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**Doc # 26799**

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March 5, 2012

Iowa Department of Natural Resources  
Attn: Hylton Jackson  
Wallace State Office Building  
502 E. 9<sup>th</sup> Street  
Des Moines, IA 50319

RE: Land Recycling Program Environmental Covenant for Southridge Square  
1300 Army Post Road, Des Moines, Iowa

Dear Mr. Jackson:

Please find enclosed the recorded No Further Action Certificate. Please let me know if you have any questions or need anything further from me or regarding this project.

You have been a pleasure to work with during this process and your professionalism is greatly appreciated. I look forward to dealing with you again in the future on some other project.

Sincerely,

WETSCH, ABBOTT & OSBORN, P.L.C.

By: 

Brett T. Osborn

BTO:jmn  
Enclosure

97889 AM 8:40 03/08/12

52.00  
7102  
JJA

  
Doc ID: 025657770010 Type: GEN  
Kind: MISCELLANEOUS  
Recorded: 02/24/2012 at 08:23:45 AM  
Fee Amt: \$52.00 Page 1 of 10  
Revenue Tax: \$0.00  
Polk County Iowa  
JULIE M. HAGGERTY RECORDER  
File# 2012-00063987  
BK 14170 PG 482-491

**IOWA DEPARTMENT OF NATURAL RESOURCES  
NO FURTHER ACTION CERTIFICATE**

**Preparer Information:**

Hylton Jackson, Wallace State Office Building, Des Moines, Iowa 50319 (515) 242-5084

**Taxpayer Information:**

Cutler Investments, LLC, 1307 50th Street, West Des Moines IA 50266

**Return Documents To:**

RETURN TO: Brett T. Osborn, Wetsch Abbott & Osborn, PLC, 974 73rd Street #20, Des Moines IA 50324

**Grantors:**

Iowa Dept. of Natural Resources  
Wallace State Office Building  
Des Moines IA 50319

**Grantees:**

Cutler Investments, LLC  
1307 50th Street  
West Des Moines IA 50266

Preparer's name  
Hylton Jackson

Address  
Wallace State Office Building

City, State  
Des Moines, Iowa

Tel. #  
(515) 242-5084

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## IOWA DEPARTMENT OF NATURAL RESOURCES

### NO FURTHER ACTION CERTIFICATE

This document certifies that all of the property described below has satisfied regulatory standards qualifying the area for a no further action classification under Iowa's Land Recycling Program in accordance with administrative rules contained in chapter 567 Iowa Administrative Code 137. A no further action classification generally means that voluntary participants in this program have identified and assessed certain contaminants of concern and sufficiently addressed them such that the risk to human health, safety and the environment to levels is deemed acceptable according to standards adopted by the Iowa Department of Natural Resources.

The no further action classification applies to an area within the enrolled property defined as "affected areas" within the parcels of real estate as legally described in **Exhibit A**. **Exhibit B** is a summary of soil and groundwater assessments to which the classification applies. **Exhibit C** is a list of the contaminants of concern that was identified during site assessment activities. The no further action classification applies only to contaminants of concern that the participants identified based on known or suspected sources of contamination.

A classification of no further action grants to "protected parties" protection from future environmental liabilities pursuant to Iowa Code Chapter 455H. The scope of the liability protection generally corresponds to the scope of the environmental condition(s) that qualifies for the no further action classification. Iowa Code section 455H.301 enumerates certain conditions which could authorize re-opening regulation of the affected area and removal of liability protections to certain protected parties. Interested parties should contact the Iowa Department of Natural Resources to obtain more information on the environmental conditions assessed within the "affected area" and any potential environmental concerns not specifically addressed or associated with areas outside the affected area.

#### AFFECTED AREA

The affected area exists within the following parcels legally described in **Exhibit A**.

Property owner and enrolled participant address at the time of filing:

Southridge Square at 1300 East Army Post Road  
Owned by/Grantor;  
Cutler Investments, LLC  
1307 50<sup>th</sup> Street  
West Des Moines, IA 50266

LRP Participant;  
Des Moines Associates, L.C.  
40 Skokie Boulevard, Suite 610  
Northbrook, Illinois 60062

Department file reference:

Southridge Square at 1300 East Army Post Road  
IDNR Database Site ID # 1187

**CONDITIONAL NO FURTHER ACTION CLASSIFICATION:**

The no further action classification and the attendant liability protections for the soil and groundwater contamination defined in the affected area is subject to the maintenance and continued effectiveness of the following institutional control:

**INSTITUTIONAL CONTROLS:**

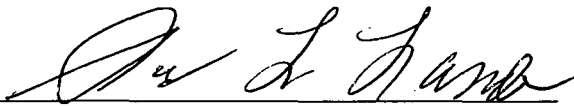
An environmental covenant was recorded with the property on January 20, 2012 by the Polk County Iowa Recorder (Document # 025540210031). The following activity and use limitations have been placed on the property;

- 1) The Property shall not be used for any residential purpose;
- 2) The construction, installation, maintenance or use of any wells on the Property shall be prohibited;
- 3) The current concrete parking lot and existing building shall be maintained as an impermeable ground surface covering to prevent infiltration to groundwater. Any future plan to excavate or disturb the current parking lot or remove the building shall require prior Department approval and may require a remedial plan to assess and remove contaminated soils.

**PUBLIC NOTICE:**

IN ACCORDANCE WITH IOWA CODE CHAPTER 455H AND DEPARTMENT RULES, PARTICIPANTS IN THE LAND RECYCLING PROGRAM MAY NOT HAVE BEEN REQUIRED TO IDENTIFY AND ADDRESS ALL KNOWN OR SUSPECTED RELEASES OF CONTAMINANTS IN ORDER TO QUALIFY FOR A NO FURTHER ACTION CLASSIFICATION. FOR THE AFFECTED AREA IDENTIFIED IN THIS CERTIFICATE OR THE REAL ESTATE AFFECTED BY THIS RECORDED DOCUMENT, INTERESTED PARTIES MAY CONTACT THE DEPARTMENT TO OBTAIN FURTHER INFORMATION.

This certificate does not constitute a warranty or a representation of any kind to any person as to the environmental condition, marketability or value of the above referenced property other than that certification required by Iowa Code section 455H.301 et seq. Interested parties should not rely solely on the representations contained in this certificate.

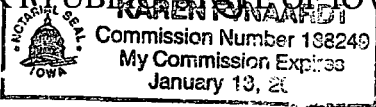


ROGER L. LANDE, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

State of Iowa  
County of Polk

Signed or attested before me on this 17<sup>th</sup> day of February, 2012 by  
Karen Kynard, My Commission Expires 2015

NOTARY PUBLIC, STATE OF IOWA



# NO FURTHER ACTION CERTIFICATE

**Southridge Square  
Des Moines, Iowa**

## **Exhibit "A" Property Description**

The No Further Action Certificate covers the property legally described below.

COMMENCING AT THE SOUTHEAST CORNER OF SECTION TWENTY-SEVEN (27), TOWNSHIP SEVENTY-EIGHT (78) NORTH, RANGE TWENTY-FOUR (24) WEST OF THE 5TH P.M., DES MOINES, POLK COUNTY, IOWA;

THENCE ALONG AND UPON THE EAST LINE OF THE SOUTHEAST QUARTER (SE 1/4), OF THE SOUTHEAST QUARTER (SE 1/4), OF SAID SECTION TWENTY-SEVEN (27), NORTH 00°00'00" EAST FOR A DISTANCE OF 235.00 FEET;

THENCE NORTH 90°00'00" WEST FOR A DISTANCE OF 100.00 FEET, THENCE CONTINUING NORTH 90°00'00" WEST FOR A DISTANCE OF 212.00 FEET TO THE POINT-OF-BEGINNING;

THENCE NORTH 00°00'00" EAST FOR A DISTANCE OF 226.00 FEET;

THENCE NORTH 90°00'00" WEST FOR A DISTANCE OF 218.00 FEET;

THENCE SOUTH 00°00'00" WEST FOR A DISTANCE OF 354.98 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF ARMY POST ROAD AS PRESENTLY ESTABLISHED;

THENCE ALONG AND UPON SAID RIGHT-OF-WAY LINE, SOUTH 89°22'40" EAST FOR A DISTANCE OF 218.07 FEET;

THENCE NORTH 00°00'00" EAST FOR A DISTANCE OF 131.35 FEET TO THE POINT-OF-BEGINNING.

CONTAINING 77,672 SQUARE FEET OR 1.783 ACRES, MORE OR LESS.

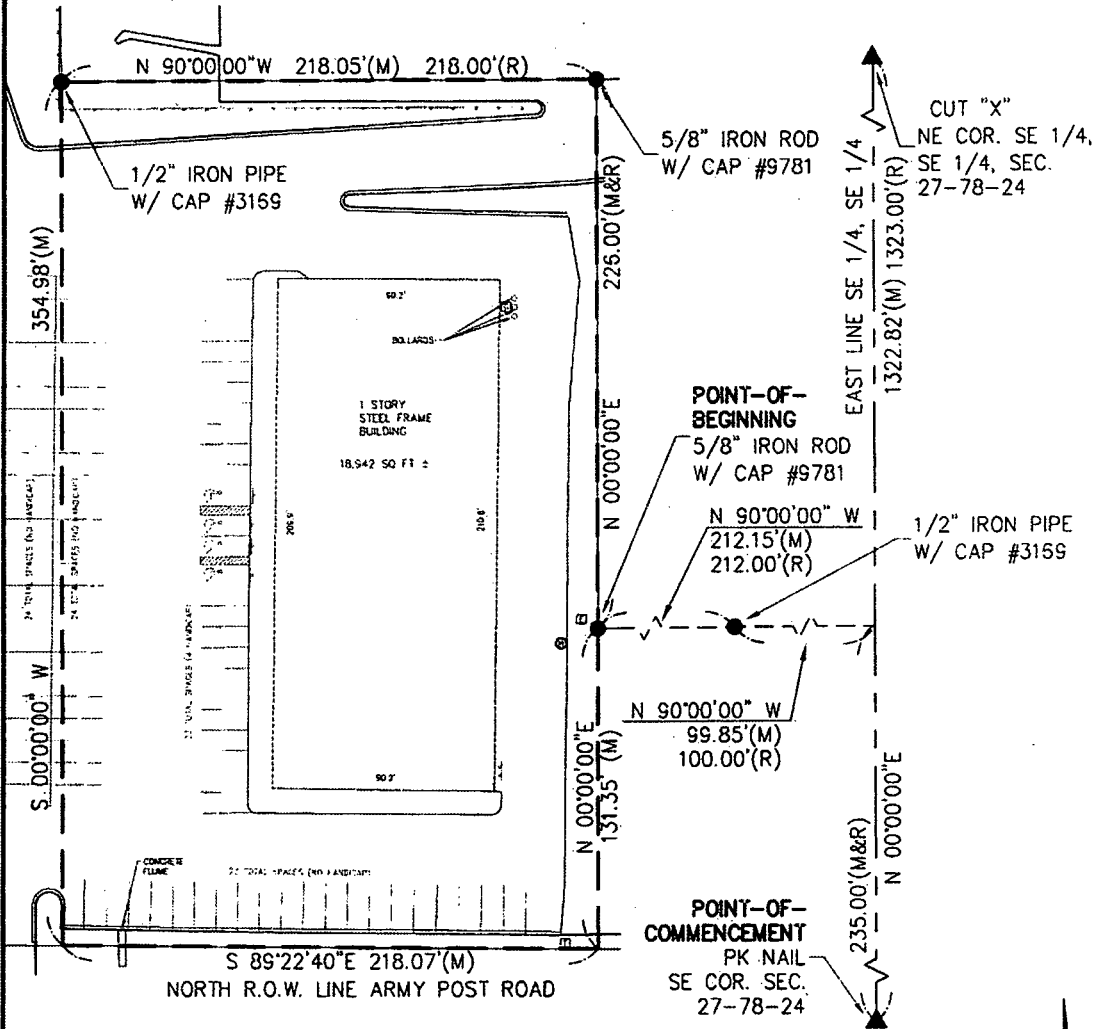
See attached "Southridge Square Plat".

RETURN TO: SHIVE-HATTERY, 1601 48TH ST., STE., 200, WEST DES MOINES, IA.

## DESCRIPTION

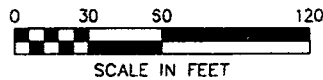
COMMENCING AT THE SOUTHEAST CORNER OF SECTION TWENTY-SEVEN (27), TOWNSHIP SEVENTY-EIGHT (78) NORTH, RANGE TWENTY-FOUR (24) WEST OF THE 5TH P.M., DES MOINES, POLK COUNTY, IOWA;  
 THENCE ALONG AND UPON THE EAST LINE OF THE SOUTHEAST QUARTER (SE 1/4), OF THE SOUTHEAST QUARTER (SE 1/4), OF SAID SECTION TWENTY-SEVEN (27), NORTH 00°00'00" EAST FOR A DISTANCE OF 235.00 FEET, THENCE NORTH 90°00'00" WEST FOR A DISTANCE OF 100.00 FEET, THENCE CONTINUING NORTH 90°00'00" WEST FOR A DISTANCE OF 212.00 FEET TO THE POINT-OF-BEGINNING; THENCE NORTH 00°00'00" EAST FOR A DISTANCE OF 226.00 FEET; THENCE NORTH 90°00'00" WEST FOR A DISTANCE OF 218.00 FEET; THENCE SOUTH 00°00'00" WEST FOR A DISTANCE OF 354.98 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF ARMY POST ROAD AS PRESENTLY ESTABLISHED; THENCE ALONG AND UPON SAID RIGHT-OF-WAY LINE SOUTH 89°22'40" EAST FOR A DISTANCE OF 218.07 FEET; THENCE NORTH 00°00'00" EAST FOR A DISTANCE OF 131.35 FEET TO THE POINT-OF-BEGINNING. CONTAINING 77,572 SQUARE FEET OR 1.783 ACRES, MORE OR LESS.

**SURVEYOR NOTE:** MONUMENTS SHOWN ARE FROM RETRACEMENT SURVEY BY SHIVE-HATTERY FILED JUN. 28, 2000, RECORDED IN BK, 8529, PG. 739



## LEGEND

- ▲ SECTION CORNER MONUMENT
- PROPERTY CORNER
- PROPOSED EASEMENT LINES
- - - SECTION LINE
- PROPERTY LINES



**SHIVE-HATTERY**  
 ARCHITECTURE+ENGINEERING  
 1601 48th St. Suite 200 | West Des Moines, Iowa 50268  
 515.223.8104 | fax 515.223.0622 | shive-hattery.com  
 Iowa | Illinois | Missouri

DESCRIPTION FOR NFA LETTER  
 PART OF THE E 1/2, SE 1/4, SE 1/4,  
 SEC. 27, T-78-N, R-24-W.

PROJECT NO  
 410571-0  
 DES MOINES  
 ASSOCIATES

DATE	12/17/2010	SCALE	1"=50'
DRAWN	JES	FIELD BOOK	N/A
APPROVED	MBB	REVISION	

SHEET NO.  
**EX101**



## **NO FURTHER ACTION CERTIFICATE**

**Southridge Square  
Des Moines, Iowa**

### **Exhibit "B"**

#### **Summary of Site Assessment Activities**

Previous investigations of the subject site identified low levels of chlorinated solvents as the primary constituents of concern in soil and groundwater in the vicinity of the former dry cleaning area. Below is a summary of the historical environmental assessments and investigations performed at the site.

In May 2000, EBI performed a limited subsurface investigation in and near a former dry cleaner tenant space at the east of the subject property. The investigation discovered evidence that soil is impacted with solvents used in dry cleaning processes. The evidence consisted of odors, elevated field screening readings, and laboratory analytical data. ATC Associates Inc. (ATC) performed a Phase II ESA and indoor air sampling at the site in September and October 2006. Subsurface activities included the completion of nine soil borings and six monitoring wells (MW -1 through MW -6) at the site to further investigate the area of identified soil and groundwater impacts. A total of 22 soil samples and nine groundwater samples were collected and analyzed for volatile organic compounds (VOCs). The investigation identified levels of chlorinated solvents in the soil and groundwater (MW -1 and A TCHA -1) in the vicinity of the former dry cleaning area (mostly limited to the area beneath the former dry cleaners tenant space). ATC concluded that the soil and groundwater analytical data indicated that the lateral extent of these constituents had been delineated, and it was assumed that only the vadose zone and uppermost waterbearing units had been impacted.

The site was approved for enrollment into the Iowa Land Recycling Program (LRP) by the Iowa Department of Natural Resources (IDNR), dated October 30, 2007. The purpose of enrolling the site into the LRP was to receive a No Further Action (NFA) certificate for the site. Following enrollment into the LRP, GaiaTech submitted a Groundwater Sampling Work Plan (dated January 17, 2008) to the IDNR. The work plan included the installation of one deep monitoring well to further delineate the extent of subsurface impacts at the site, collecting groundwater level measurements from the monitoring wells, performing four rounds of groundwater monitoring at the site, and establishing the hydraulic conductivity for the site. The purpose of the work plan was to demonstrate groundwater plume stability, and thereby obtain a NFA letter for the site. The Groundwater Sampling Work Plan was approved in a letter from the IDNR, dated February 7, 2008. Per the February 2008 Groundwater Investigation/Sampling Summary Report dated March 28, 2008. GaiaTech installed one deep monitoring well (DW-1) on the east side of the building, conducted slug tests to establish the hydraulic conductivity, collected groundwater measurements and samples from the monitoring wells. The extent of the contaminated groundwater plume was defined.

Soil, groundwater and vapor impacts were evaluated in the Risk Evaluation report (RE) that was submitted on October 14, 2008 and approved. A summary of fourteen quarters of groundwater sampling data August 2007 to October 2009) was submitted on December 11, 2009 that demonstrated plume stability. A Response Action was developed that places an Environmental Covenant (EC) on the property. The Public Notice was issued in February 2011. The Final Report was submitted and approved in May 2010. The Department approved EC was recorded on January 20, 2012.

# **NO FURTHER ACTION CERTIFICATE**

**Southridge Square  
Des Moines, Iowa**

## **Exhibit "C"**

### **Contaminants of Concern**

The affected area of the property covered by this no further action certificate for contaminants of concern in soil and groundwater listed below.

Tetrachloroethene (PCE)  
Trichloroethene(TCE)  
1,1-Dichloroethene (1,1-DCE)  
Cis-1,2-dichloroethene (cis-1,2-DCE)  
Trans-1,2-dichloroethen (trans-1,2-DCE)  
Vinyl chloride