owner's Compliance Certification. OWNER shall submit a Report to the Department detailing any lack of compliance with terms of this Covenant. This Report shall be submitted to the Department within 20 days of the OWNER reasonably becoming aware of the events prompting the need to provide such a Report.

11. Notices. Any document or communication required under this Covenant shall be sent or directed to:

Broderick Wood Treatment Superfund Site Project Officer
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

And to:

Robert J. Eber
Assistant Attorney General
Environment and Natural Resources Section
Hazardous and Solid Waste Unit
Colorado Department of Law
Denver, CO 80203

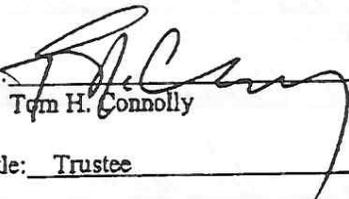
With reference to the Broderick Wood Products Superfund Site

And to:

Remedial Project Manager (8EPR-SR)
Broderick Wood Treatment Superfund Site
U.S. Environmental Protection Agency
999 18th Street
Suite 300
Denver, CO 80202-2466

BIC has caused this instrument to be executed this 19 day of December, 2006.

Broderick Investment Company
390 Interlocken Crescent, Suite 490
Broomfield, CO 80021

By: 
Tom H. Connolly

Title: Trustee

STATE OF Colorado)
COUNTY OF Broomfield) ss:

The foregoing instrument was acknowledged before me this 14th day of December 2006 by Tom H. Connelly on behalf of BIC.

[Signature]
Notary Public
390 Interlocker Cres. # 490
Address
Broomfield, Co 80021

My commission expires: 1-25-2008

Accepted by the Colorado Department of Public Health and Environment this 16th day of January ~~2006~~ 2007

By: [Signature]
Title: Director, HMWMD

STATE OF Colorado)
COUNTY OF Cherokee) ss:

~~2006~~ The foregoing instrument was acknowledged before me this 18th day of January 2007 by Gary W. Baughman on behalf of the Colorado Department of Public Health and Environment

[Signature]
Notary Public
4300 Cherry Creek Blvd
Address
Denver Co 80246

My commission expires: 2-29-08

ATTACHMENT A

KNOW ALL MEN BY THESE PRESENTS THAT BRODERICK INVESTMENT COMPANY, A COLORADO LIMITED PARTNERSHIP, BEING THE OWNER OF A PARCEL OF LAND BEING A PART OF THE SOUTHEAST ONE-QUARTER OF SECTION 9 AND THE SOUTHWEST ONE-QUARTER OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 9, WHENCE THE EAST ONE-QUARTER CORNER OF SAID SECTION 9 BEARS $N007^{\circ}3'48''W$ 2639.40 FEET, ITS SOUTH ONE-QUARTER CORNER BEARS $S88^{\circ}46'53''W$ 2888.47 FEET AND THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 10 BEARS $N89^{\circ}52'30''E$ 2838.00 FEET;

THENCE ALONG THE SOUTH LINE OF SAID SOUTHEAST ONE-QUARTER, $S88^{\circ}46'54''W$ A DISTANCE OF 38.00 FEET;

THENCE PARALLEL WITH THE EAST LINE OF SAID SOUTHEAST ONE-QUARTER, $N007^{\circ}3'48''W$ A DISTANCE OF 38.00 FEET;

THENCE $N28^{\circ}06'33''W$ A DISTANCE OF 887.80 FEET, TO A POINT OF NON-TANGENT CURVE ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD AS DESCRIBED IN THE DOCUMENT RECORDED IN BOOK 1885 AT PAGE 480;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS $S81^{\circ}40'58''E$, HAVING A RADIUS OF 820.00 FEET, A CENTRAL ANGLE OF $16^{\circ}50'28''$ AND AN ARC LENGTH OF 162.23 FEET, TO A POINT OF NON-TANGENT CURVE ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN RAILROAD;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS $S88^{\circ}44'57''W$, HAVING A RADIUS OF 4981.18 FEET, A CENTRAL ANGLE OF $12^{\circ}28'16''$ AND AN ARC LENGTH OF 1078.64 FEET, TO A POINT OF COMPOUND CURVE;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS $S57^{\circ}16'41''W$, HAVING A RADIUS OF 2914.83 FEET, A CENTRAL ANGLE OF $28^{\circ}48'43''$ AND AN ARC LENGTH OF 1814.00 FEET, TO A POINT OF NON-TANGENCY;

THENCE $N27^{\circ}28'58''E$ A DISTANCE OF 23.42 FEET;

THENCE $N72^{\circ}13'19''E$ A DISTANCE OF 135.50 FEET;

THENCE $S82^{\circ}41'41''E$ A DISTANCE OF 230.00 FEET;

THENCE $N82^{\circ}28'19''E$ A DISTANCE OF 178.00 FEET;

THENCE $N84^{\circ}08'19''E$ A DISTANCE OF 270.00 FEET, TO THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER;

THENCE ALONG SAID NORTH LINE OF THE SOUTHEAST ONE-QUARTER, $N88^{\circ}58'16''E$ A DISTANCE OF 1208.50 FEET, TO THE NORTHWEST CORNER OF SAID SOUTHWEST ONE-QUARTER OF SECTION 10;

THENCE ALONG THE NORTH LINE OF SAID SOUTHWEST ONE-QUARTER, $N88^{\circ}30'43''E$ A DISTANCE OF 1203.28 FEET, TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD AS DESCRIBED IN DOCUMENT RECORDED IN BOOK 146 AT PAGE 415;

THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD THE FOLLOWING FIVE (5) COURSES:

1. $S59^{\circ}50'58''W$ A DISTANCE OF 14.81 FEET, TO A POINT OF CURVE;

2. ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS $S30^{\circ}08'01''E$, HAVING A RADIUS OF 2588.80 FEET, A CENTRAL ANGLE OF $22^{\circ}18'56''$ AND AN ARC LENGTH OF 1005.83 FEET, TO A POINT OF NON-TANGENCY ON THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SOUTHWEST ONE-QUARTER OF SECTION 10;

3. ALONG THE SOUTH LINE OF SAID NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER, $N89^{\circ}36'09''E$ A DISTANCE OF 25.43 FEET, TO A POINT OF NON-TANGENT CURVE;

4. ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINT BEARS $S52^{\circ}05'00''E$, HAVING A RADIUS OF 2588.80 FEET, A CENTRAL ANGLE OF $05^{\circ}19'45''$ AND AN ARC LENGTH OF 238.73 FEET, TO A POINT OF TANGENCY;

5. $S32^{\circ}35'18''W$ A DISTANCE OF 1168.53 FEET;

THENCE $S25^{\circ}33'48''E$ A DISTANCE OF 838.00 FEET;

THENCE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST ONE-QUARTER, $S007^{\circ}3'48''E$ A DISTANCE OF 48.82 FEET, TO THE SOUTH LINE OF SAID SOUTHEAST ONE-QUARTER;

THENCE ALONG SAID SOUTH LINE OF THE SOUTHWEST ONE-QUARTER, $S89^{\circ}52'30''W$ A DISTANCE OF 50.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 2,785,981 SQUARE FEET OR 63.498 ACRES;

**ATTACHMENT G
STANDARD OPERATING PROCEDURE
MATERIALS MANAGEMENT
AND
HEALTH AND SAFETY PLAN**

(003274.1)

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FIGURES

FIGURE G-1 LIMITS OF CONTAMINATED AREAS

Tables 2 and 3

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1.0 INTRODUCTION

This Materials Management and Health and Safety Plan ("Plan") shall apply to and be implemented as part of the Environmental Covenant for the Property more specifically described in Attachment A ("Property") whenever there are plans to breach the 12-inch soil cover at the Property. This Plan was prepared to address the specific requirements as referenced in the Environmental Covenant granted by Broderick Investment Company ("BIC") to Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("CDPHE"). Any person undertaking activities to which this Plan is applicable, shall implement this Plan. All activities conducted by BIC associated with management of hazardous soil and water pursuant to the CERCLA remedial action shall comply with the requirements of this Plan. This Plan presents procedures for the handling of contaminated soil or materials as defined in Sections 2.4 and 2.5 during such activities. Property-specific health and safety procedures are also documented within this Plan. The activities include, but may not be limited to, the following:

Utility cuts (private sector, contractor 1, or municipal)

Natural gas (Xcel Energy)

Electrical (Xcel Energy)

Telephone (Qwest, AT&T, US Sprint, MCI)

Cable (Comcast)

Water taps (new service, repair, or modification)

Sewer taps (new service, repair, or modification)

Water Supply

Sanitary sewer

Storm sewer

Manhole alignment

Building foundations

Removal of contaminated materials.

"CONTRACTOR" shall be construed to include any contractor (plumbing, mechanical, etc.) licensed to perform Activities on or under the Property. The conditions and requirements of this Plan shall also be binding on any unlicensed contractor or other entity performing Activities on or under the Property. The property owner shall assure that any entity or person involved in any project subject to this Plan shall be properly licensed or certified pursuant to existing regulations for such Activities. The health and safety and hazard communication plans to be

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utilized for these work activities are included in Section 4. BIC agrees to accept and process all contaminated soil and water as provided in this Plan associated with materials handling on the site, without regard to whose activity generated the materials.

The work activities described in this Plan are intended to be performed in accordance with the following conditions:

1. All work activities shall be performed in accordance with the following conditions:

2. All work activities shall be performed in accordance with the following conditions:

3. All work activities shall be performed in accordance with the following conditions:

4. All work activities shall be performed in accordance with the following conditions:

5. All work activities shall be performed in accordance with the following conditions:

6. All work activities shall be performed in accordance with the following conditions:

7. All work activities shall be performed in accordance with the following conditions:

8. All work activities shall be performed in accordance with the following conditions:

9. All work activities shall be performed in accordance with the following conditions:

10. All work activities shall be performed in accordance with the following conditions:

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2.0 MATERIALS HANDLING PROCEDURES

This section provides the requirements and controls for the anticipated work activities. The overall approach of the work is to identify, remove and transport contaminated soil to the Land Treatment Unit ("LTU") constructed as part of the CERCLA remedial action for the Broderick Wood Treatment Site, and remove, load, transport and dispose of debris. In the event that the LTU is closed or otherwise unavailable, the soil shall be sampled and profiled to determine proper off-property disposal requirements prior to loading in the containers for disposal.

2.1 Access Control

Primary access to the Property will be from the north along Lipan St. (Figure G-1).

2.2 Excavation Safety

All excavations shall be done in a safe manner. Appropriate measures shall be implemented to retain excavation side slopes and prevent cave-ins to ensure that persons in or near the excavation are protected. All other applicable procedures as provided in the Health and Safety and Monitoring Procedures shall be followed (Section 4.0, OSHA references).

2.3 Notification and Documentation

There shall be a one-time notice to EPA and CDPHE before commencing excavation in contaminated areas or when the excavation may extend deeper than one foot above the seasonal groundwater level. Notice shall be provided to EPA and CDPHE whenever unanticipated conditions necessitate activities which will deviate from the procedures and requirements set forth in this Plan. The reason for the expected deviation and a plan for implementing the new procedures shall be provided prior to taking action which will deviate from this Plan. If deviations from this Plan occur accidentally during property activities, EPA and CDPHE shall be notified and the work shall be suspended until the reason for the deviation and a plan for implementing new procedures has been provided. In the event that contaminated materials are encountered, all activities to comply with the requirements of this plan including final disposition of the materials shall be documented. The document shall include photographs of construction activities and results of all sampling activities.

2.4 Contaminated Soil

For purposes of this Plan all soil within the Property shall be considered either "contaminated" or "minimally impacted." All soil excavated from within the areas delineated on Figure G-1 (Former Impoundment Area and Former Process Area 12 inches below the ground surface (bgs)) shall be presumed contaminated and soil excavated from the LTU shall be considered contaminated ("contaminated area"). Soil excavated from within the designated contaminated areas may be considered "minimally impacted" if sample analysis indicates the soil contaminant concentrations are below treatment levels as provided in Table 2 and Table 3 attached of the Broderick Wood Products Superfund Site O&M Plan.

Soil outside of these contaminated areas is considered "minimally impacted" down to one foot

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above the seasonal high groundwater table. All other areas of the property outside the contaminated areas shall be considered "minimally impacted", unless visual observations reveal visible staining and/or olfactory observations reveal strong odors. Evaluation of the soil conditions in the area outside of the contaminated areas will be through visual inspection and observation.

During construction, soil excavated from "minimally impacted" areas will be inspected for visually observable "staining" and the presence of odors. Staining would appear to be black or very dark brown and may have a slight rainbow tint. If odor is present, it would be organic in nature and have a detectable mothball, petroleum or similar type of odor. All soil that is visibly stained or contains strong odors shall be presumed to be contaminated unless sampling and analysis indicates contaminant concentrations to be less than treatment levels as provided in Table 2 and Table 3 of the Broderick Wood Products Superfund Site O&M Plan.

2.5 Contaminated Groundwater and Surface Water Runoff

Adequate control shall be implemented for sediment and surface water runoff in accordance with applicable State and Adams County requirements. All groundwater encountered at the Property and any surface water coming in contact with contaminated soil shall be considered contaminated and subject to the requirements of this plan. If removal of groundwater from the excavation is required to facilitate construction or if surface water comes in contact with contaminated soil, ample means and devices shall be maintained to promptly remove and dispose of all contaminated water, including, as appropriate for the particular work, providing retention berms, installing temporary sumps, or sedimentation ponds for collection of water from disturbed areas and to address ponding of storm water. The removed water shall be pumped to the Broderick Wood Products Superfund Site remedial action treatment facility surge pond. All water disposed of into the surge pond will be treated and discharged by BIC under Colorado discharge permit #COG310180, or any replacement thereto.

2.6 Limits of Excavation

No excavations, other than those provided for in the CERCLA Response Action documents, including the current O&M Plan, shall occur in the LTUs without EPA and CDPHB notification, concurrence and amendment of the CERCLA response action documents. Outside of the LTU, excavations should be limited to the depths and widths, as shown on the plans or as required to accomplish the task; excavations deeper than 12 inches above the seasonal high groundwater table should be avoided to minimize contact with potentially contaminated soil and groundwater; and all disturbed areas shall be restored in accordance with the requirements of Section 3.0. Excavations outside of the LTU, which are deeper than 12 inches above the seasonal high groundwater table will comply with the requirements of Section 2.7 hereof. No excavations shall be conducted in the Former Impoundment Area, except as necessary for the extension of Lipan St. and associated utilities, until certification of partial completion of the CERCLA remedy component has been accepted by the EPA.

2.7 Excavated Soil

All excavated soil designated as "minimally impacted", meeting the criteria listed in Section 2.4, may be placed into other areas on the Property.

Excavated "contaminated" soil shall be loaded, hauled, and stockpiled to the designated area within LTU-A North. All excavated contaminated soil shall be excavated, loaded, and hauled to the LTU in a manner that prevents, to the maximum extent possible, the spread of contamination. All haul roads shall be maintained as clean roads. All vehicles which travel within the limits of the LTU area shall be decontaminated. Soil placed within the LTU will be treated by BIC in accordance with the CERCLA Response Action documents, including the current O&M Plan.

All existing roads surfaced with pavement or gravel outside of the LTU area and on Property are considered clean of contamination and shall be used to transport contaminated soil to the LTU; however, they must be cleaned of contaminated soil upon completion of the hauling operations. Additional temporary roads shall be built using imported granular road surfacing as necessary to provide direct access to the designated disposal areas in the LTU without disturbing active treatment areas. All haul roads shall be maintained and spills shall be prevented. If a spill occurs, the area of the spill shall be cleaned by removal of all visually contaminated soil from the road surface, and the addition of 2 inches of imported granular road surfacing. Temporary roads shall be removed at the completion of the job, unless directed otherwise.

In the event that the LTU is closed and no longer accepting soil, soil shall be sampled and profiled to determine proper off-Property disposal requirements prior to loading in the containers for disposal. It shall then be transported directly to an appropriate waste disposal facility. Under no condition shall this requirement be deviated from.

2.8 Debris

If debris (non-soil material) is encountered during excavation or grading the material encountered shall be considered contaminated and shall be segregated from soil and shall be transported to a designated area within LTU-A North for later characterization and disposal. As an alternative, debris may be characterized and loaded directly into roll-off boxes or trucks for off-Property disposal. All collected debris shall be handled using either the excavator or the loader. The collected debris will be transported to the appropriate waste disposal facility. Gross amounts of soil will be removed from the waste material and the debris sampled and profiled to determine proper off-Property disposal requirements prior to transport off Property for disposal. It will then be transported directly to an appropriate waste disposal facility.

2.9 Air Monitoring

During excavation, transportation and spreading of contaminated soil, Mini RAM samplers will be used to provide real time concentrations of respirable airborne particulates. Three Mini RAMs will be used to monitor dust; one at north Property boundary near the LTUs, one between the LTU-A North and the Union Pacific Rail line, and a third "mobile" unit close to the excavation activity. In addition, appropriate dust control measures, in accordance with § 4.3.1., will be used during the excavation activities. If dust levels exceed 0.15 milligrams per cubic meter (mg/m³) at the fence line or 0.30 mg/m³ within the LTU boundaries or in the work zone,

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the operations will be modified or delayed. In addition, Mini RAM samplers should be placed such that they determine whether persons employed on the site in any capacity are exposed to contaminants at unacceptable concentrations. If so, work procedures shall be modified to reduce exposure to acceptable limits.

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3.0 RESTORATION OPERATIONS

This section provides the requirements for restoration of the surface soil cover following activities which disturb or otherwise remove the existing soil cover. The soil cover shall be replaced or restored in all areas of the property, unless final development conditions include paving, gravel surface or other permanent surfacing material. The soil cover shall include a 1-foot-thick layer of imported fill as cover over any disturbed area, except as noted above.

The existing soil cover, to the extent possible, shall be prevented from being contaminated. In the event that the soil cover material becomes intermixed with contaminated material the mixture shall be excavated, properly disposed and replaced with 12 inches of imported fill.

The current soil cover shall be surveyed prior to any activities which may disturb it. The limits of the planned disturbance shall be staked and elevations of the top surface measured and recorded. At a minimum, stakes shall be placed at the corners of the planned disturbance area and at points not greater than 100-foot intervals. Following the activities, the actual extent of the disturbance shall be measured and recorded.

The information recorded from measurements described above shall control the restoration activities. The disturbed area shall be restored to reestablish the 12 inch soil cover and shall include leveling the ground surface and placement of 12 inches of clean soil. Following soil cover placement all surfaces shall be compacted.

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4.0 HEALTH AND SAFETY AND MONITORING PROCEDURES

This section includes Property-specific health and safety procedures to be implemented during Activities at the Property to which this Plan applies pursuant to section 1.0. The Property owner shall be responsible for having this Plan on Property and assuring its implementation and adherence by all persons on Property during activities to which the Plan is applicable.

4.1 Worker Health and Safety

The principal factor in hazard control and worker health and safety is training. Workers cannot guard against hazards if they are not aware of the dangers in their workplace. The requirements of OSHA, 29 CFR 1910 regulations are used as guidance for this Plan.

The basis for this Plan is that there is potentially contaminated soil and groundwater on the Property for which workers may be exposed during activities at the Property. There are three potential pathways to humans working on the affected Property to come in contact with COCs. The potential pathways are:

1. Direct contact with materials containing COCs;
2. Inhalation of dust containing contaminated particulate, and;
3. Ingestion of contaminated materials.

4.3.1 Health and Safety Officer

A Health and Safety Officer (HSO) shall be appointed by the Contractor to supervise all aspects of implementation of this Plan, perform necessary monitoring, and collect and maintain documentation required by this Plan. The HSO will have the knowledge, responsibility and authority to apply appropriate protection regulations. The HSO shall ensure that health and safety activities are being performed in accordance with the requirements of this Plan.

The HSO shall be responsible for establishment of the exclusion zone around each work area and for ensuring that only workers with the appropriate training and documentation of such training are allowed within the exclusion zone. The HSO shall insure that the equipment utilized to characterize soil encountered during Plan Activities and to monitor worker health and safety are properly calibrated. The HSO shall also ensure that all required field measurements are obtained as required by this Plan to protect worker safety and to characterize excavated soil for segregation and subsequent testing.

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The HSO will be responsible for ensuring that contaminated soil is properly segregated, containerized and transported to the LTU. The HSO shall also ensure that the segregated soil is isolated and managed in a manner to prevent contact by other workers not involved in Plan-related Activities or by Property visitors until results of additional sampling are obtained indicating that the soil is suitable for placement back in the excavation or as general fill or alternatively until contaminated soil are transported to the LTU for on-Property treatment or disposal at a off-Property licensed disposal facility.

4.3.2 Training Requirements

Worker health and safety are regulated under OSHA as stipulated in 29 CFR 1910. Training is regulated by 29 CFR 1910.120 (e). Personnel working on the Property or that may come into contact with contaminated materials, should fall under the criteria specified below:

- Workers on-Property only occasionally for a specific limited task, and who are unlikely to be exposed over permissible exposure limits, shall receive a minimum of 24 hours of instruction, and;
- The HSO and other on-Property management or supervisors directly responsible for, or who supervise employees engaged in, Activities shall receive 40 hours initial training and three days of supervised field experience (the training may be reduced to 24 hour of initial training, if the only area of responsibility is employees as specified above).

The Property owner shall be responsible for ensuring that all Property workers provide adequate documentation certifying OSHA health and safety training in accordance with 29 CFR 1910.120. Workers who cannot provide training certification will be denied access to the controlled area.

The OSHA health and safety training for the HSO will include additional instruction for Property-specific hazards and hazard awareness.

4.3.3 Personal Monitoring

No personal monitoring is anticipated to be required.

4.3.4 Property/Area Monitoring

The Property owner shall be responsible for monitoring conditions at the worksite and immediate surrounding area. During excavation, transportation, and spreading of soil in the LTU units, Mini RAM samplers will be used to provide real time concentrations of respirable airborne particulates. Three Mini RAMs will be used to monitor dust; two at fence lines near the LTUs, and a third "mobile" unit close to the activity. In addition, appropriate dust control measures (e.g., watering) will be used during the transportation. If dust levels exceed 0.15 milligrams per cubic meter (mg/m³) at the fence line or 0.30 mg/m³ within the LTU boundaries or work zones, the operations will be modified or delayed.

4.3.5 Hazard Evaluation

Physical hazards that may be encountered include the presence of heavy equipment (i.e., backhoe, trucks), open trenches or excavations, exposure to electrical and other utility hazards, and noise. In addition, there is a possibility of slip/trip/fall hazards from holes, uneven pavement, unused construction equipment, sharp objects (i.e., nails, metal shards), and slippery surfaces.

Finally, the potential for extreme weather conditions may exist depending upon the implementation schedule. Extreme weather conditions may include excessive heat or cold, thunderstorms, high wind conditions, heavy rains, and snow/ice. Special precautions will be taken during periods of extreme weather, and work may be halted until the severe weather has subsided. For example, work will be halted under windy conditions that result in visible dust from the excavation or stockpiled soil being blown around. In addition, subcontractors may elect to independently halt their activities in the event of extreme weather conditions, especially thunderstorms.

4.3.6 Excavations and Trenches

During the excavation of utility and piping trenches, proper excavation and trenching procedures must be followed as outlined in 29 CFR 1926.650 through .653 (Subpart P. Excavations, Trenching, and Shoring). In particular, the requirements for shoring, sloping, and access/egress must be followed. In addition, all underground utilities (gas, electric, water) at the Property must be identified and marked by the subcontractor prior to the commencement of any excavation and/or trenching activity. Workers are not allowed to enter any trenches or excavations unless an observer is present outside of the excavation/trench area.

4.3.7 Operation of Mechanized Equipment and Motor Vehicles

All mechanized equipment (e.g., backhoe, bulldozers) and other motor vehicles (support trucks, dump trucks, forklifts) will only be operated by qualified personnel who have been trained by their employer in the proper use of the equipment. The equipment will be operated according to all applicable OSHA and Department of Transportation (DOT) regulations. Specifically, the requirements of 29 CFR 1926.600 through .606 (Subpart O. "Motor Vehicles, Mechanized Equipment, and Marine Operations") will be observed, including, but not limited to the following:

1. Seat belts must be worn at all times.
2. All heavy equipment must be equipped with a reverse signal alarm.
3. All earth moving equipment must be equipped with rollover protective structures.

4.3.8 Struck-By and Caught-In/Caught-Between Hazards

The potential for being struck by falling or swinging objects, or situations where an employee is caught in or caught between heavy equipment and/or other items, are to be minimized by following any and all appropriate OSHA precautions. In particular, the subcontractor should incorporate provisions of 29 CFR 1926.600 (a)(3)(i), which refers to suspension of equipment or parts, 29 CFR 1926.651(e), which refers to falling loads, and 29 CFR 1926, Subpart O.

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which refers to machinery and heavy equipment. Precautions should include, but not be limited to:

1. Property personnel must listen for back up alarms and watch for spotters and backing equipment.
2. The use of towing and lifting equipment should be in accordance with OSHA and other applicable requirements.

4.3.9 Exclusion Zone

A clearly defined exclusion zone will be established around each of the controlled (work) areas to prevent the public from contacting potentially contaminated materials. To protect other workers or other persons not involved with the Activity, these controlled (work) areas shall be marked with cones, or other suitable markings, to distinguish these areas from other areas on the Property.

The area in which potentially contaminated or contaminated material, if any, is stockpiled shall have markings (i.e., yellow caution tape or cones) to warn personnel of the potential for exposure.

Access to the controlled (work) areas will be limited to personnel who are required for performance of the subject Activities and who have documented the necessary training as described in Section 4.3.2 of this Plan. All other workers or other persons not involved in Plan-related Activities will be restricted from entering the exclusion zone. The HSO will be responsible for ensuring that only those individuals that are required to enter the exclusion zone and that have the appropriate training are allowed to enter the exclusion zone.

4.3.10 Personnel Protective Equipment

It shall be mandatory for all personnel involved in the Activity to wear Level D personnel protective equipment (PPE). The PPE required includes the following:

- Hard hat;
- Safety shoes;
- Gloves
- Pants;
- Eye protection; and
- Ear protection, as necessary.

Additional PPE may be required in the exclusion zone (including the area of stockpiled material) including latex gloves and Tyvek® suits.

4.2 Emergency Contacts

In the event of an emergency related to Property operations, notification of appropriate contacts should be made. The following persons shall be contacted in the event of an emergency:

1. Immediate supervisor of the person injured;
2. Owner or owner's representative;
3. Medical emergency requiring immediate attention - 911

In the event that an emergency call to 911 is impractical and a visit to the emergency room at a hospital is required, personnel should be familiar with the location and most direct routes to the nearest hospital. The nearest hospital is North Suburban Medical Center, and the directions from the Property to the hospital are as follows:

<u>Directions</u>	<u>Miles</u>
Start: Depart 5800 Galapago Denver, CO 80202 on Lipan St (North)	0.3
1: Turn LEFT (West) onto W 62nd Ave	0.1
2: Turn RIGHT (North) onto Pecos St.	0.1
3: Merge onto I-76 East.	0.8
4: Merge onto I-25 [US-87] (North) via EXIT 5 toward FORT COLLINS	
5: Merge onto 84th Ave (East) via EXIT 219 toward THORNTON	0.4
6: Turn LEFT (North) onto GRANT ST.	1.0

End: Arrive North Suburban Medical Center (hospital), Denver, Colorado - 9191 Grant St.

4.3 Operational Considerations

Operational considerations during operations at the Property include reduction of contaminant spread and public content. The following sections describe control procedures for each of the operational considerations during Activities to which this Plan is applicable.

4.3.1 Reduction of Contaminant Spread

Contaminants may spread from the active work area to the surrounding areas through a variety of mechanisms that include, but are not limited to, the following:

- Generation of dust containing COCs;
- Movement of COCs in water; and
- Physical removal from the Property on worker's clothing or other direct mechanism.

Every effort must be made to prevent the spread of contamination or potentially contaminated materials from the Property.

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Whenever dust is generated during trenching operations, measures shall be employed to reduce the spread of contamination. For control of dust and particulates, water sprays or mists shall routinely be applied to equipment or areas releasing potentially radioactive dusts. The water spray and mists shall be applied so that no runoff, standing pools, or free water are produced. If any water does accumulate, it shall be contained, monitored, and treated as appropriate. In severe cases, including windstorms or other adverse weather conditions, advance planning to control release of potentially contaminated dusts shall be performed. Measures such as shutting down operations and covering of recently exposed, contaminated areas may be necessary to reduce the potential for dust release and dispersal.

Water shall not be introduced to (other than for dust control) or removed from the excavation to the extent practical to prevent the potential for contaminant migration through this media. If precipitation is possible, the excavation should be covered and the area around the excavation modified to prevent surface run-off from entering the excavation.

The purpose of this Plan is to provide procedures that eliminate or restrict emissions or other mechanisms of possible transport of contaminated soil off Property in an uncontrolled manner. In order to prevent uncontrolled releases of contaminants from the Property, contaminated or potentially contaminated materials shall not be removed from the Property, except as required for off-Property disposal.

4.3.2 Public Contact

Activities at the Property may draw the attention of the public. However, access to the Property is restricted by virtue of the fence, and section 4.3.9 provides for a clearly defined exclusion zone. During Activities, the HSO shall be responsible for assuring that unauthorized persons do not enter the exclusion zone and the work areas.

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5.0 DOCUMENT RETENTION

The owner shall maintain at the Property an environmental file. Such files shall contain the following:

- A Copy of this Plan
- Data resulting from sampling and analysis efforts.
- Documentation of activities as required by Section 2.3
- Maps depicting the location of contaminated materials encountered at the Property during construction activities.
- Documents and correspondence required by this Plan.

Such environmental file shall be kept in perpetuity and shall be available during normal business hours for inspection by the EPA or CDPHE.

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TABLE 2
Soil Treatment Levels

Chemical	Mean Concentration Surface/Subsurface (milligrams per kilogram)	Treatment Level
Organics		
Benzo(a)pyrene	35.9/4.5	15.2
Dibenzo(a,h)anthracene	41.8/6.5	13.9
2,3,7,8-TCDD equivalent	--	0.0006*
K001 Constituent**		
Naphthalene	367/142	95 - 99%
Pentachlorophenol	653/380	90 - 99%
Phenanthrene	556/75	95 - 99%
Pyrene	356/28	95 - 99%
Toluene	0.6/1.2	0.5 - 10
Xylene (Total)	2.7/7.5	0.5 - 10
Lead	NA	95 - 99%
Metals		
Arsenic***	29.7/3.8	5.0
Cadmium***	24.7/0.2	1.0
Lead***	838.2/26.7	5.0

Source: Record of Decision for Operable Unit 2, March 1992.

- * Laboratory detection limitations may not allow measurement to this level. In that case, the detection limit will be the treatment level. The currently recognized detection level of 1 ug/kg corresponds to a cancer risk level close to 1×10^{-6} .
- ** Remedy will comply with LDRs through a Treatability Variance. Treatment levels or percent reduction ranges that ex-situ/bioremediation will attain are presented.
- *** Action levels are based on non-wastewater TCLP (milligrams per liter).

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Table 3
Alternate Treatability Variance Levels

Constituent	Concentration Range (mg/kg)	Threshold Concentration (mg/kg)	Percent Reduction Range
Organics			
Benzo(a)pyrene	0.5-15.2	100	90-99.9
Dibenzo(a,h)anthracene	0.5-13.9	100	90-99.9
K001 Constituent			
Naphthalene	0.5-20	400	95-99
Pentachlorophenol	0.5-40	400	95-99
Phenanthrene	0.5-20	400	95-99
Pyrene	0.5-20	400	95-99
Toluene	0.5-10	100	90-99.9
Xylenes (total)	0.5-10	100	90-99.9
Lead	0.1-5	300	NA
*Source: Superfund LDR Guide No. 6A (2 nd Edition) Obtaining a Soil Debris Treatability Variance for Remedial Actions, September 1990.			

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