

Type / Title of Document:

Environmental Covenant for the Interstate Power and Light Company  
Atlantic - State Street MGP Site

Return Document to:

Name: Jill Stevens, Interstate Power and Light Company  
Address: 4902 North Biltmore Lane Madison, WI 53718-2148  
Street Address City, State Zip  
Telephone: (608) 458-0446

Preparer Information

Name: Jill Stevens, Interstate Power and Light Company  
Address: 4902 North Biltmore Lane Madison, WI 53718-2148  
Street Address City, State Zip  
Telephone: (608) 458-0446

Taxpayer Information

Name: Ryan Pellet  
Address: 101 State Street  
Atlantic, IA 50022-1051  
Telephone: (402) 289-5700

Grantor: Ryan Pellet

Holder/Grantee: Ryan Pellet

Legal Description, including parcel identification number, if available:

Cass County Parcel ID No.: 303005546001000

The Legal Description is provided on Page 1 of the Environmental Covenant.

PLEASE  
MAIL  
TO: →

## ENVIRONMENTAL COVENANT

This environmental covenant is established pursuant to Iowa Code chapter 455I entitled Uniform Environmental Covenants Act (see also 2005 Iowa Acts, Senate File 375).

Ryan Pellet, hereafter "grantor/holder", and the Iowa Department of Natural Resources (Department) in its capacity as an agency 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 below, authority granted the Department in Iowa Code section 455B.103(7), 455I, and Department rules in 567 Iowa Administrative Code (I.A.C.) 133.

**1. Affected Property.** The grantor as identified below is the fee title owner of property legally described as:

Walker's Add Lot 10-11 & E20' Lot 12 & S103'E1/2 LT 12 & W50' S89" Lot 12 Also Pt Lot 9 lying S Lots 10 & 11 NE1/4 SW1/4 Sec 5-76-36 (Plat Map 4-721 09/03/2004)

This property is locally known as 101 State Street, Atlantic, Iowa (hereafter "property") and shown on the figure in Exhibit A. A portion of this property (Lots 10 and 11 of Block 71) is included under Consent Order 90-HC-12 between Interstate Power and Light Company (IPL), formerly known as Iowa Electric Light and Power Company, and the Department.

**2. Risk Management and Institutional Controls.** IPL and the Department entered into Administrative Consent Order No. 90-HC-12 in August 1990. The Consent Order applies to a number of former manufactured gas sites including the site subject to this environmental covenant. The terms and conditions of the Consent Order required IPL to conduct soil and groundwater assessment, perform risk evaluations, and design and implement appropriate environmental remedies. The Consent Order can be obtained at Department offices or online database at <http://www.iowadnr.gov/land/consites/index.html#sexe>.

Pursuant to the terms and condition of the Consent Order, the site assessment identified contaminated conditions on the property that may present an unreasonable risk to public health and the environment if certain activities occur on the property. As such, the Director, pursuant to his authority under Iowa Code section 455B.103(7) and consistent with the terms of the Consent Order, has determined that an environmental covenant is necessary to manage the risk of future exposure by limiting specified activities at this property and establishing affirmative obligations.

**3. Reopening.** The signatories acknowledge that failure of these activities and use limitations to serve their intended purpose of preventing the risk of exposure to contamination could result in the Department reopening review and regulation of the contaminant condition on the property as provided under the terms of this covenant, Iowa Code chapter 455I, and applicable Department administrative rules.

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

**GRANTOR:** Ryan Pellet

**HOLDER:** Ryan Pellet

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

**GRANTOR:** Ryan Pellett

**HOLDER:** Ryan Pellett



**AGENCY:** Iowa Department of Natural Resources

**5. Representations and Warranties.** The grantor warrants to the other signatories to this covenant the following:

- a. that the grantor is the sole fee 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 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 lien holders, and lessees, and secured their consent either by signatures on this covenant or by a separate subordination and consent agreement.

**6. Running with the Land.** This environmental covenant is perpetual and runs with the land as provided in Iowa Code section 455I.9 until modified or terminated. The terms of this environmental covenant are binding on the grantors 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.

**7. Activity and Use Limitations and Terms.** The property is subject to the following use limitations and terms:

- a. **Land Use:** Limitations on land use are required. Due to residual MGP-related contamination, the property shall not be developed for residential use as defined by the Department.
- b. **Subsurface Excavation:** Limitations on subsurface excavation are required due to residual MGP-related contamination. Deep soil samples collected beyond the limits of the 1994 remedial action excavation area and soil below the 12-foot excavation depth contained MGP-related polynuclear aromatic hydrocarbons (PAHs) at concentrations exceeding Iowa Statewide Standards for soil. Because this residual contamination represents a potential exposure route for a public health risk, no excavation greater than twelve (12) feet deep from the surface grade will be allowed on the property without notification and approval of the Department, and implementation of appropriate controls to assess, excavate, and dispose of contaminated soil and or free product coal tar waste. The figure in Exhibit B shows the area with the excavation restriction.
- c. **Groundwater:** Limitations on groundwater use are required. A former monitoring well demonstrated benzene concentrations in groundwater above the Iowa Statewide Standards for protected groundwater. This well was located in the southeast corner of the property and hydraulically upgradient of former MGP structures. Therefore, the contamination is likely from an offsite source because wells nearer former MGP-structures along the north perimeter of the property did not contain any contaminants at levels exceeding standards. Regardless, no groundwater wells shall be allowed on the property to make use of the shallow aquifer comprised of glacial till and alluvial materials underlying the property, with the exception of monitoring well(s) to collect



groundwater for analysis pursuant to Consent Order 90-HC-12 issued by the Department.

**8. Notice of Non-Compliance.** Any property owner or subsequent transferee of an interest in the property shall notify the Department as soon as possible of conditions which would constitute a breach of the activity and use limitations in paragraph seven (7) if they have actual knowledge within the normal course of administration of their property interest.

**9. Notice to Lessees.** Grantor, any holder with a property interest sufficient to grant a lease of the property, and any subsequent transferee shall incorporate the activity and use limitations of this covenant either in full or by reference to this instrument in any lease, license, or other instrument granting the right to possession of the property.

**10. Access to Property.** Reasonable access to the property is granted to the Department or any authorized representative of the Department, public or private, for the purpose of implementation, monitoring, and enforcement of the terms of this environmental covenant. 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 onsite activities prior to access. Right of access included, but is not limited to, the following activities:

- a. repair and maintenance of remedial action equipment, soil caps, groundwater monitoring wells and associated aboveground or subsurface structures
- b. fencing and other technological controls
- c. groundwater sampling and monitoring
- d. construction of soil boring and/or groundwater monitoring wells
- e. other activities authorized or otherwise directed by the Department.

**11. Groundwater Hazard Statement.** 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 \_\_\_\_\_, 20\_\_, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE CASS COUNTY RECORDER ON \_\_\_\_\_, 20\_\_, BY PARCEL NUMBER 303005546001000.

THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS: *[language that describes the activity and use limitations exactly as it appears in the environmental covenant.]*

**12. Modification and Termination.** Modification or termination of the terms of this covenant shall comply with the standards in Iowa Code chapter 455I and applicable Department administrative rules. The terms of this environmental covenant may be modified or terminated by written consent of the Director of the Department, the then current fee simple title owner, and all original signatories (unless exempted under the provisions of Iowa Code section 455I.10 (c) in accordance with and subject to the provisions of Iowa Code section 455I.10. The termination or



modification is not effective until the document evidencing consent of all necessary persons is properly recorded. If not by consent, any modification or termination of this environmental covenant shall be as provided by Iowa Code section 455I.9 and such additional terms as specified in this covenant.

**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 section 455I.11.

**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, the grantor shall record the environmental covenant in the same manner as a deed to the property, with the Cass 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 Cass 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:

Iowa Department of Natural Resources  
Contaminated Sites Section Supervisor  
502 E 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. Notice of Change of Ownership.** Grantor and holder with sufficient property interest to convey a possessory interest in the property and any subsequent transferee with sufficient interest shall reference and incorporate the terms of this agreement into any subsequent instrument which conveys a possessory interest in the property.



**ACKNOWLEDGEMENTS**

**GRANTOR/HOLDER**

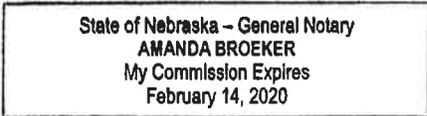
Ryan Pellett

R. Pellett Dated this 6 day of September, 2016

State of Nebraska )  
County of Douglas ) ss.

On this 6 day of September 2016 before me, the undersigned, a Notary Public in and for the State of ~~Iowa~~ Nebraska, personally appeared Ryan Pellett, to me personally known, who being by me duly sworn, did say that he is the Grantor/Holder of said corporation, executing the within and foregoing instrument, that the instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Ryan Pellett as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by them voluntarily executed.

Amanda Broeker  
Notary Public, State of Nebraska



**AGENCY**

Iowa Department of Natural Resources

Chuck Gipp Dated this 6<sup>th</sup> day of October, 2016

Chuck Gipp  
Director

State of Iowa )  
County of Polk ) ss.

On this 6<sup>th</sup> day of October, 2016 before me personally appeared Chuck Gipp, 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.

Karen Fynaardt  
Notary Public, State of Iowa:





**EXHIBIT A  
PROPERTY DRAWING  
101 State Street, Atlantic, Iowa  
Parcel No. 303005546001000**



Image Source: The Schneider Corporation Beacon™ Web Site.  
(<http://beacon.schneidercorp.com/Application.aspx?AppID=215&LayerID=2922&PageTypeID=1&PageID=2266&KeyValue=303005546001000>)

**Legal Description:**  
Cass County Parcel 303005546001000

The Legal Description is provided on Page 1 of the Environmental Covenant.



**EXHIBIT B  
LOCATION OF AREA OF EXCAVATION RESTRICTIONS**



Image Source: The Schneider Corporation Beacon™ Web Site.  
(<http://beacon.schneidercorp.com/Application.aspx?AppID=215&LayerID=2922&PageTypeID=1&PageID=2266&KeyValue=303005546001000>)

