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01/14/2008 01:48 PM \$44.00  
Book - 9558 Pg - 6987-7004  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
SECOR  
308 E 4500 S STE 100  
MURRAY UT 84107  
BY: ZJM, DEPUTY - WI 18 P.

## **ENVIRONMENTAL COVENANT**

**To be recorded with County  
Recorder - Utah Code Ann § 57-25-108**

When Recorded Return To:  
Ken Hilliard, Manager, Environmental Services  
7-Eleven, Inc.  
One Arts Plaza  
1722 Routh Street, Suite 1000  
Dallas, Texas 75201

**COPY**

Utah Department of Environmental Quality  
Division of Environmental Response and Remediation  
163 North 1950 West  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

## **ENVIRONMENTAL COVENANT**

This Environmental Covenant is entered into by 7-Eleven, Inc. ("Owner") and the Utah Department of Environmental Quality ("DEQ") pursuant to Utah Code Ann. §§ 57-25-101 et seq. for the purpose of subjecting the Property described in numbered paragraph 2, below, to the activity and use limitations set forth herein.

The DEQ, Division of Environmental Response and Remediation (DERR) refer to the Property as Facility ID 4001028 and Release Site ELMU. The Property is occupied by a 7-Eleven convenience store with active retail sales of gasoline. The underground storage tank system at the site consists of three 10,000-gallon gasoline underground storage tanks, product piping, and two dispenser islands. The underground storage tank system was installed in 1985.

A suspected petroleum release from the underground storage tank system was reported to the DEQ during dispenser island upgrade activities conducted at the Property on January 15, 2002. The release was reported based on the observation of petroleum-affected soil located beneath the northern dispenser island.

Based on the results of the environmental investigations completed at the Property, the lateral extent of petroleum-impacted soils exceeding DEQ Initial Screening Levels (ISLs) and Risk-Based Corrective Action Tier 1 Screening Levels for contaminants of concern [benzene, toluene, ethyl benzene, total xylenes, naphthalene, and gasoline-range total petroleum hydrocarbons (TPH-GRO)] appears to be limited. Impacted soils lie directly beneath and adjacent to the northern product dispenser and extend down to shallow groundwater at approximately six (6) feet below ground surface. The results of groundwater sampling confirm the attenuation of dissolved concentrations of methyl tertiary butyl ether and TPH-GRO, to levels below their respective DEQ ISLs in source-area wells MW-1 and RW-1, respectively. The northern dispenser area including MW-1 and RW-1 areas are referred to as the "Restricted Area" and depicted in the site map attached herein as Exhibit A.

The human exposure pathways qualitatively considered in the site conceptual model included scenarios for future onsite commercial utility workers and construction workers. Exposure pathways are: soil ingestion, dermal contact to soil, inhalation of volatile organic compounds (VOCs) volatilized from soil, dermal contact to groundwater while working in a trench, and inhalation of VOCs volatilized from groundwater while working in a trench. No ingestion of groundwater was expected.

The DEQ contact person is currently Bruce Hagans, DEQ project manager, Tel. (801) 536-4100, 168 North 1950 West, Salt Lake City, Utah 84116. A change in project managers can be ascertained by contacting the DEQ at the same phone number or address and asking for a project manager to assist with Facility ID No. 4001028, Release Site ELMU.

Now therefore, Owner, 7-Eleven, Inc. and DEQ agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to Utah Code Ann. §§ 57-25-101 et seq.
2. Property. This Environmental Covenant concerns an approximately 0.8-acre tract of real property having real property parcel number 1514253051 owned by 7-Eleven, Inc., located at 1690 South 900 West, in Salt Lake County, Utah, and more particularly described in Exhibit B (Attach Legal Description) attached hereto and hereby incorporated by reference herein ("Property").

3. Owner. 7-Eleven, Inc. ("Owner") which is located at One Arts Plaza, 1722 Routh Street, Suite 1000, Dallas, Texas 75201 is the owner of the Property. Consistent with numbered paragraph six (6) herein, 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, mortgages, easement holders, and/or lessees ("Transferee").

4. Holder. Owner, whose address is listed above, is the holder of this Environmental Covenant

5. Activity and Use Limitations. As part of the corrective action at the Property, Owner hereby imposes and agrees to comply with the following activity and use limitations, including the Restricted Area [northern dispenser island, MW-1, and RW-1] depicted in the site map attached herein as Exhibit A:

***Land Use Limitations:*** Owner shall not take any action or modify the Property from its present state as an underground storage tank (UST) facility without notifying and obtaining approval from the DEQ and closing the USTs, dispensers, and product piping in accordance with applicable law. If contamination is discovered from the petroleum release reported to DEQ on January 15, 2002, and known as Release Site ELMU, the Owner shall report the contamination to the DEQ and Release Site ELMU may be re-opened. Other releases shall be reported in accordance with applicable law. The Owner shall not use the existing improvements, utilities or other fixtures in their present condition in any manner that increases the risk to public health, safety, welfare or the environment from the contamination.

***Disturbance Limitations:*** Owner shall not excavate into the Restricted Area unless the Owner first notifies and obtains written approval from the DEQ and uses OSHA-certified personnel with at least the 40-hour HAZWOPER 29 CFR 1910.120 safety training and knowledge of environmental protocols. In addition, Owner shall have soil from the Restricted Area sampled by a Utah-certified Groundwater and Soil Sampler and tested by a state certified laboratory before disposal off of the Property. Owner shall dispose of the soil from the Restricted Area in a manner consistent with state and federal law. Workers shall be required to work under a site-specific Health and Safety Plan (HASP). The Owner of the site shall inform on-site management of these restrictions. On-site management will be required to make sure all workers in the vicinity of the

site are also aware of limitations at a minimum by posting worker notices, and that the workers abide by the restrictions.

***Groundwater Use Limitations:*** Owner shall not use or allow anyone else to use the on-site groundwater for any purpose. Owner shall not allow wells, except those pre-approved by the DEQ, to be placed on the Property. Owner may be required to install new monitoring wells at a location proposed by Owner and approved by the DEQ and obtain representative groundwater samples if the current depth to the shallow groundwater below the Property rises, or if information from surrounding properties supports that the depth to the shallow groundwater below the Property might have risen.

***Construction Limitations:*** Owner shall not allow construction of any building or structure in the Restricted Area.

6. Running with the Land. This Environmental Covenant shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to Utah Code Ann. § 57-25-105, subject to amendment or termination as set forth herein. The term "Transferee," as used in this Environmental Covenant, shall mean 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.

7. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to Utah Code Ann. § 57-25-111. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the DEQ from exercising any authority under applicable law.

8. Rights of Access. Owner hereby grants to the DEQ, its agents, contractors, and employees the right of access to the Property for implementation or enforcement of this Environmental Covenant and for potential groundwater monitoring and potential remediation activities.

9. Compliance Reporting. Owner shall submit to the DEQ on an annual basis written verification of compliance with the activity and use limitations contained herein. In addition, the Owner shall notify DEQ in writing within two (2) days of becoming aware of a breach of the activity and use limitations described herein and shall indicate in that submission the action the Owner shall take to remedy the breach. The Owner shall remedy the breach within two (2) days unless another time period is required or allowed by the DEQ. In addition, the Owner shall submit a written report to DEQ describing the remedy implemented in response to the breach within thirty (30) days of the completion of the remedy. In addition, the Owner shall submit additional information to DEQ as requested concerning the breach within the time frame established in the DEQ's request. If the Owner fails to provide any of the submissions to the DEQ within the required time period, the DEQ may inspect the Property and prepare the submissions itself and recover its costs from the Owner. Nothing herein shall limit the right of DEQ to take action to enforce or protect the environmental covenant and to recover its costs for that action from the Owner.

10. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED December 12, 2007, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE Salt Lake COUNTY RECORDER ON January 14, 2008, IN [DOCUMENT       , or BOOK       , PAGE       ]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

Activity and Use Limitations. As part of the corrective action at the Property, Owner hereby imposes and agrees to comply with the following activity and use limitations, including the Restricted Area [northern dispenser island, MW-1, and RW-1] depicted in the site map attached herein as Exhibit A:

**Land Use Limitations:** Owner shall not take any action or modify the Property from its present state as an underground storage tank (UST) facility without notifying and obtaining approval from the DEQ and closing the USTs, dispensers, and product piping in accordance with applicable law. If contamination is discovered from the petroleum release reported to DEQ on January 15, 2002, and known as Release Site ELMU, the Owner shall report the contamination to the DEQ and Release Site ELMU may be

re-opened. Other releases shall be reported in accordance with applicable law. The Owner shall not use the existing improvements, utilities or other fixtures in their present condition in any manner that increases the risk to public health, safety, welfare or the environment from the contamination.

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***Construction Limitations:*** Owner shall not allow construction of any building or structure in the Restricted Area.

Owner shall notify the DEQ within ten (10) days after each conveyance of an interest in any portion of the Property. Owner's notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and an unsurveyed plat that shows the boundaries of the property being transferred.

11. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- A. that the Owner is the sole owner of the Property;
- B. that the Owner holds fee simple title to the Property which is free, clear and unencumbered;
- C. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- D. that the Owner has identified all other persons that own an interest in or hold an encumbrance on the Property and notified such persons of the Owner's intention to enter into this Environmental Covenant; and
- E. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner is a party or by which Owner may be bound or affected.

12. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner or a Transferee; and the DEQ,<sup>1</sup> pursuant to Utah Code Ann. § 57-25-110 and other applicable law. The term, "Amendment," as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. The term, "Termination," as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed by the DEQ and the Owner or Transferee of the Property or portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Environmental Covenant, the Owner or Transferee shall file such instrument for recording with the Salt Lake County Recorder's

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<sup>1</sup> See Utah Code Ann § 57-35-104 (2) (e), which allow for "limitations on amendment or termination."



Office, and shall provide a file- and date-stamped copy of the recorded instrument to DEQ.

13. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

14. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Utah.

15. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the Salt Lake County Recorder's Office.

16. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a document of record for the Property with the Salt Lake County Recorder.

17. Distribution of Environmental Covenant. The Owner shall distribute a file-and date-stamped copy of the recorded Environmental Covenant to: the DEQ; the City of Salt Lake; and the County of Salt Lake within thirty (30) days of the Effective Date, consistent with numbered paragraph sixteen (16) herein.

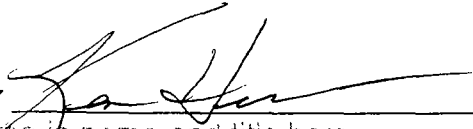
18. Notice. Unless otherwise notified in writing by or on behalf of the current owner or DEQ, any document or communication required by this Environmental Covenant shall be submitted to:

Mr. Bruce Hagans, Petroleum Storage Tank (PST) project manager  
Facility ID 4001028 Release Site ELMU  
Division of Environmental Response and Remediation  
DEQ  
P.O. Box 144840  
Salt Lake City, Utah 84114-4840

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

**IT IS SO AGREED:**

7-Eleven, Inc.

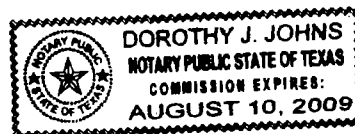
By  9/21/17  
Type in name and title here Date  
Ken Hilliard, Manager, Environmental Services

State of Texas )  
County of Dallas ) ss:

KENT HILLIARD, a duly authorized representative of 7-Eleven, Inc who acknowledged to me that [he/she] did execute the foregoing instrument on behalf of 7-Eleven, Inc

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 21 day of SEP, 2007

  
Notary Public



Utah Department of Environmental Quality

By Brad T. Johnson  
Brad T Johnson Executive Secretary (UST)  
Solid and Hazardous Waste Control Board

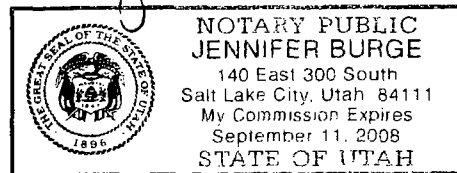
DECEMBER 11, 2007  
Date

State of Utah            )  
                                  )  
County of Salt Lake )       ss:

Before me, a notary public, in and for said county and state, personally appeared Brad T Johnson, the Executive Secretary (UST) of the Solid and Hazardous Waste Control Board, who acknowledged to me that he did execute the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 11 day of December 2007

Jennifer Burge  
Notary Public



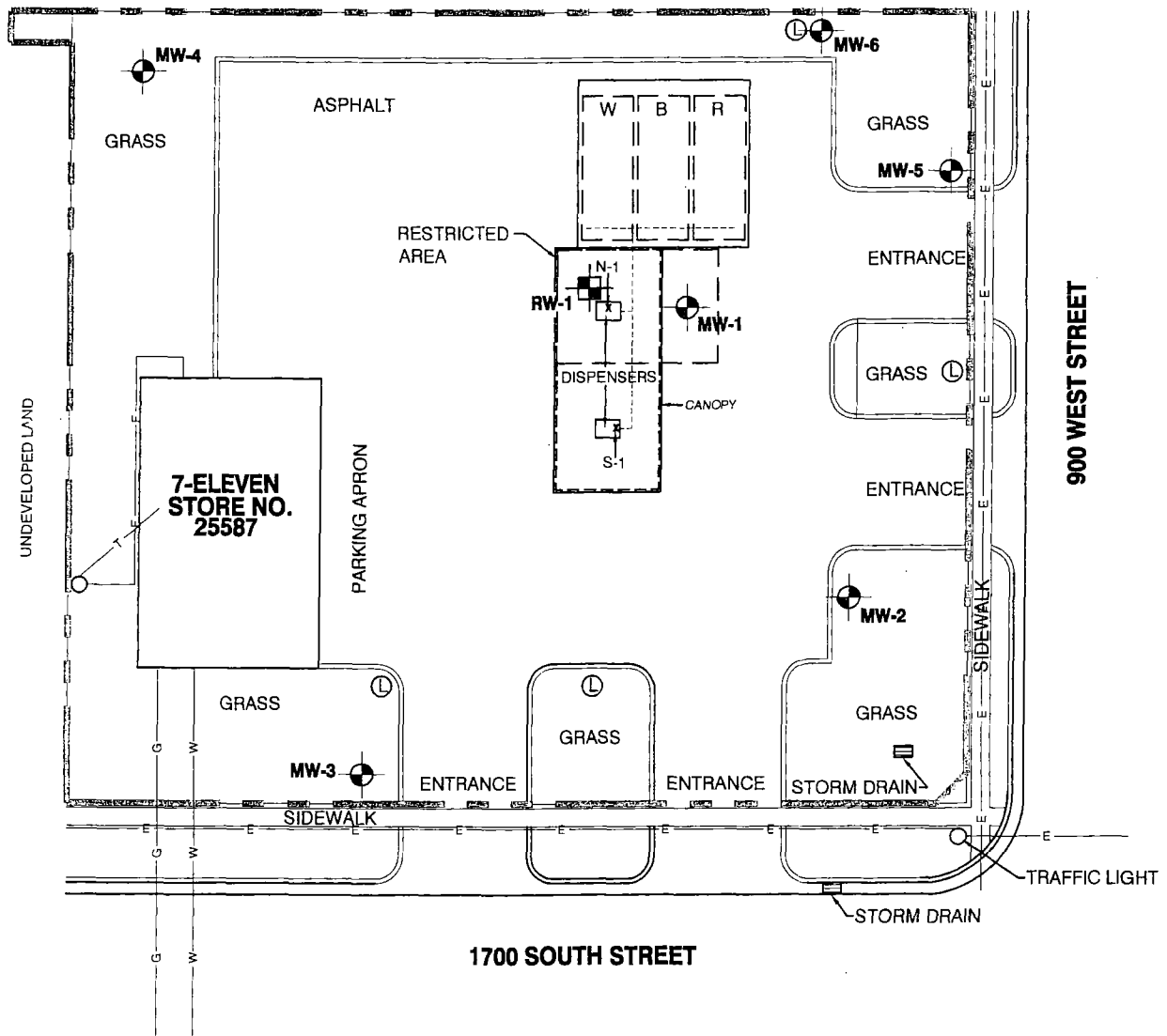
This instrument prepared by:

[name, address]

## EXHIBIT A




W = 10,000 - GALLON MIDGRADE UNLEADED GASOLINE  
 B = 10,000 - GALLON REGULAR UNLEADED GASOLINE  
 R = 10,000 - GALLON PREMIUM UNLEADED GASOLINE

AGRICULTURAL LAND



REFER TO LEGEND PAGE

No warranty is made by SECOR International, Inc. as to the accuracy, reliability, or completeness of these data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed electronically, and may be updated without notification. Any reproduction may result in a loss of scale and/or information.

 <b>SECOR</b> 308 East 4500 South, Suite 100 Murray, Utah PHONE: (801) 266-7100	FOR:  FACILITY NO. 25587 1640 SOUTH 900 WEST SALT LAKE CITY, UTAH JOB NUMBER: 26EL25587.07	EXHIBIT A CHECKED BY: APPROVED BY: 	FIGURE: <b>1</b> DATE: 9/10/07
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## EXHIBIT B

\* RXPB PARCEL# 15-14-253-051-0000

\* OWNER: **SOUTHLAND CORP**

LOC ADDR:

GEOG NAME: SEC 14 TOWNSHIP 1S R1G 1W

VTRU/NH

0

\* DESCRIPTION: **BEG N 150.81 FT & E 817.28 FT FR SW COR NE 1/4 OF SEC 14, T**  
**1S, R 1W, S L M; S 89-54'30" W 192.78 FT N 0-11'10" E**  
**167.887 FT; S 89-54'30" W 14 FT; N 0-11'10" E 7 FT; N 89-**  
**54'30" E 212.08 FT; S 0-49'07" W 51.39 FT; S 0-12'09" E**  
**118.52 FT; S 44-46'39" W 7.05 FT TO BEG. 0.8 AC 5603-249**  
**6219-0143**

**PARTIES**

PROVO LAND TITLE CO TR

ENTRY REC DATE BOOK PAGE CONS BLOCK LOT

4913677 05/07/1990 6219 142

SOUTHLAND CORP

PT REC **SEC 14 TOWNSHIP 1S R1G 1W**

**SWNE**

**SEE ABOVE DOC FOR DESCRIPTION**

SOUTHLAND CORP

4913678 05/07/1990 6219 143 3,107

SALT LAKE CITY CORP

SWD **SEC 14 TOWNSHIP 1S R1G 1W**

**SWNE**

**SEE ABOVE DOC FOR DESCRIPTION**

SALT LAKE CITY RECORDER

5631656 10/18/1993 6778 588

WHOM MAY CONCERN

ORDIN **SEC 14 TOWNSHIP 1S R1G 1W**

**SWNE**

**SEE ABOVE RECORD FOR DESCRIP**

**PF: 4=VTNH 5=RXLP 6=VTOP 9=MENU 11=VTRU OR VTDI 12=BWD POS CURSOR ENTER=RXEN**

.RXPB PARCEL# 15-14-253-051-0000

OWNER: **SOUTHLAND CORP**

LOC ADDR:

GEOG NAME: SEC 14 TOWNSHIP 1S RNG 1W

VTRU/NH

0

DESCRIPTION: **BEG N 150.81 FT & E 817.28 FT FR SW COR NE 1/4 OF SEC 14, T  
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6219-0143**

PARTIES

SALT LAKE CITY RECORDER

WHOM MAY CONCERN

**SEE ABOVE RECORD FOR DESCRIP**

ENTRY

REC DATE

BOOK

PAGE

CONS BLOCK LOT

5631656 10/18/1993 6778 588

ORDIN **SEC 14 TOWNSHIP 1S RNG 1W**

**SWNE**

LAWYERS TITLE INS CORP TR

SOUTHLAND CORP

**SEE ABOVE RECORD FOR DESCRIP**

15-14-253-043-0000

6995494 06/15/1998 8007 1880

RECON **SEC 14 TOWNSHIP 1S RNG 1W**

**NE**

PF: 4=VTNH 5=RXLP 6=VTOP 9=MENU 11=VTRU OR VTDI 12=BWD POS CURSOR ENTER=RXEN

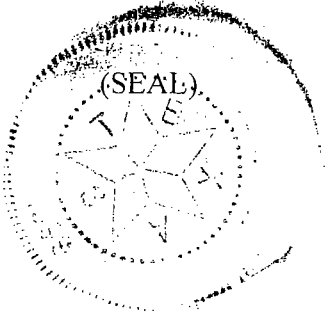


## CERTIFICATE


I, J. Donald Stevenson, Jr., an Assistant Secretary of 7-ELEVEN, INC., a Texas corporation, formerly known as THE SOUTHLAND CORPORATION (the "Company"), do hereby certify that:

1. On April 28, 1999, the shareholders of the Company approved the adoption of Articles of Amendment to the Company's Second Restated Articles of Incorporation to change the Company's name from The Southland Corporation to 7-Eleven, Inc.
2. Such Articles of Amendment were filed with the Secretary of State of the State of Texas and, pursuant to the terms of such Articles of Amendment, the name change became effective on April 30, 1999.
3. A copy of the Company's Articles of Incorporation, as amended, were filed with the State of Florida, as evidence of the name change for all purposes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company this 15<sup>th</sup> day of November, 2007.



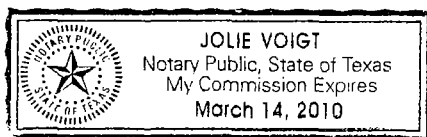
7-ELEVEN, INC.,  
a Texas corporation


By:   
J. Donald Stevenson, Jr.  
Assistant Secretary

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

BEFORE ME, the undersigned authority, a Notary Public in and for said county and state, on this day personally appeared J. Donald Stevenson, Jr., known to me to be the person whose name is subscribed to the foregoing instrument, acknowledging to me that the same was the act of 7-Eleven, Inc., a Texas corporation, and that she executed the same as the act of such corporation for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15<sup>th</sup> day of November, 2007.



  
NOTARY PUBLIC



State of Utah

Department of  
Environmental Quality

Richard W. Sprott  
*Acting Executive Director*

DIVISION OF ENVIRONMENTAL  
RESPONSE AND REMEDIATION  
Brad T. Johnson  
*Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY HERBERT  
*Lieutenant Governor*

**RECEIVED**  
ENVIRONMENTAL SERVICES

DEC 28 2007

**7-ELEVEN, INC.**  
DALLAS TEXAS

ERRL-0839-07

December 12, 2007

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ken Hilliard  
7-Eleven, Inc.  
One Arts Plaza  
1722 Routh Street, Suite 1000  
Dallas, Texas 75201

Re: **Acceptance of the Proposed Environmental Covenant**  
7-Eleven #1851-25587, located at 1690 South 900 West, Salt Lake City, Utah  
Facility Identification No 4001028, Release Site ELMU

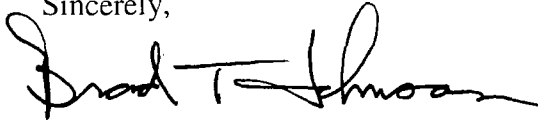
Dear Mr. Hilliard:

On September 25, 2007, the Division of Environmental Response and Remediation (DERR) received an Environmental Covenant (EC) which was proposed, reviewed, and signed by 7-Eleven, Inc. Based on the self-imposed property restrictions outlined in the EC, I have agreed to sign the EC. After recordation and distribution of the EC within the time specified in items 15 and 17 of the EC, the DERR will provide a No Further Action letter for this release.

The DERR may withdraw its No Further Action determination and may require additional investigative or corrective action or exercise any remedies allowed by law if the EC is not followed or if there are changes in information about the contamination or changes in land use on or off site that raise the possibility of a threat to human health or the environment from the contamination.

If you have any questions concerning this approval, please contact **Bruce Hagans** your DERR Project Manager, at (801) 536-4174.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad T. Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Brad T Johnson, Executive Secretary (UST)  
Utah Solid and Hazardous Waste Control Board

BTJ/BHH/stt

Enclosure(s)

cc: Gary L. Edwards, M.S., Director, Salt Lake Valley Health Department  
Cornelis Van Dijk, P.G. SECOR  
John P. Wainwright, SECOR