

CON 12-15
DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C. RECORD COPY

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File Name Cal Car, Westside
4201 Westown Parkway
Sender's Name J. Montana
Suite 300
West Des Moines, Iowa 50266
Fax: (515) 246-7997

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REPLY TO DES MOINES OFFICE

October 28, 2003

CON 12-15
Doc #13162

Jessica Montana
Contaminated Site Section
Iowa Department of Natural Resources
502 E. Grand Avenue
Des Moines, IA 50319

Re: Cal-Car Service Company

Dear Jessica:

Please find enclosed a copy of the file-stamped Declaration of Restrictive Covenants.

I understand that the Certificate of No Further Action has or will be issued with respect to this property. If you need anything else, please let me know.

Thank you for your cooperation.

Very truly yours,

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.


Gary M. Myers

GMM/djd

Enclosure

INDEXED DM
FOLLOW UP sy/pn
PROOFED

FILED DENISON, IOWA
OCT 10 2003

2003 OCT 10 AM 9:53
2003-3943
DENISE MEEVES, RECORDER
Denise Meeves
FEE \$26.00

When Recorded Return to:

Gary Myers
DAVIS, BROWN, KOEHN,
SHORS & ROBERTS, P.C.
The Financial Center
666 Walnut Street, Suite 2500
Des Moines, IA 50309-3993
Telephone: (515) 288-2500

Prepared by: Gary Myers, Davis Law Firm, 666 Walnut Street, Suite 2500, Des Moines, IA 50309-3993
Telephone: (515) 288-2500

DECLARATION OF RESTRICTIVE COVENANTS

Prepared by

and return to: Gary M. Myers, 666 Walnut Street, Suite 2500, Des Moines, IA 50309 Phone: (515) 288-2500

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION, made this 7th day of January, 2003.

WHEREAS, Cal-Car Service Company ("Declarant"), owns certain real property, ("Property") located in Crawford, County, Iowa, more fully described on Exhibit A, attached hereto, and incorporated herein by this reference; and

WHEREAS, the Property is currently subject to oversight by the Iowa Department of Natural Resources (the "DNR") as LUST No. 7LTW94; and

WHEREAS, Declarant desires to obtain a "no further action" certificate ("Certificate") from the DNR; and

WHEREAS, the DNR will not issue the Certificate unless Declarant executes and files this Declaration;

NOW, THEREFORE, Declarant hereby publishes and declares that the Property shall be held, sold and conveyed subject to the following covenants, all of which are for the purpose of protecting the value and desirability of the Property and all of which shall run with the land and shall be burden and a benefit to, and shall be binding upon, Declarant, Declarant's successors and assigns, and all parties acquiring or owning any right, title, lien or interest in the Property and their heirs, successors, assigns, grantees, executors, administrators, and devisees.

I. Restrictions

No wells accessing any underground aquifers shall be placed on the Property other than environmental monitoring wells.

II. Enforcement

If any person shall violate or attempt to violate any of the covenants contained herein, it shall be lawful for the DNR or any person holding any lien or other interest in the Property to prosecute a proceeding in equity to enjoin the person from such violation.

III. Term of Covenants

The covenants contained herein shall be deemed covenants running with the land, and shall remain in full force and effect until the earlier of the termination of these covenants by the Declarant, or by Declarant's successors and assigns, or twenty-one (21) years after the date these covenants are recorded in the Office of the County Recorder of the county where the Property is located. These covenants may be extended for successive twenty-one (21) year periods by the filing of a verified claim in accordance with Iowa Code § 614.24, which verified claim may be filed by the DNR or any party holding any lien or other interest in the Property.

IV. Severability

Invalidation of any portion of these covenants by judgment of any court shall in no way affect any of the other covenants contained herein, which shall remain in full force and effect.

V. Termination of Covenants

The covenants contained herein shall terminate twenty-one years after the date these covenants were recorded in the Office of the County Recorder, unless extended in accordance with Iowa Code § 614.24; provided, however, that the Declarant, or the Declarant's successors and assigns, may execute and file a notice of termination in the Office of the County Recorder of the county where the Property is located.

IN WITNESS WHEREOF, the undersigned Declarant does hereunto set his hand as of the day and year first above written.

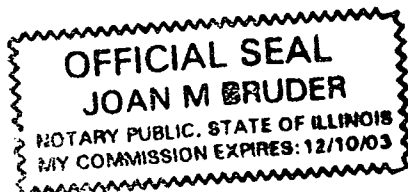
CAL-CAR SERVICE COMPANY

By: Denny Worth
Name: Denny Worth
Title: Liquidating Manager

STATE OF ILLINOIS)
) SS
COUNTY OF McLEAN)

On this 7th day of January, 2003, before me personally appeared Denny Worth who, being duly sworn, did say that he is the Liquidating Manager of said corporation, that the instrument was signed on behalf of said corporation by authority of its board of directors and that the said Denny Worth, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by him voluntarily executed.

Joan M. Bruder
Notary Public, in and for said county and state



EXHIBIT

tabbles

A

LEGAL DESCRIPTION: (PARCEL #1)

Lot Two (2) of the Subdivision of Lot Two (2), of the Mill Lot, containing 1.29 acres, and the South Forty (S40') feet of Lot One (1) of the Mill Lot, containing .20 acres, all in the North Half of the Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Twenty-four (24), Township Eighty-four (84) North, Range Thirty-seven (37) West of the 5th P.M., Crawford County, Iowa, EXCEPT the South Forty (40) feet of Lot One (1) of the Subdivision of Mill Lot in the North half of the Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Twenty-four (24), Township Eighty-four (84) North, Range Thirty-seven (37) West of the 5th P.M., Crawford County, Iowa, and part of Lot Two (2) of the Subdivision of Lot Two (2) of the Subdivision of Mill Lot in the North Half of the Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Twenty-four (24), Township Eighty-four (84) North, Range Thirty-seven (37) West of the 5th P.M., Crawford County, Iowa, described as follows: Beginning at the NW Corner of Lot 2 of the Subdivision of Lot 2 of the Subdivision of Mill Lot in the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 24-84-37, thence East 220.0 feet along the North line of said Lot, thence South 74.0 feet along the East line of said Lot, thence S 65° 22' 48" W 33.0 feet along the Southeasterly line of said Lot, thence N 73° 05' 38" W 198.58 feet, thence North 30.0 feet along the West line of said Lot to the point of beginning.

AND

(PARCEL #2)

The West One Hundred Sixty Feet (W 160') of Lot Two (2) of the Subdivision of Outlot D, Third Addition to the Town of Westside, Crawford County, Iowa, located in the North Half of the Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Twenty-four (24), Township Eighty-four (84) North, Range Thirty-seven (37) West of the 5th P.M., Crawford County, Iowa.

AND

(PARCEL #3)

That part of the Northwest Quarter of the Northeast Quarter of Section 24, Township 84 North, Range 37 West of the Fifth Principal meridian, bounded and described as follows: Beginning at a point on the East line of Main Street, distant 250 feet Northeasterly, measured at right angles, from the centerline of the main track of the Cedar Rapids and Missouri River Railroad Company (now the Chicago and North Western Railway Company), as said main track center line was originally located and established across said Section 24, being the most Northeasterly or East bound main track of said Railway Company, as now located; thence Southeasterly along a line parallel with said original main track center line a distance of 360 feet; thence Southwesterly along a line at right angles to the last described course a distance of 180 feet, more or less, to a point distant 9 feet Southwesterly, measured radially, from the center line of Chicago and North Western Railway Company Spur Track I.C.C. #6, as said spur track is now located; thence Northwesterly along a line parallel with said spur track center line a distance of 365 feet, more or less, to a point distant 220 feet Northwesterly, measured at right angles, from said original main track center line; thence Northwesterly along a line parallel with said original main track center line to a point on the East line of said Main Street; thence Northerly along said East line of Main Street a distance of 32 feet, more or less, to the point of beginning.