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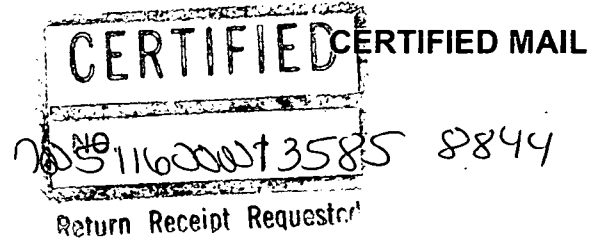
STATE OF IOWA

CHESTER J. CULVER, GOVERNOR  
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
RICHARD A. LEOPOLD, DIRECTOR

February 6, 2007

Baerbel Schiller  
Spencer, Fane, Britt and Brown LLP  
1000 Walnut Street, Suite 1400  
Kansas City Missouri 64106-2140



Re: John Deere Des Moines Works Environmental Covenant for Building 2-G

Dear Mr. Schumacher:

The Iowa Department of Natural Resources, Contaminated Sites Section, (Department) has signed the enclosed environmental covenant. Please have the proper Deere and Company personnel sign the covenant and then have it recorded at the Polk County, Iowa Recorder Office. After it has been recorded please send a full copy to the Department for our records.

If you have any questions or need further information please feel free to call or e-mail at (515) 281-4171 or [dan.cook@dnr.state.ia.us](mailto:dan.cook@dnr.state.ia.us).

Sincerely,

Daniel Cook  
Environmental Specialist Senior  
Contaminated Sites

encl: John Deere Des Moines Works Environmental Covenant

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. *SC IAF*

1. Article Addressed to:

BAERBEL SCHILLER  
SPENCER FANE BRITT & BROWN LLP  
1000 WALNUT STREET SUITE 1400  
KANSAS CITY MO 64106-2140

2. Article Number

(Transfer from service label)

7005 1160 0001 3585 8844

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*[Handwritten Signature]*  
 Agent  
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

*2-12-07*

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:  No

3. Service Type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

## ENVIRONMENTAL COVENANT

This Environmental Covenant is established pursuant to 2005 Iowa Acts, Senate File 375 (SF 375) (codified as 2005 Iowa Code Supplement, chapter 455I). Deere and Company, hereafter (“Grantor”), and John Deere Des Moines Works (“Grantee”) enter into this Environmental Covenant for the purpose of subjecting the property described below to certain activity and use limitations in accordance with the terms and conditions as specified in SF 375.

1. **Affected Property.** The Grantor as identified below is the fee title owner of property legally described in Exhibit A hereto, and locally known as the Building 2-G area at 825 Southwest Irvinedale Drive, Ankeny, Iowa (hereafter “property”).

2. **Risk Management and Institutional Controls.** An environmental response action project has consisted of a soil and groundwater investigation and risk evaluation of the property. This response action has been undertaken by Deere and Company. Soil and/or groundwater contamination from a historic release of chromium has been identified on the property. The Iowa Department of Natural Resources (Department) has approved a response action plan, which includes the use of this Environmental Covenant as a means of managing the risk of future exposure to this contamination.

Annual reports submitted to and on file at the Department offices regarding soil and groundwater investigation and treatment provide detailed information on site activities. The February 3, 2006 letter from Mr. Daniel Cook of the Department to Mr. Mark Schumacher of the John Deere Des Moines Works facility describes site closure activities.

3. **Institutional Controls.** Iowa Code section 455B.103 (7) and Iowa Code Chapter 455I authorize use of an Environmental Covenant as an institutional control. The purpose of this Environmental Covenant is to manage the risk of future exposure to existing contaminant conditions by limiting specific land use activities at this property, establishing affirmative obligations and enforcing the terms of this Environmental Covenant.

4. **Reopening.** The signatories acknowledge that failure of these activity and use limitations to serve their intended purpose could result in the Department reopening its review and regulation of the property as provided under the terms of this Environmental Covenant, Iowa Code chapter 455I, and applicable Department administrative rules and other state and federal laws.

5. **Identity of Grantor(s) and Holder(s).**

**Grantor:** Deere and Company

**Grantee/Holder:** John Deere Des Moines Works

**Agency:** Iowa Department of Natural Resources

6. **Representations and Warranties.** The Grantor warrant to the other signatories to this Environmental Covenant the following:

- a) That the Grantor is the sole fee simple title owner of the property;
- b) That the Grantor holds sufficient fee title to the property to grant the rights and interests described in this Environmental Covenant free of any conflicting legal and equitable claims.
- c) That the Grantor has identified all other persons holding legal or equitable interests, including but not limited to contract buyers, mortgage holders, other consensual lienholders, and lessees and secured their consent either by signatures on this Environmental Covenant or by a separate subordination and consent agreement attached as Exhibit B.

7. **Running with the Land.** This Environmental Covenant is perpetual and runs with the land as provided in Iowa Code chapter 455I until modified or terminated as provided in paragraph 12. The terms of this Environmental Covenant are binding on the Grantor and all successors in interest, assigns and all transferees acquiring or owning any right, title, lien or interest in the property and their heirs, successors, assigns, grantees, executors, administrators, and devisees. 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, contract buyers, mortgagees, easement holders, and/or lessees.

8. **Activity and Use Limitations and Terms.** The Property is subject to the following activity and use limitations:

- a) At such time, when impacted soils underlying Building G-2 are disturbed the Department and Grantee shall be notified prior to initiation of work, except in cases of emergency utility repair activities or other subsurface work necessary for human health and safety. Work shall be conducted in accordance with the Soil Management Plan attached hereto as Exhibit C. In cases of emergency work, the Department shall be notified within 14 calendar days of initiating the work activities.
- b) Other than as provided in paragraph 11 below, no wells for any purpose may be placed on the property.

9. **Notice of Non-Compliance.** Any signatory to this agreement and subsequent transferees of the property shall notify the Department as soon as possible of conditions that would constitute a breach of the activity and use limitations in paragraph 8.

10. **Notice to Lessees:** Grantor, any holder with a property interest sufficient to grant a lease of the property and any subsequent transferee with sufficient property interest to grant a lease of the property shall incorporate in full or by reference to this instrument, the terms of this

environmental covenant in any leases, licenses, or other instruments granting a right to use of the property.

11. **Access to Property.** Reasonable access to the Property is granted the Department and any authorized representatives of the Department. Access shall be granted to any private parties or their contractors, including Grantor and related entities, which may be required by law or authorized by the Department, to conduct any environmental response project activities at the Property. These activities may include but are not limited to repair and maintenance of remedial action equipment, installation of soil caps, groundwater monitoring or remediation wells, associated aboveground or subsurface structures, fencing, and other technological controls. To determine site conditions and compliance with the terms of this Environmental Covenant, access may be necessary for groundwater monitoring, additional soil borings, installation of groundwater monitoring wells, and other response activities authorized or otherwise directed by the Department. The Department, its authorized representatives, or other persons entitled to access, shall provide the current owner of the Property with reasonable notice, an explanation of the reasons for entry and the scope of on-site activities prior to access.

12. **Modification and Termination.** This Environmental Covenant may be modified or terminated in accordance with and subject to the provisions of Iowa Code chapter 455I. The termination or modification of this Environmental Covenant is not effective until the document evidencing consent of all necessary persons is properly recorded.

13. **Enforcement.** The terms of this Environmental Covenant may be enforced in a civil action for injunctive or other equitable relief by the signatories and those persons authorized by and in accordance with Iowa Code chapter 455I.

14. **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.

15. **Governing Law.** This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Iowa.

16. **Recordation.** Within thirty (30) days after Department approval of this Environmental Covenant, Grantor shall record the Environmental Covenant in the same manner as a deed to the property, with the Polk County Recorder's Office.

17. **Effective Date.** The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been properly recorded with the Polk County Recorder.

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

Director  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East 9<sup>th</sup> Street  
Des Moines, IA 50319

19. **Subordination and Consent.** By signing this Environmental Covenant, the signatories knowingly and intelligently acknowledge their consent to the terms of this agreement and agree to subordinate their interest in the property.

20. **Groundwater Hazard Statement Notice.** Iowa Code section 558.69 requires submission of a groundwater hazard statement and notice if "hazardous waste" exists on the property as defined in Iowa Code sub-sections 455B.411(3), 455B.412(2) or section 455B.464. If hazardous waste is present, the groundwater hazard statement must state that the condition is being managed in accordance with Department rules. The signatories and all subsequent transferees required to submit a groundwater hazard statement under Iowa Code section 558.69 shall make reference to this Environmental Covenant in substantially the following form:

THE INTEREST CONVEYED IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED \_\_\_\_\_, 2006, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE POLK COUNTY RECORDER ON \_\_\_\_\_, 200\_, IN [DOCUMENT \_\_\_\_, or BOOK \_\_\_\_, PAGE \_\_\_\_, or by parcel number \_\_\_\_]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS: *[state limitations as in Paragraph 8 above]*.

**ACKNOWLEDGMENTS**

**GRANTOR**

DEERE AND COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signed this \_\_\_\_ day of \_\_\_\_\_, 2006.

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

On this \_\_\_\_ day of \_\_\_\_\_, 2006, before me personally appeared \_\_\_\_\_ and \_\_\_\_\_, who being duly sworn, did say that they are the corporation, that (the seal affixed to said instrument is the seal of said corporation or no seal has been procured by said corporation) and that the instrument was signed and sealed on behalf of said corporation by authority of its board of directors and that the said officers acknowledge the execution of said instrument to be the voluntary act and deed of said corporation by them voluntarily executed.

\_\_\_\_\_  
Notary Public, State of Iowa



AGENCY:

IOWA DEPARTMENT OF NATURAL RESOURCES

  
Richard A. Leopold  
Director, Iowa Department of Natural Resources

Signed this 5 day of Feb, 2007.

State of Iowa )  
County of Polk ) ss

On this 5<sup>th</sup> day of February, 2007, before me personally appeared Richard Leopold known to me to be the Director of the Iowa Department of Natural Resources or the lawful designee of the Director who executed the foregoing instrument, and acknowledge that this person executed the same as his/her/their voluntary act and deed.

  
Notary Public for State of Iowa





STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
JEFFREY R. VONK, DIRECTOR

FOR DIRECTOR'S SIGNATURE
ENVIRONMENTAL PROTECTION COVENANT

DATE: November 17, 2006
TO: Jeffrey Vonk, Director, Iowa Department of Natural Resources
FROM: Daniel Cook, Contaminated Sites Section

APPROVALS:

Wayne Gieselman, Administrator, Environmental Services Initial and Date: WG 2-1-07
Tim Hall, Bureau Chief, Iowa Geological Survey and Land Quality Initial and Date: TH 2-1-07
Cal Lundberg, Supervisor, Contaminated Sites Section Initial and Date: CL 11/31/06
David Wornson, Attorney, Legal Services Initial and Date: DW 11/30/06

PROGRAM MANAGER SUMMARY:

Contaminated Sites Section and Legal Services have been working with John Deere Des Moines Works to develop the attached environmental covenant. John Deere has demonstrated to IDNR that the chromium groundwater plume is stable and or decreasing in size and the only remaining contaminated soil is found under Building 2-G. The covenant will prevent the placement of wells in the area of concern and requires notification to IDNR if the soil under Building 2-G is disturbed.

This site is being administrated under IAC-567-133, Rules for Determining Cleanup Action and Responsible Parties and not IAC-567-137, Iowa Land Recycling Program.

###

SPENCER FANE

BRITT  BROWNE LLP

ATTORNEYS & COUNSELORS AT LAW

BAERBEL E. SCHILLER  
DIRECT DIAL: (816) 292-8123  
bschiller@spencerfane.com

File No. 1628601-3

November 14, 2006

**VIA CERTIFIED MAIL**

Mr. Dan Cook  
Contaminated Sites Section  
Iowa Department of Natural Resources  
900 East Grand Avenue  
Wallace State Office Building  
Des Moines, IA 50319-0034

**Re: John Deere Des Moines Works Environmental Covenant**

Dear Mr. Cook:

We have enclosed for your review a draft of the John Deere Des Moines Works environmental covenant and supporting documents, including the property interest certification letter, proof of ownership documentation, a plat map, and the consultant summary of purpose, as required by IDNR. Please review these documents and let us know if any changes are necessary or if we can file the environmental covenant. We have discussed these documents with Dave Worenson.

Thank you for your assistance. We look forward to hearing from you.

Sincerely,



Baerbel E. Schiller

BES/slh  
Enclosures  
cc: Kathy Gibson, Esq.  
Mark Schumacher

1000 Walnut Street, Suite 1400  
Kansas City, Missouri 64106-2140  
(816) 474-8100 www.spencerfane.com Fax (816) 474-3216

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