

STATE OF UTAH  
OFFICE OF THE ATTORNEY GENERAL



FILE COPY

MARK L. SHURTLEFF  
ATTORNEY GENERAL

RAYMOND A. HINTZE  
Chief Deputy

*Protecting Utah • Protecting You*

KIRK TORGENSEN  
Chief Deputy

ERRA-50-11

August 25, 2011

**SENT VIA FEDERAL EXPRESS**

Amelia Piggott, Attorney  
U.S. EPA Region VIII  
ENF-L  
1595 Wynkoop Street  
Denver, Colorado 80202-1129



Re: **Eureka Mills Superfund Site Environmental Covenants**

Dear Ms. Piggott:

Enclosed please find twelve duplicate original environmental covenants for the above referenced site executed by Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality. The twelve environmental covenants include three city owned properties, two federal owned properties, and eight Spent Hansen or related entity owned properties. The enclosures are the same as the PDF copies of environmental covenants nos. 3 through 12 that Shane Bekkemellom e-mailed to you on August 11, 2011, environmental covenant no. 2 that Shane Bekkemellom e-mailed to you on August 24, 2011, and environmental covenant no. 1 that Shane Bekkemellom e-mailed to you on August 25, 2011.

I understand you will provide me with copies of the fully executed and recorded environmental covenants after recording. Either hard copies or electronic PDF copies are acceptable. If you have any questions, please feel free to contact me at (801) 536-4122. My mailing address is P.O. Box 144840, Salt Lake City, Utah 84114-4840.

Sincerely,

Sandra K. Allen,  
Assistant Attorney General

SKA/srb

Enclosure(s)

cc: Duane Mortensen, Division of Environmental Response and Remediation  
Michael Storck, Division of Environmental Response and Remediation  
Paula Schmittiel, U.S. EPA Region VIII

**After recording, return to:**

Spent Hansen  
Godiva Silver Mines, Inc.  
35 Mammoth Main St.  
P.O. Box 190  
Eureka, Utah 84628

**With copy to:**

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described on Attachment A (Property Description) which is affixed hereto and by this reference made a part hereof hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 482 and Survey No. 483 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at the Environmental Protection Agency Region 8 (EPA) or Utah Department of Environmental Quality (UDEQ).

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List (NPL) Site. EPA completed a Remedial Investigation (RI) Report for the Site in July 2002 and a Feasibility Study (FS) Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision (ROD) for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. EPA and the Utah Department of Environmental Quality (UDEQ) performed the Remedial Action work in accordance with the Record of Decision and the Remedial Action Work Plan and completed the work in October 2010. EPA and UDEQ performed work on-Site in accordance the ROD, Remedial Action Work Plan, and with a judicially entered consent decree between the United States and Bullion Beck Mining Corporation, Godiva Silver Mines, Inc., Keystone Surveys, Inc., and Spenst Hansen. U.S. v. Bullion Beck Mining Corporation, Godiva Silver Mines, Inc., Keystone Surveys, Inc., and Spenst Hansen, U.S. Dist. Ct., Dist. Of Utah, 2:204CV00311TS, April 7, 2004. On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental Covenant outlined herein is necessary to fully implement the remedy selected in the ROD.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is available at the EPA Superfund Record Center, located in Denver, CO. Information about contamination on the Property is also available for review at the UDEQ, Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** Godiva Silver Mines, Inc., a corporation registered to do business in the State of Utah, is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Owner are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees easement holders, and/or lessees ("Transferee") during that owner's period of occupation, ownership or control.

5. **Holder.** Godiva Silver Mines, Inc. is also the Holder of this Environmental Covenant. As Holder, Godiva Silver Mines, Inc. may enforce and comply with this Environmental Covenant after the transfer of the Property.

6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 482 and Survey No. 483. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

- a) **Restriction on New Construction or Surface Disturbance.** No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.
- b) **Prohibition on Agricultural Use.** No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.
- c) **Prohibition on Residential and Public Use.** No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed.

8. **Compliance With Local Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

- a) The Owner shall follow the process required by the local land use ordinance.
- b) In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the Property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of the Remedial Action Structures. The Remedial Action Structure may include, but are not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

10. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

- a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures. Remedial Action Structures shall mean such man made terrain features or contours or structures that are shown in Survey No. 482 and Survey No. 483. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates, roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.
- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

11. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

12. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah

Code Ann. Section 57-25-110. Godiva Silver Mines, Inc. waives the right to consent to amendment and termination and also consents to the recording of any instrument related thereto if Godiva Silver Mines, inc. is not the current Owner at the time of the amendment or termination.

13. **Notice**. Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

To UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

And to Godiva Silver Mines, Inc. at:

Spent Hansen  
Godiva Silver Mines, Inc.  
35 Mammoth Main St.  
P.O. Box 190  
Eureka, Utah 84628

14. **Enforcement**. This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance**. Instruments that convey any interest in the Property (fee, leasehold, easement, etc.,) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

16. **Recordation and Distribution of Environmental Covenant.** Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments, agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Payment of UDEQ's Costs.** Any Owner shall reimburse UDEQ for technical reviews, inspections and other actions performed by UDEQ pursuant to the enforcement of this Environmental Covenant or performed at the request of the Owner.

19. **Reservations of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

20. **Compliance Reporting.** Upon request, Owner shall submit written documentation to UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8 and 9. Owner shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

**IT IS SO AGREED:**

Godiva Silver Mines, Inc.

By \_\_\_\_\_ [s]

Its: Manager\_\_\_\_\_

Date \_\_\_\_\_

State of Utah \_\_\_\_\_)

)SS.

County of Utah \_\_\_\_\_)

Before me, a notary public, in and for said county and state, personally appeared \_\_\_\_\_, a duly authorized representative of \_\_\_\_\_, who acknowledged to me that s/he executed the foregoing instrument on behalf of \_\_\_\_\_.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_ day of \_\_\_\_, 2011.

Notary Public



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

\_\_\_\_\_  
Matthew Cohn, Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado    )  
                              )  
County of Denver    )    ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

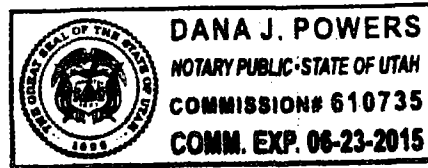
\_\_\_\_\_  
Notary Public

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett  
Brent H. Everett, Director  
Division of Environmental Response  
and Remediation,

11 Aug 2011  
Date



STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of August 2011.

Dana J. Powers  
NOTARY PUBLIC

**Attachment A to Environmental Covenant  
for Mine Claims Owned by Godiva Silver Mines, Inc.  
Survey Nos. 482 and 483**

<b>Owner</b>	<b>Card Number</b>	<b>Name and Survey/Lot Number</b>
Godiva Silver Mines, Inc.	C# 74	Pythagoras No. 181
Godiva Silver Mine Inc.	C# 248	Ajax No. 4197
Godiva Silver Mines, Inc.	C# 399	Maggie S. and Maggie S. No. 2, Survey No. 4102
Godiva Silver Mines, inc.	C# 383	Lakeview No. 3450
Godiva Silver Mines, Inc.	C# 25-A	Uncle Sam No. 321A
Godiva Silver Mines, Inc.	C# 260	Aurora No. 184
Godiva Silver Mines, Inc.	C# 157	Godiva No. 72

**After recording, return to**

Spent Hansen  
P.O. Box 190  
Eureka, Utah 84628

With copy to:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described as: CARD 0320: Crown Point No. 113 (Property Description) hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein. This Environmental Covenant supercedes that certain environmental covenant previously recorded on November 2, 2005, as entry no. 00240791, Book 0483, Pages 0908 through 0913 signed by Spent Hansen in his capacity as president of Keystone Surveys, Inc.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 486 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at the Environmental Protection Agency Region 8 (EPA) or the Utah Department of Environmental Quality (UDEQ).

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List (NPL) Site. EPA completed a Remedial Investigation (RI) Report for the Site in July 2002 and a Feasibility Study (FS) Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision (ROD) for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. EPA and the Utah Department of Environmental Quality (UDEQ) performed the Remedial Action work in accordance with the Record of Decision and the Remedial Action Work Plan and completed the work in October 2010. EPA and UDEQ performed work on-Site in accordance the ROD, Remedial Action Work Plan, and with a judicially entered consent decree between the United States and Bullion Beck Mining Corporation, Keystone Surveys, Inc., Keystone Surveys, Inc., and Spent Hansen. U.S. v. Bullion Beck Mining Corporation, Keystone Surveys, Inc., Keystone Surveys, Inc., and Spent Hansen, U.S. Dist. Ct., Dist. Of Utah, 2:204CV00311TS, April 7, 2004. On November 2, 2005, Keystone Surveys recorded an environmental covenant on this property. On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental Covenant outlined herein is necessary to fully implement the remedy selected in the ROD.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is available at the EPA Superfund Record Center, located in Denver, CO. Information about contamination on the Property is also available for review at the UDEQ, Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** Spent Hansen is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Owner are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees easement holders, and/or lessees ("Transferee") during that owner's period of occupation, ownership or control.

5. **Holder.** Spent Hansen is also the Holder of this Environmental Covenant. As Holder, may enforce and comply with this Environmental Covenant after the transfer of the Property.

6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 486. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

- a) **Restriction on New Construction or Surface Disturbance.** No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.
- b) **Prohibition on Agricultural Use.** No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.
- c) **Prohibition on Residential and Public Use.** No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed.

8. **Compliance With Local Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

- a. The Owner shall follow the process required by the local land use ordinance.
- b. In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the Property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of the Remedial Action Structures. The Remedial Action Structure may include, but are not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

10. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

- a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures. Remedial Action Structures shall mean such man made terrain features or contours or structures that are shown in Survey No. 486. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates, roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.
- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

11. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

12. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah

Code Ann. Section 57-25-110. Spent Hansen waives the right to consent to amendment and termination and also consents to the recording of any instrument related thereto if Spent Hansen is not the current Owner at the time of the amendment or termination.

13. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

To UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

And to Spent Hansen at:

Spent Hansen  
P.O. Box 190  
Eureka, Utah 84628

14. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.,) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

16. **Recordation and Distribution of Environmental Covenant.** Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a



deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments, agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Payment of UDEQ's Costs.** Any Owner shall reimburse UDEQ for technical reviews, inspections and other actions performed by UDEQ pursuant to the enforcement of this Environmental Covenant or performed at the request of the Owner.

19. **Reservations of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

20. **Compliance Reporting.** Upon request, Owner shall submit written documentation to UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8 and 9. Owner shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

Spennst Hansen

Date \_\_\_\_\_

County of Utah \_\_\_\_\_)

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_ day of \_\_\_\_, 2011.

7

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

\_\_\_\_\_  
Andy Lensink, Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado     )  
                                  )  
County of Denver     )     ss:

Before me, a notary public, in and for said county and state, personally appeared Andy Lensink and Kelcey Land, respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

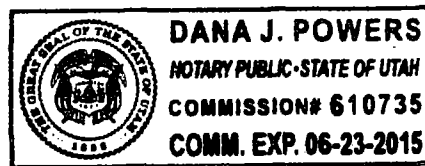
\_\_\_\_\_  
Notary Public

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett  
Brent H. Everett, Director  
Division of Environmental Response  
and Remediation,

11 Aug 2011  
Date



STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of

August 2011.

Dana J. Powers  
NOTARY PUBLIC

**After recording, return to**

Spent Hansen  
Keystone Surveys, Inc.  
P.O. Box 190  
Eureka, Utah 84628

With copy to:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described on Attachment A (Property Description) which is affixed hereto and by this reference made a part hereof hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 487 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at the Environmental Protection Agency Region 8 (EPA) or the Utah Department of Environmental Quality (UDEQ).

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental

Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List (NPL) Site. EPA completed a Remedial Investigation (RI) Report for the Site in July 2002 and a Feasibility Study (FS) Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision (ROD) for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. EPA and the Utah Department of Environmental Quality (UDEQ) performed the Remedial Action work in accordance with the Record of Decision and the Remedial Action Work Plan and completed the work in October 2010. EPA and UDEQ performed work on-Site in accordance the ROD, Remedial Action Work Plan, and with a judicially entered consent decree between the United States and Bullion Beck Mining Corporation, Keystone Surveys, Inc., Keystone Surveys, Inc., and Spent Hansen. U.S. v. Bullion Beck Mining Corporation, Keystone Surveys, Inc., Keystone Surveys, Inc., and Spent Hansen, U.S. Dist. Ct., Dist. Of Utah, 2:204CV00311TS, April 7, 2004. On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental Covenant outlined herein is necessary to fully implement the remedy selected in the ROD.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is available at the EPA Superfund Record Center, located in Denver, CO. Information about contamination on the Property is also available for review at the UDEQ, Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** Keystone Surveys, Inc., a corporation registered to do business in the State of Utah, is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Owner are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees easement holders, and/or lessees ("Transferee") during that owner's period of occupation, ownership or control.

5. **Holder.** Keystone Surveys, Inc. is also the Holder of this Environmental Covenant. As Holder, Keystone Surveys, Inc. may enforce and comply with this Environmental Covenant after the transfer of the Property.

6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental

Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 487. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

- a) **Restriction on New Construction or Surface Disturbance.** No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.
- b) **Prohibition on Agricultural Use.** No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.
- c) **Prohibition on Residential and Public Use.** No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed.

8. **Compliance With Local Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

- a. The Owner shall follow the process required by the local land use ordinance.
- b. In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the Property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of the Remedial Action Structures. The Remedial Action Structure may include, but are not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

10. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

- a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures. Remedial Action Structures shall mean such man made terrain features or contours or structures that are shown in Survey No. 487. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates, roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.
- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

11. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

12. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-110. Keystone Surveys, Inc. waives the right to consent to amendment and termination and also consents to the recording of any instrument related thereto if Keystone Surveys, Inc. is not the current Owner at the time of the amendment or termination.



13. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

To UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

And to Keystone Surveys, Inc. at:

Spent Hansen  
Keystone Surveys, Inc.  
P.O. Box 190  
Eureka, Utah 84628

14. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.,) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

16. **Recordation and Distribution of Environmental Covenant.** Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a

file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments, agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Payment of UDEQ's Costs.** Any Owner shall reimburse UDEQ for technical reviews, inspections and other actions performed by UDEQ pursuant to the enforcement of this Environmental Covenant or performed at the request of the Owner.

19. **Reservations of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

20. **Compliance Reporting.** Upon request, Owner shall submit written documentation to UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8 and 9. Owner shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

Keystone Surveys, Inc.

By \_\_\_\_\_ [s]  
Its: Manager \_\_\_\_\_  
Date \_\_\_\_\_

State of Utah \_\_\_\_\_)  
County of Utah \_\_\_\_\_)ss.

Before me, a notary public, in and for said county and state, personally appeared \_\_\_\_\_, a duly authorized representative of \_\_\_\_\_, who acknowledged to me that s/he executed the foregoing instrument on behalf of \_\_\_\_\_.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_ day of \_\_\_\_, 2011.

**Notary Public**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

\_\_\_\_\_  
Matthew Cohn, Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado    )  
                              )  
County of Denver    )       ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY

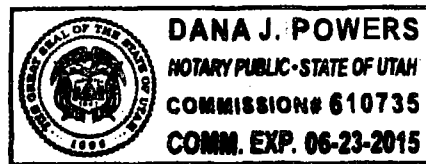
The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett

Brent H. Everett, Director  
Division of Environmental Response  
and Remediation,

11 AUG 2011

Date



STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of August 2011.

Dana J. Powers  
NOTARY PUBLIC

Attachment A to Environmental Covenant  
for Mine Claims Owned by Keystone Surveys, Inc.  
Survey No. 487

Owner	Card Number	Name and Survey/Lot Number
Keystone Surveys, Inc.	C # 229	Rattler No. 297
Keystone Surveys, Inc.	C # 229	Bully Chance No. 297
Keystone Surveys, Inc.	C # 41	Snow Flake No. 201
Keystone Surveys, Inc.	C # 484	Soloman's Treasure No. 251A

**After recording, return to:**

Spent Hansen  
Godiva Silver Mines, Inc.  
P.O. Box 190  
Eureka, Utah 84628

**With copy to:**

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described on Attachment A (Property Description) which is affixed hereto and by this reference made a part hereof hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 484, Survey No. 485, and Survey No. 488 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at the Environmental Protection Agency Region 8 (EPA) or Utah Department of Environmental Quality (UDEQ).

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List (NPL) Site. EPA completed a Remedial Investigation (RI) Report for the Site in July 2002 and a Feasibility Study (FS) Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision (ROD) for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. EPA and the Utah Department of Environmental Quality (UDEQ) performed the Remedial Action work in accordance with the Record of Decision and the Remedial Action Work Plan and completed the work in October 2010. EPA and UDEQ performed work on-Site in accordance the ROD, Remedial Action Work Plan, and with a judicially entered consent decree between the United States and Bullion Beck Mining Corporation, Godiva Silver Mines, Inc., Keystone Surveys, Inc., and Spenst Hansen. U.S. v. Bullion Beck Mining Corporation, Godiva Silver Mines, Inc., Keystone Surveys, Inc., and Spenst Hansen, U.S. Dist. Ct., Dist. Of Utah, 2:204CV00311TS, April 7, 2004. On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental Covenant outlined herein is necessary to fully implement the remedy selected in the ROD.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is available at the EPA Superfund Record Center, located in Denver, CO. Information about contamination on the Property is also available for review at the UDEQ, Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** Godiva Silver Mines, Inc., a corporation registered to do business in the State of Utah, is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Owner are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees easement holders, and/or lessees ("Transferee") during that owner's period of occupation, ownership or control.

5. **Holder.** Godiva Silver Mines, Inc. is also the Holder of this Environmental Covenant. As Holder, Godiva Silver Mines, Inc. may enforce and comply with this Environmental Covenant after the transfer of the Property.



6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 484, Survey No. 485, and Survey No. 488. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

- a) Restriction on New Construction or Surface Disturbance. No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.
- b) Prohibition on Agricultural Use. No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.
- c) Prohibition on Residential and Public Use. No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed.

8. **Compliance With Local Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

- a) The Owner shall follow the process required by the local land use ordinance.
- b) In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the Property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of the Remedial Action Structures. The Remedial Action Structure may include, but are not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

10. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

- a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures. Remedial Action Structures shall mean such man made terrain features or contours or structures that are shown in Survey No. 484, Survey No. 485, and Survey No. 488. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates, roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.
- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

11. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

12. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah

Code Ann. Section 57-25-110. Godiva Silver Mines, Inc. waives the right to consent to amendment and termination and also consents to the recording of any instrument related thereto if Godiva Silver Mines, Inc. is not the current Owner at the time of the amendment or termination.

13. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

To UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

And to Godiva Silver Mines, Inc. at:

Spent Hansen  
Godiva Silver Mines, Inc.  
P.O. Box 190  
Eureka, Utah 84628

14. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

16. **Recordation and Distribution of Environmental Covenant.** Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments, agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Payment of UDEQ's Costs.** Any Owner shall reimburse UDEQ for technical reviews, inspections and other actions performed by UDEQ pursuant to the enforcement of this Environmental Covenant or performed at the request of the Owner.

19. **Reservations of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

20. **Compliance Reporting.** Upon request, Owner shall submit written documentation to UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8 and 9. Owner shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

Godiva Silver Mines, Inc.

State of Utah \_\_\_\_\_)  
County of Utah \_\_\_\_\_)ss.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_ day of \_\_\_\_, 2011.

7

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

\_\_\_\_\_  
Matthew Cohn, Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado     )  
                                  )  
County of Denver     )     ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

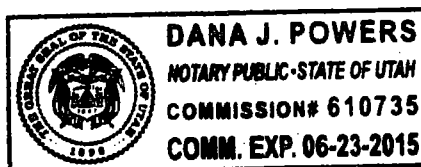
The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett

Brent H. Everett, Director  
Division of Environmental Response  
and Remediation,

11 Aug 2011

Date



STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of

August 2011.

Dana J. Powers  
NOTARY PUBLIC

**Attachment A to Environmental Covenant  
for Mine Claims Owned by Centennial Eureka Mines, Inc.  
Survey Nos. 484, 485, and 488**

<b>Owner</b>	<b>Card Number</b>	<b>Name and Survey/Lot Number</b>
Godiva Silver Mines, Inc.	C # 471	Smuggler No. 3347
Godiva Silver Mines, Inc.	C # 19	Smuggler No. 2 No. 5307
Godiva Silver Mines, Inc.	C # 193	Crusader No. 3896
Godiva Silver Mines, Inc.	C #168	Early Rose No. 4047
Godiva Silver Mines, Inc.	C #168	Early Rose Fraction No. 4120



**After recording, return to:**

Spent Hansen  
Centennial Eureka Mines, Inc.  
P.O. Box 190  
Eureka, Utah 84628

**With copy to:**

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described on Attachment A (Property Description) which is affixed hereto and by this reference made a part hereof hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 486 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at the Environmental Protection Agency Region 8 (EPA) or Utah Department of Environmental Quality (UDEQ).

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List (NPL) Site. EPA completed a Remedial Investigation (RI) Report for the Site in July 2002 and a Feasibility Study (FS) Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision (ROD) for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. EPA and the Utah Department of Environmental Quality (UDEQ) performed the Remedial Action work in accordance with the Record of Decision and the Remedial Action Work Plan and completed the work in October 2010. EPA and UDEQ performed work on-Site in accordance the ROD, Remedial Action Work Plan, and with a judicially entered consent decree between the United States and Bullion Beck Mining Corporation, Centennial Eureka Mines, Inc., Keystone Surveys, Inc., and Spenst Hansen. U.S. v. Bullion Beck Mining Corporation, Centennial Eureka Mines, Inc., Keystone Surveys, Inc., and Spenst Hansen, U.S. Dist. Ct., Dist. Of Utah, 2:204CV00311TS, April 7, 2004. On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental Covenant outlined herein is necessary to fully implement the remedy selected in the ROD.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is available at the EPA Superfund Record Center, located in Denver, CO. Information about contamination on the Property is also available for review at the UDEQ, Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** Centennial Eureka Mines, Inc., a corporation registered to do business in the State of Utah, is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Owner are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees easement holders, and/or lessees ("Transferee") during that owner's period of occupation, ownership or control.

5. **Holder.** Centennial Eureka Mines, Inc. is also the Holder of this Environmental Covenant. As Holder, Centennial Eureka Mines, Inc. may enforce and comply with this Environmental Covenant after the transfer of the Property.

6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 486. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

- a) Restriction on New Construction or Surface Disturbance. No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.
- b) Prohibition on Agricultural Use. No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.
- c) Prohibition on Residential and Public Use. No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed.

8. **Compliance With Local Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

- a) The Owner shall follow the process required by the local land use ordinance.
- b) In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the Property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of the Remedial Action Structures. The Remedial Action Structure may include, but are not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

10. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

- a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures. Remedial Action Structures shall mean such man made terrain features or contours or structures that are shown in Survey No. 486. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates, roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.
- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

11. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

12. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah

Code Ann. Section 57-25-110. Centennial Eureka Mines, Inc. waives the right to consent to amendment and termination and also consents to the recording of any instrument related thereto if Centennial Eureka Mines, Inc. is not the current Owner at the time of the amendment or termination.

13. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

To UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

And to Centennial Eureka Mines, Inc. at:

Spent Hansen  
Centennial Eureka Mines, Inc.  
P.O. Box 190  
Eureka, Utah 84628

14. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.,) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

16. **Recordation and Distribution of Environmental Covenant.** Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments, agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Payment of UDEQ's Costs.** Any Owner shall reimburse UDEQ for technical reviews, inspections and other actions performed by UDEQ pursuant to the enforcement of this Environmental Covenant or performed at the request of the Owner.

19. **Reservations of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

20. **Compliance Reporting.** Upon request, Owner shall submit written documentation to UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8 and 9. Owner shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

## Centennial Eureka Mines, Inc.

State of Utah \_\_\_\_\_)  
County of Utah \_\_\_\_\_) ss.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_ day of \_\_\_\_, 2011.

7

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

\_\_\_\_\_  
Matthew Cohn, Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado     )  
                                  )  
County of Denver     )     ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public



**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

\_\_\_\_\_  
Brent H. Everett, Director  
Division of Environmental Response  
and Remediation,

\_\_\_\_\_  
Date

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

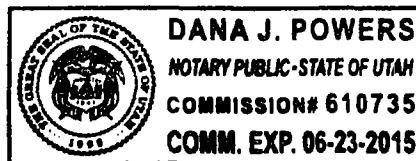
\_\_\_\_\_  
NOTARY PUBLIC

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett  
Brent H. Everett, Director  
Division of Environmental Response  
and Remediation,

11 Aug 2011  
Date



STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of August 2011.

Dana J. Powers  
NOTARY PUBLIC

**Attachment A to Environmental Covenant  
for Mine Claims Owned by Centennial Eureka Mines, Inc.  
Survey No. 486**

<b>Owner</b>	<b>Card Number</b>	<b>Name and Survey/Lot Number</b>
Centennial Eureka Mines, Inc.	C# 238	Bullion No. 76
Centennial Eureka Mines, Inc.	C # 523 & 523A	West Bullion No. 90
Centennial Eureka Mines, Inc.	C#636	April Fraction No. 6584

**After recording, return to:**

Spent Hansen  
Centennial Eureka Mines, Inc.  
P.O. Box 190  
Eureka, Utah 84628

**With copy to:**

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described on Attachment A (Property Description) which is affixed hereto and by this reference made a part hereof hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 487 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at the Environmental Protection Agency Region 8 (EPA) or Utah Department of Environmental Quality (UDEQ).

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List (NPL) Site. EPA completed a Remedial Investigation (RI) Report for the Site in July 2002 and a Feasibility Study (FS) Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision (ROD) for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. EPA and the Utah Department of Environmental Quality (UDEQ) performed the Remedial Action work in accordance with the Record of Decision and the Remedial Action Work Plan and completed the work in October 2010. EPA and UDEQ performed work on-Site in accordance the ROD, Remedial Action Work Plan, and with a judicially entered consent decree between the United States and Bullion Beck Mining Corporation, Centennial Eureka Mines, Inc., Keystone Surveys, Inc., and Spent Hansen. U.S. v. Bullion Beck Mining Corporation, Centennial Eureka Mines, Inc., Keystone Surveys, Inc., and Spent Hansen, U.S. Dist. Ct., Dist. Of Utah, 2:204CV00311TS, April 7, 2004. On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental Covenant outlined herein is necessary to fully implement the remedy selected in the ROD.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is available at the EPA Superfund Record Center, located in Denver, CO. Information about contamination on the Property is also available for review at the UDEQ, Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** Centennial Eureka Mines, Inc., a corporation registered to do business in the State of Utah, is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Owner are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees easement holders, and/or lessees ("Transferee") during that owner's period of occupation, ownership or control.

5. **Holder.** Centennial Eureka Mines, Inc. is also the Holder of this Environmental Covenant. As Holder, Centennial Eureka Mines, Inc. may enforce and comply with this Environmental Covenant after the transfer of the Property.

6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 487. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

- a) Restriction on New Construction or Surface Disturbance. No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.
- b) Prohibition on Agricultural Use. No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.
- c) Prohibition on Residential and Public Use. No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed.

8. **Compliance With Local Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

- a) The Owner shall follow the process required by the local land use ordinance.
- b) In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the Property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of the Remedial Action Structures. The Remedial Action Structure may include, but are not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

10. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

- a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures. Remedial Action Structures shall mean such man made terrain features or contours or structures that are shown in Survey No. 487. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates, roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.
- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

11. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

12. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah

Code Ann. Section 57-25-110. Centennial Eureka Mines, Inc. waives the right to consent to amendment and termination and also consents to the recording of any instrument related thereto if Centennial Eureka Mines, Inc. is not the current Owner at the time of the amendment or termination.

13. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

To UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

And to Centennial Eureka Mines, Inc. at:

Spent Hansen  
Centennial Eureka Mines, Inc.  
P.O. Box 190  
Eureka, Utah 84628

14. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.,) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.



16. **Recordation and Distribution of Environmental Covenant.** Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments, agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Payment of UDEQ's Costs.** Any Owner shall reimburse UDEQ for technical reviews, inspections and other actions performed by UDEQ pursuant to the enforcement of this Environmental Covenant or performed at the request of the Owner.

19. **Reservations of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

20. **Compliance Reporting.** Upon request, Owner shall submit written documentation to UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8 and 9. Owner shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

## Centennial Eureka Mines, Inc.

Date \_\_\_\_\_

State of Utah \_\_\_\_\_)  
\_\_\_\_\_)ss.  
County of Utah \_\_\_\_\_)

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_ day of \_\_\_\_, 2011.

7

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

\_\_\_\_\_  
Matthew Cohn, Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado     )  
                                  )  
County of Denver     )     ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

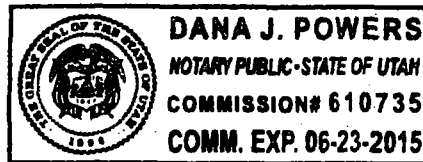
Brent H. Everett

Brent H. Everett, Director  
Division of Environmental Response  
and Remediation,

11 AUG 2011

Date

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )



Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of

August 2011.

Dana J. Powers  
NOTARY PUBLIC

**Attachment A to Environmental Covenant  
for Mine Claims Owned by Centennial Eureka Mines, Inc.  
Survey No. 487**

<b>Owner</b>	<b>Card Number</b>	<b>Name and Survey/Lot Number</b>
Centennial Eureka Mines, Inc.	C # 175	Eureka No. 39
Centennial Eureka Mines, Inc.	C # 388	Legal No. 132
Centennial Eureka Mines, Inc.	C # 523 & 523A	West Bullion No. 90
Centennial Eureka Mines, Inc.	C # 238	Bullion No. 76

**After recording, return to:**

Spent Hansen  
Centennial Eureka Mines, Inc.  
P.O. Box 190  
Eureka, Utah 84628

**With copy to:**

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described on Attachment A (Property Description) which is affixed hereto and by this reference made a part hereof hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein. This Environmental Covenant supercedes that certain environmental covenant previously recorded on November 2, 2005, as entry no. 00240791, Book 0483, Pages 0908 through 0913 signed by Spent Hansen in his capacity as president of Keystone Surveys, Inc.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 486 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at the Environmental Protection Agency Region 8 (EPA) or Utah Department of Environmental Quality (UDEQ).

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List (NPL) Site. EPA completed a Remedial Investigation (RI) Report for the Site in July 2002 and a Feasibility Study (FS) Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision (ROD) for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. EPA and the Utah Department of Environmental Quality (UDEQ) performed the Remedial Action work in accordance with the Record of Decision and the Remedial Action Work Plan and completed the work in October 2010. EPA and UDEQ performed work on-Site in accordance the ROD, Remedial Action Work Plan, and with a judicially entered consent decree between the United States and Bullion Beck Mining Corporation, Centennial Eureka Mines, Inc., Keystone Surveys, Inc., and Spenst Hansen. U.S. v. Bullion Beck Mining Corporation, Centennial Eureka Mines, Inc., Keystone Surveys, Inc., and Spenst Hansen, U.S. Dist. Ct., Dist. Of Utah, 2:204CV00311TS, April 7, 2004. On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental Covenant outlined herein is necessary to fully implement the remedy selected in the ROD.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is available at the EPA Superfund Record Center, located in Denver, CO. Information about contamination on the Property is also available for review at the UDEQ, Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** Centennial Eureka Mines, Inc., a corporation registered to do business in the State of Utah, is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Owner are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees easement holders, and/or lessees ("Transferee") during that owner's period of occupation, ownership or control.

5. **Holder.** Centennial Eureka Mines, Inc. is also the Holder of this Environmental Covenant. As Holder, Centennial Eureka Mines, Inc. may enforce and

comply with this Environmental Covenant after the transfer of the Property.

6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 486. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

- a) **Restriction on New Construction or Surface Disturbance.** No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.
- b) **Prohibition on Agricultural Use.** No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.
- c) **Prohibition on Residential and Public Use.** No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed.

8. **Compliance With Local Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

- a) The Owner shall follow the process required by the local land use ordinance.
- b) In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the Property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of the Remedial Action Structures. The Remedial Action Structure may include, but are not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.



10. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

- a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures. Remedial Action Structures shall mean such man made terrain features or contours or structures that are shown in Survey No. 486. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates, roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.
- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

11. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

12. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah

Code Ann. Section 57-25-110. Centennial Eureka Mines, Inc. waives the right to consent to amendment and termination and also consents to the recording of any instrument related thereto if Centennial Eureka Mines, Inc. is not the current Owner at the time of the amendment or termination.

13. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

To UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

And to Centennial Eureka Mines, Inc. at:

Spent Hansen  
Centennial Eureka Mines, Inc.  
P.O. Box 190  
Eureka, Utah 84628

14. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.,) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

16. **Recordation and Distribution of Environmental Covenant.** Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments, agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Payment of UDEQ's Costs.** Any Owner shall reimburse UDEQ for technical reviews, inspections and other actions performed by UDEQ pursuant to the enforcement of this Environmental Covenant or performed at the request of the Owner.

19. **Reservations of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

20. **Compliance Reporting.** Upon request, Owner shall submit written documentation to UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8 and 9. Owner shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

**IT IS SO AGREED:**

Centennial Eureka Mines, Inc.

By \_\_\_\_\_ [s]  
Its: Manager \_\_\_\_\_  
Date \_\_\_\_\_

State of Utah \_\_\_\_\_)  
County of Utah \_\_\_\_\_) ss.

Before me, a notary public, in and for said county and state, personally appeared \_\_\_\_\_, a duly authorized representative of \_\_\_\_\_, who acknowledged to me that s/he executed the foregoing instrument on behalf of \_\_\_\_\_.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_ day of \_\_\_\_, 2011.

**Notary Public**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

\_\_\_\_\_  
Matthew Cohn, Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado    )  
                              )  
County of Denver    )       ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

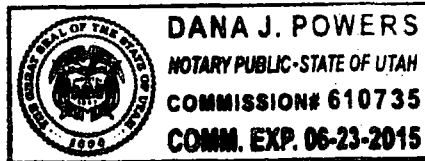
The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett

Brent H. Everett, Director  
Division of Environmental Response  
and Remediation,

11 Aug 2011

Date



STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of

August 2011.

Dana J. Powers  
NOTARY PUBLIC

Attachment A to Environmental Covenant  
for Mine Claims Owned by Centennial Eureka Mines, inc.  
Survey No. 486

Owner	Card Number	Name and Survey/Lot Number
Centennial Eureka Mines, Inc.	C # 556	Grover Cleveland No. 3007
Centennial Eureka Mines, Inc.	C # 347	2G No. 3012
Centennial Eureka Mines, Inc.	C # 314	Comstock No. 153
Centennial Eureka Mines, Inc.	C # 389	Last Gap No. 3004
Centennial Eureka Mines, Inc.	C # 532	Emma No. 143
Centennial Eureka Mines, Inc.	C # 272	Almo No. 3009
Centennial Eureka Mines, Inc.	C # 345	Gladstone No. 127
Centennial Eureka Mines, Inc.	C # 267	Ryan No. 3060A
Centennial Eureka Mines, Inc.	C # 212	Champion No. 2
Centennial Eureka Mines, Inc.	C# 374	Jackman No. 125
Centennial Eureka Mines, Inc.	C# 690	Beck Fraction No. 6634
Centennial Eureka Mines, Inc.	C#239	Beck No. 74
Centennial Eureka Mines, Inc.	C#240	Bullion No. 68

**After recording, return to:**

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

### **ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), the Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described on Attachment A (Property Description) which is affixed hereto and by this reference made a part hereof hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 486 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at the Environmental Protection Agency Region 8 (EPA) or the Utah Department of Environmental Quality (UDEQ).

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.
2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List (NPL) Site. EPA completed a Remedial Investigation (RI) Report for



the Site in July 2002 and a Feasibility Study (FS) Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision (ROD) for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. The Remedial Action was completed for the Site in October, 2010. EPA and the Utah Department of Environmental Quality (UDEQ) performed work on-Site in accordance with a judicially entered consent decree between the United States and Bullion Beck Mining Corporation, Godiva Silver Mines, Inc., Keystone Surveys, Inc., and Spenst Hansen. U.S. v. Bullion Beck Mining Corporation, Godiva Silver Mines, Inc., Keystone Surveys, Inc., and Spenst Hansen, U.S. Dist. Ct., Dist. Of Utah, 2:204CV00311TS, April 7, 2004. On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental Covenant outlined herein is necessary to fully implement the remedy selected in the ROD.

3. **Administrative Record**. The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is located at the EPA Superfund Record Center, located in Denver, CO. Information about contamination on the Property is also available for review at UDEQ, Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner**. The United States Government is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Covenant are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees ("Transferee") during that Transferee's period of occupation, ownership or control.

5. **Holder**. The UDEQ is a Holder of this Environmental Covenant. UDEQ assumes no affirmative obligation through the entry of this Environmental Covenant and shall not incur any liability under state law or otherwise solely by virtue of being a holder under this Environmental Covenant.

6. **Agency**. The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures**. EPA's Superfund Remedial Action Structures are shown in the survey in Survey No. 486. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

a) **Restriction on New Construction or Surface Disturbance.** No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.

b) **Prohibition on Agricultural Use.** No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.

c) **Prohibition on Residential and Public Use.** No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed

8. **Compliance With Local Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

a) The Owner shall follow the process required by the local institutional control ordinances.

b) In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Applicability.** The covenants and use restrictions established herein apply to Transferees and any Owner subsequent to EPA. EPA's ownership of the property and establishment of environmental covenants and use restrictions is not intended to limit or otherwise change EPA's authority under CERCLA or any other federal law.

10. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of Remedial Action Structures. The Remedial Action Structure may include, but is not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

11. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures.

Remedial Action Structures shall mean such man made terrain features or contours or structures that are identified in the survey. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates, roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.

- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

12. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

13. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-110.

14. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

And to UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

15. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

16. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.,) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

17. **Recordation and Distribution of Environmental Covenant.** Within forty five (45) days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

18. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments, agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah

Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

19. **Payment of UDEQ's Costs.** Any Owner subsequent to EPA shall reimburse UDEQ for technical reviews, inspections and other actions performed by UDEQ pursuant to the enforcement of this Environmental Covenant or performed at the request of the Owner.

20. **Reservation of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

21. **Compliance Reporting.** Upon request, Owner shall submit written documentation to the UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8, and 10. Any Owner subsequent to EPA shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

IT IS SO AGREED:

By \_\_\_\_\_[s]

Its: \_\_\_\_\_

\_\_\_\_\_  
Date

State of \_\_\_\_\_ )

)

ss:

County of \_\_\_\_\_ )

Before me, a notary public, in and for said county and state, personally appeared \_\_\_\_\_, a duly authorized representative of \_\_\_\_\_, who acknowledged to me that he executed the foregoing instrument on behalf of \_\_\_\_\_.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

United States Environmental Protection Agency

\_\_\_\_\_  
Matthew Cohn, Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado    )  
                              )  
County of Denver    )       ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, Directors respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency; who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

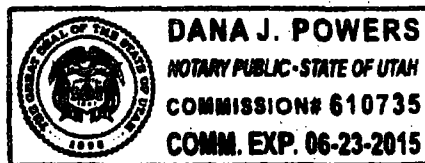
The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett

Brent H. Everett, Director  
Division of Environmental Response  
and Remediation

11 AUG 2011

Date



STATE OF UTAH )

: ss.

COUNTY OF SALT LAKE )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of

August 2011.

Dana J. Powers  
NOTARY PUBLIC



Attachment A to Environmental Covenant  
Survey No. 486

Owner	Card # or Address	Name or Description
U.S. Government	Tax ID No. XE-5532	Lot 29, Block 2, Plat "E" of City of Eureka Survey
U.S. Government	Tax ID No. XE-5531	Lot 28, Block 2, Plat "E" of City of Eureka Survey
U.S. Government	Tax ID No. XE-5533-1	Lot 30, Block 2, Plat "E"; of Eureka City Survey, Excepting therefrom that part of Lot 30 described below. A 42-foot frontage facing the Union Pacific right-of-way, beginning at the Southeast Corner of Lot 30 and extending in a Westerly direction 42 feet, thence Northerly 34 feet, thence easterly 42 feet, thence Southerly 34 feet to beginning.
U.S. Government	Tax ID No. XE-5527	That part of Lot 25, Block 2, Plat "E" of Eureka City Survey, described as commencing on the north end of North Extension Zulu, Valley & Ridge Mining Claim, U.S. Lot 231, South 79 degrees 41 minutes east 157.4 feet from Corner Number 3 of said Lot, thence South 20 degrees 11 minutes East 165.9 feet, thence south 56 degrees 55 minutes West 45 feet, thence West 31.5 feet, thence north 3 degrees east 180 feet, thence north 79 degrees 40 minutes east 2.6 feet to beginning.
U.S. Government	Tax ID No. XE-5259	All Lot 17, Block 9, Plat "B" of Eureka City Survey.
U.S. Government	Tax ID No. XE-5643	All Lot 29, Block 1, Plat "F" of Eureka City Survey.
U.S. Government	Tax ID No. XE-5638	Lot 24, Block 1, Plat "F" of Eureka City Survey.

**After recording, return to:**

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), the Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described on Attachment A (Property Description) which is affixed hereto and by this reference made a part hereof hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 487 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at the Environmental Protection Agency Region 8 (EPA) or the Utah Department of Environmental Quality (UDEQ).

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List (NPL) Site. EPA completed a Remedial Investigation (RI) Report for

the Site in July 2002 and a Feasibility Study (FS) Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision (ROD) for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. The Remedial Action was completed for the Site in October, 2010. On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental Covenant outlined herein is necessary to fully implement the remedy selected in the ROD.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is located at the EPA Superfund Record Center, located in Denver, CO. Information about contamination on the Property is also available for review at UDEQ, Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** The United States Government is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Covenant are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees ("Transferee") during that Transferee's period of occupation, ownership or control.

5. **Holder.** The UDEQ is a Holder of this Environmental Covenant. UDEQ assumes no affirmative obligation through the entry of this Environmental Covenant and shall not incur any liability under state law or otherwise solely by virtue of being a holder under this Environmental Covenant.

6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 487. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

- a) **Restriction on New Construction or Surface Disturbance.** No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.

b) **Prohibition on Agricultural Use.** No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.

c) **Prohibition on Residential and Public Use.** No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed

8. **Compliance With Local Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

a) The Owner shall follow the process required by the local institutional control ordinances.

b) In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Applicability.** The covenants and use restrictions established herein apply to Transferees and any Owner subsequent to EPA. EPA's ownership of the property and establishment of environmental covenants and use restrictions is not intended to limit or otherwise change EPA's authority under CERCLA or any other federal law.

10. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of Remedial Action Structures. The Remedial Action Structure may include, but is not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

11. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures. Remedial Action Structures shall mean such man made terrain features or contours or structures that are identified in the survey. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates,

roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.

- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

12. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

13. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-110.

13. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

And to UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

14. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.,) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

16. **Recordation and Distribution of Environmental Covenant.** Within forty five (45) days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments, agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to

the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Reservation of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

20. **Compliance Reporting.** Upon request, Owner shall submit written documentation to the UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8, and 10. Any Owner subsequent to EPA shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

IT IS SO AGREED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

\_\_\_\_\_  
Matthew Cohn, Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado    )  
                              )  
County of Denver    )       ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, Directors respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public



**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett  
Brent H. Everett, Director  
Division of Environmental Response  
and Remediation

11 Aug 2011  
Date



STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of August 2011.

Dana J. Powers  
NOTARY PUBLIC

**Attachment A to Environmental Covenant  
Survey No. 487**

Owner	Card # or Address	Name or Description
U.S. Government	Tax ID No. XE-4814	Commencing at the Southwest corner of Lot 14, Block 5, Plat "A" of the Eureka City Survey, thence North 58 degrees 05" West 91 feet, about South 30 degrees West about 107 feet, thence South 48 degrees 50" East 135 feet, thence North 39 degrees 07" East 107.8 feet, thence North 51 degrees 15" West 12.52 feet, thence North 31 degrees 38" West 48.60 feet to the place of beginning. Includes all of Lot 51 and part of Lot 6 and Lot 52, Block 5, Plat "A" of the Eureka City Survey.
U.S. Government	Tax ID No. XE-4797	Lot 29, Blk 5, Plat "A" of the Eureka City Survey

**After recording, return to:**

City of Eureka  
P.O. Box 156  
Eureka, Utah 84628

And

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), the Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described on Attachment A (Property Description) which is affixed hereto and by this reference made a part hereof hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 487 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at the Environmental Protection Agency Region 8 (EPA) or Utah Department of Environmental Quality (UDEQ).

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental

Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List ("NPL") Site. EPA completed a Remedial Investigation ("RI") Report for the Site in July 2002 and a Feasibility Study ("FS") Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. EPA and UDEQ performed work on-Site in accordance with the Record of Decision (EPA, 2002) and the Remedial Action work Plan (RAWP, 2003 and as amended in 2005 & 2009). On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental covenant outlined herein is necessary to fully implement the remedy selected in the Record of Decision.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is available at the EPA Superfund Record Center, at 1595 Wynkoop Street, Denver, CO 80202-1129. Information about contamination on the Property is also available for review at the Utah Department of Environmental Quality, Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** The City of Eureka is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Covenant are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees ("Transferee") during that Transferee's period of occupation, ownership or control.

5. **Holder.** The City of Eureka is a Holder of this Environmental Covenant. As Holder, the City may enforce and comply with this Environmental Covenant after the transfer of Property.

6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 487. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

a) **Restriction on New Construction or Surface Disturbance.** No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.

b) **Prohibition on Agricultural Use.** No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.

c) **Prohibition on Residential and Public Use.** No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed

8. **Compliance With Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

a) The Owner shall follow the process required by the local land use ordinance.

b) In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the Property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of the Remedial Action Structures. The Remedial Action Structures may include, but are not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

10. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures. Remedial Action Structures shall mean such man made terrain features or contours or structures that are identified in the survey. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates,

roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.

- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

11. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

12. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-110.

13. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

To UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

And to the City of Eureka at:

City of Eureka  
P.O. Box 156  
Eureka, Utah 84628

14. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.,) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

16. **Recordation and Distribution of Environmental Covenant.** Within forty five (45) days after the date of the final signature required upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments,

agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Reservation of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

19. **Compliance Reporting.** Upon request, Owner shall submit written documentation to the UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8, and 10. Owner shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.



IT IS SO AGREED:

*Milton R. Hanks*  
By Milton R. Hanks [s]  
Its: Mayor

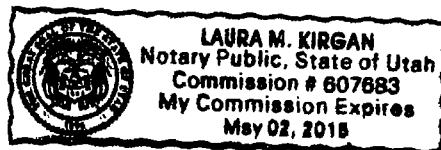
Date 1 Aug 11

State of Utah )  
County of Juab ) SS:

Before me, a notary public, in and for said county and state, personally appeared Milton R. Hanks, a duly authorized representative of Eureka City, who acknowledged to me that he executed the foregoing instrument on behalf of Eureka City.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this 1<sup>st</sup> day of August, 2011.

*Laura M. Kirgan*  
Notary Public



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

\_\_\_\_\_  
Matthew Cohn  
Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado     )  
                                  )  
County of Denver     )     ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

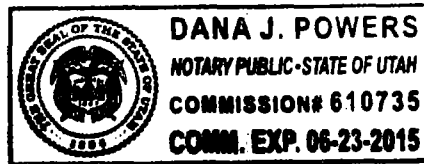
The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett

Brent H. Everett, Director  
Division of Environmental Response  
and Remediation

11 Aug 2011

Date



STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of AUGUST 2011.

Dana J. Powers  
NOTARY PUBLIC

Attachment A to Environmental Covenants for Parcels Owned by  
the City of Eureka, Eureka, Utah  
Survey No. 487

Owner	Card # or Address	Property Description
City of Eureka	No Tax ID # Assigned	The portion of Alberg Street within the Hannifin Tract (also known as Tract "D") of the Eureka City Survey
City of Eureka	Tax ID No. XE-4810	Lots 43 & 44, Block 5, Plat A of the Eureka City Survey
City of Eureka	Tax ID No. XE-4813	Lot 47 plus Alley, Block 5, Plat A of the Eureka City Survey
City of Eureka	Tax ID No. XE 4800	Lots 33, Block 5, Plat A of the Eureka City Survey
City of Eureka	Tax ID No. XE 4798	Lot 30, Block 5, Plat A of the Eureka City Survey

**After recording, return to:**

City of Eureka  
P.O. Box 156  
Eureka, Utah 84628

And

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), the Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described on Attachment A (Property Description) which is affixed hereto and by this reference made a part hereof hereby makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 486 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at Environmental Protection Agency Region 8 or Utah Department of Environmental Quality.

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental

Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List ("NPL") Site. EPA completed a Remedial Investigation ("RI") Report for the Site in July 2002 and a Feasibility Study ("FS") Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. EPA and UDEQ performed work on-Site in accordance with the Record of Decision (EPA, 2002) and the Remedial Action work Plan (RAWP, 2003 and as amended in 2005 & 2009). On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental covenant outlined herein is necessary to fully implement the remedy selected in the Record of Decision.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is available at the EPA Superfund Record Center, at 1595 Wynkoop Street, Denver, CO 80202-1129. Information about contamination on the Property is also available for review at the Utah Department of Environmental Quality ("UDEQ"), Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** The City of Eureka is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Covenant are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees ("Transferee") during that Transferee's period of occupation, ownership or control.

5. **Holder.** The City of Eureka is a Holder of this Environmental Covenant. As Holder, the City may enforce and comply with this Environmental Covenant after the transfer of Property.

6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.

7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 486. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

a) **Restriction on New Construction or Surface Disturbance.** No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.

b) **Prohibition on Agricultural Use.** No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.

c) **Prohibition on Residential and Public Use.** No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed

8. **Compliance With Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

a) The Owner shall follow the process required by the local land use ordinance.

b) In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the Property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of the Remedial Action Structures. The Remedial Action Structures may include, but are not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

10. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures. Remedial Action Structures shall mean such man made terrain features or contours or structures that are identified in the survey. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates,

roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.

- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

11. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

12. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-110.

13. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.



To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

To UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

And to the City of Eureka at:

City of Eureka  
P.O. Box 156  
Eureka, Utah 84628

14. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

16. **Recordation and Distribution of Environmental Covenant.** Within forty five (45) days after the date of the final signature required upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and

covenants not to sue the State of Utah, EPA, their agencies, successors, departments, agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Reservation of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

19. **Compliance Reporting.** Upon request, Owner shall submit written documentation to the UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8, and 10. Owner shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

IT IS SO AGREED:

[Signature]  
By Milton B. Hanks [s]  
Its: Mayor

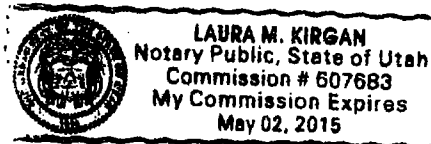
Date 1 Aug 11

State of Utah )  
County of Juab ) SS:

Before me, a notary public, in and for said county and state, personally appeared Milton B. Hanks, a duly authorized representative of Eureka City, who acknowledged to me that he executed the foregoing instrument on behalf of Eureka City.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this 1<sup>st</sup> day of August, 2011.

[Signature]  
Notary Public



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

\_\_\_\_\_  
Matthew Cohn  
Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado    )  
                              )  
County of Denver    )       ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

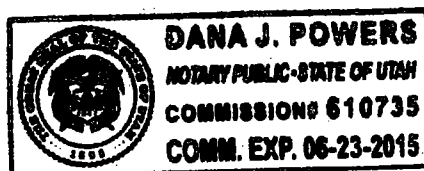
**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett

Brent H. Everett, Director  
Division of Environmental Response  
and Remediation

11 Aug 2011  
Date



STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of

August 2011.

Dana J. Powers  
NOTARY PUBLIC

Attachment A to Environmental Covenants for Parcel Owned by  
the City of Eureka, Eureka, Utah  
Survey No. 486

#	Owner	Card # or Address	Property Description
	City of Eureka	Tax ID No. XE-5652-R	<p>A portion of the Southeast quarter of Section 13, Township 10 South, Range 3 West, Salt Lake Meridian, located within the following described patented mine claims in the Tintic Mining District: Ryan Survey No. 3060A; West Bullion Lot No. 90; Bullion Lot No. 68; Beck Lot No. 74; Cornucopia Lot No. 97; Champion No. 2 Lot No. 73; Beck Fraction Survey No. 6634; Gladstone Lot No. 127; Michigan Lot No. 149 Amended; Emma Lot No. 143 Amended; Gemini Lot No. 111; Keystone Lot No. 112; described as follows: Beginning North 40° West 110 feet from U.S. Mineral Monument No. 2 which is situated North 61°30' West 1782 feet, more or less, from the Southeast corner of Section 13, Township 10 South, Range 3 West, Salt Lake Meridian. Said beginning point is on the Westerly line of Highway 6, thence Northerly along the arc of Westerly line of said Highway that has a chord of North 13° East 200 feet to a point on the "Blue Line" (the court decreed boundary between properties owned by Bullion Beck Mining Co. and Eureka Hill Mining Co. prior to 1924 also described in boundary line agreements recorded in Book 16, Page 207 and 601 of the records of Juab County Recorder), thence North 19° West 450 feet along the said "Blue Line", thence South 37° West 750 feet to the intersection with the Northeast end line of Last Gap Survey No. 3004, thence South 49° East 97 feet along the Northerly end line to Corner No. 5 of said Last Gap, thence South 22° East 175 feet along the Northeast side line of said Last Gap to the center of Eureka Creek, thence North 41° East 437 feet along the bottom of Eureka Creek, thence South 45° East 185 feet to the point of beginning.</p>

**After recording, return to:**

City of Eureka  
P.O. Box 156  
Eureka, Utah 84628

And

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Utah Department of Environmental Quality  
P. O. Box 144840  
Salt Lake City, UT 84114-4840  
Re: Eureka Mills NPL Site, Eureka, UT

And

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR  
Re: Eureka Mills NPL Site, Eureka, UT

**ENVIRONMENTAL COVENANT**

Pursuant to the Utah Uniform Environmental Covenants Act (Utah Code Ann. Section 57-25-101 et seq.), the Owner of the property located in the City of Eureka, Juab County, State of Utah ("Property" herein); more particularly described as follows:

Tax ID No. XE: 5477A; Lot 6, Block 2, Plat D of the Eureka City Survey

makes and imposes upon the Property the following described Environmental Covenant, subject to the terms and conditions stated herein.

This Environmental Covenant applies to the Property that lies wholly or partially within the survey description of the Remedial Action Structures that are shown in Survey No. 484 filed with the Juab County Recorder's Office in Nephi, Utah on July 7, 2011.

The location of the Remedial Action Structures are depicted and described in the filed survey. More information about the Remedial Action Structures may be found in the "Operations and Maintenance Manual-Eureka Mills Superfund Site, July 31, 2009," which is available at Environmental Protection Agency Region 8 or Utah Department of Environmental Quality.

1. **Notice.** Notice is hereby given that the Property is or may be contaminated with hazardous substances as described below and, therefore, this Environmental Covenant must be imposed to mitigate the risk to the public health, safety and/or the environment.

2. **Environmental Response Project.** Elevated levels of lead and other metals have been found in the soil and mine waste within the boundaries of the Eureka Mills National Priorities List ("NPL") Site. EPA completed a Remedial Investigation ("RI") Report for the Site in July 2002 and a Feasibility Study ("FS") Report in September 2002. During the RI, EPA conducted a risk assessment and concluded that the elevated levels of lead and other metals in the soil and mine waste created an unacceptable risk to human health. A removal action was completed at the Site, authorized by an EPA Action Memorandum, dated May 29, 2001. Remedial actions for the Site are identified in EPA's Record of Decision for Lead Contaminated Soils in Operable Units 00, 01, 02 and 03 (OUs) of the Eureka Mills Superfund Site, dated September 2002. EPA and UDEQ performed work on-Site in accordance with the Record of Decision (EPA, 2002) and the Remedial Action work Plan (RAWP, 2003 and as amended in 2005 & 2009). On October 12, 2010, the City of Eureka adopted a land use ordinance, entitled "Regulations and Permitting Procedures for Excavations and Development in the Eureka Mills Superfund Site, Ordinance 10-12-2010, Chapter 13." The ordinance is a local land use ordinance approved by EPA and UDEQ. In addition to the Owner complying with this ordinance, the Environmental covenant outlined herein is necessary to fully implement the remedy selected in the Record of Decision.

3. **Administrative Record.** The name of the Administrative Record for the environmental response project is "Eureka Mills Site" and it is available at the EPA Superfund Record Center, at 1595 Wynkoop Street, Denver, CO 80202-1129. Information about contamination on the Property is also available for review at the Utah Department of Environmental Quality ("UDEQ"), Division of Environmental Response and Remediation, located in Salt Lake City, UT.

4. **Owner.** The City of Eureka is the current Owner of the Property. Consistent with the provisions of this Environmental Covenant, the obligations of the Covenant are imposed on assigns and successors in interest, including any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees ("Transferee") during that Transferee's period of occupation, ownership or control.

5. **Holder.** The City of Eureka is a Holder of this Environmental Covenant. As Holder, the City may enforce and comply with this Environmental Covenant after the transfer of Property.

6. **Agency.** The EPA and the UDEQ are each an Agency for the purpose of this Environmental Covenant as that term is defined in the Utah Uniform Environmental Covenants Act. Neither the EPA nor the UDEQ assume any affirmative obligation through the entry of this Environmental Covenant.



7. **Use Restrictions: Remedial Action Structures.** EPA's Superfund Remedial Action Structures are shown in Survey No. 484. That part of the Property on which a Remedial Action Structure is located is hereby affected by the following use restrictions:

- a) Restriction on New Construction or Surface Disturbance. No new construction or disturbance of any kind that disrupts or may have the potential to disrupt the integrity of the Remedial Action Structure is allowed except as authorized specifically and expressly in writing by UDEQ with written concurrence by EPA.
- b) Prohibition on Agricultural Use. No agricultural use shall be permitted or allowed, including, but not limited to, the grazing, feeding or keeping of any animal for agricultural or commercial purposes.
- c) Prohibition on Residential and Public Use. No residential use, including, but not limited to, any single family or multi-family residential dwelling, 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 permitted or allowed

8. **Compliance With Land Use Ordinance.** The Property is also hereby limited or otherwise affected by the following restrictions:

- a) The Owner shall follow the process required by the local land use ordinance.
- b) In the event that the terms of this Covenant conflict with the local land use ordinance, the stricter provision shall apply to the Property, subject to written approval by UDEQ and written concurrence by EPA.

9. **Protection of the Integrity of Remedial Actions.** Use of the Property shall not in any way interfere with the operation and/or maintenance of the Remedial Action Structures. The Remedial Action Structures may include, but are not limited to, any equipment or infrastructure constructed as part of the Remedial Action. It may also include any rock or soil material, or structure that prevents contact with contaminated materials in the ground or at the surface. "As-Built" drawings that show the specific features of the Remedial Action Structures subject to this Environmental Covenant are incorporated into EPA's Operation and Maintenance Manual, copies of which are available from either EPA or UDEQ.

10. **Access.** EPA, UDEQ and their designees shall have an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:

- a) Facilitating implementation of EPA's Remedial Actions as set out in the above-mentioned ROD, including but not limited to construction, operation, maintenance, monitoring, and decommissioning of Remedial Action Structures.

Remedial Action Structures shall mean such man made terrain features or contours or structures that are identified in the survey. Such features or structures may include, but are not limited to, access control features, boulders, fencing, gates, roadways, retaining walls, drainages, sedimentation basins, capped mine waste piles, and ground water monitoring wells.

- b) Verifying any data or information submitted to EPA and UDEQ;
- c) Verifying that no action is being taken on the Property in violation of the terms of this Environmental Covenant, or of any federal, state or local laws, regulations or ordinances;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the Remedial Actions, including but not limited to, any review required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions if EPA or UDEQ, in their sole discretion, determine that: (i) such actions are necessary to protect human health or the environment because either the original Remedial Actions have proven to be ineffective or because new technology has been developed that will accomplish the purposes of the Remedial Actions in a significantly more efficient or cost effective manner; and, (ii) the additional or new response actions will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.
- g) Implementing or enforcing this Environmental Covenant.

11. **Covenant Running with the Land.** As provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-109, this Environmental Covenant shall be maintained in perpetuity and shall run with the land and be binding on Transferees and all successors in interest of the Owner, unless or until they are modified or terminated as provided for in the Utah Environmental Covenant Act and Utah Code Ann. Section 57-25-110, or as otherwise provided for in this Environmental Covenant.

12. **Modification or Termination.** This Environmental Covenant can be modified or terminated as provided for in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-110.

13. **Notice.** Any document or communication required by this Environmental Covenant shall be submitted to the parties at the addresses provided below unless a party provides written notice of its new address to the other parties.

To EPA at:

Remedial Project Manager - Eureka Mills Site  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver Colorado 80202-1129  
Mail Code: 8EPR-SR

To UDEQ at:

Project Manager, Eureka Mills Site  
Division of Environmental Response and Remediation  
Department of Environmental Quality  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

And to the City of Eureka at:

City of Eureka  
P.O. Box 156  
Eureka, Utah 84628

14. **Enforcement.** This Environmental Covenant may be enforced and/or protected as provided in the Utah Environmental Covenants Act and Utah Code Ann. Section 57-25-111. Enforcement of the terms of this instrument by UDEQ and EPA shall be at the discretion of UDEQ and EPA, and any forbearance, delay or omission to exercise those agencies' rights under this instrument shall not be deemed to be a waiver by UDEQ or EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of UDEQ or EPA under this instrument.

15. **Notice Upon Conveyance.** Instruments that convey any interest in the Property (fee, leasehold, easement, etc.,) shall include a notification to the person or entity who acquires the interest that the Property is subject to this Environmental Covenant and identify the date, entry no. book and page number at which this document is recorded in the records of the Juab County Recorder, in the State of Utah.

16. **Recordation and Distribution of Environmental Covenant.** Within forty five (45) days after the date of the final signature required upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Juab County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the UDEQ and the EPA at the addresses provided above.

17. **Governmental Immunity.** In executing this Environmental Covenant, neither the UDEQ nor EPA waives governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, EPA, their agencies, successors, departments,

agents, and employees from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-109 and 57-25-110 or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Utah Code Ann. Sections 63G-7-202 and -902, as determined in a court of law.

18. **Reservation of Rights.** Nothing in this Environmental Covenant shall restrict the EPA or UDEQ from exercising any authority under applicable law.

19. **Compliance Reporting.** Upon request, Owner shall submit written documentation to the UDEQ and EPA to demonstrate compliance with the property use restrictions in Paragraphs 7, 8, and 10. Owner shall inform EPA and UDEQ in writing of any change in Owner's contact information.

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

IT IS SO AGREED:

[Signature]  
By Milton R. Banks [s]  
Its: Mayor

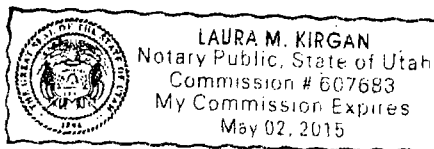
Date Aug 11

State of Utah )  
County of Juab ) SS:

Before me, a notary public, in and for said county and state, personally appeared Milton R. Banks, a duly authorized representative of Eureka City, who acknowledged to me that he executed the foregoing instrument on behalf of Eureka City

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this 1st day of August, 2011.

[Signature]  
Notary Public



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

\_\_\_\_\_  
Matthew Cohn  
Supervisory Attorney  
Legal Enforcement Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kelcey Land, Director  
Technical Enforcement Program

\_\_\_\_\_  
Date

State of Colorado     )  
                                  )  
County of Denver     )     ss:

Before me, a notary public, in and for said county and state, personally appeared Matthew Cohn and Kelcey Land, respectively of Legal Enforcement and Technical Enforcement at the United States Environmental Protection Agency, who acknowledged to me that they executed the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

*Brent H. Everett*

Brent H. Everett, Director  
Division of Environmental Response  
and Remediation

*11 Aug 2011*

Date



STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

Before me, a notary public, in and for said county and state, personally appeared Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 11 day of

*August* 2011.

*Dana J. Powers*  
NOTARY PUBLIC