

GINA PIMENTEL
RECORDER
STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2022-013630

9:53 AM 2022 Apr 21

Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT ("Covenant") is made this 28th day of March, 2022, by GSD Petroleum, LLC, located at 9653 North Granville Road, Mequon, Wisconsin 53097 (together with all successors and assignees, collectively "Owner").

WHEREAS: Owner is the fee owner of certain real estate in the County of Lake, Indiana, which is located at 1691 East 15th Avenue, Gary, Indiana and more particularly described in the attached Exhibit "A" ("Real Estate"), which is hereby incorporated and made a part hereof. This Real Estate was acquired by deed on August 31, 2011, and recorded on February 17, 2012, as Deed Record 2012012235, in the Office of the Recorder of Lake County, Indiana. The Real Estate consists of approximately 0.600 acres and has also been identified by the county as parcel identification number 45-08-11-301-003.000-004.

WHEREAS: Site investigation was conducted in accordance with IC 13-23 and other applicable Indiana law as a result of a release of petroleum relating to the Former Marathon Bulk #2172, located at 1691 East 15th Avenue, Gary, Indiana 46402. The incident number assigned by the Indiana Department of Environmental Management ("Department" or "IDEM") for the release is 201609516, and the relevant facility identification number is 2545.

WHEREAS: Certain contaminants of concern ("COCs") remain in the groundwater of the Real Estate following completion of corrective action. The Department has determined that the COCs will not pose an unacceptable risk to human health at the remaining concentrations, provided that the land use restrictions contained herein are implemented to protect human health and the environment. The known COCs remaining are petroleum compounds relating to gasoline.

WHEREAS: Environmental investigation reports and other related documents are hereby incorporated by reference and may be examined at the offices of the Department, which is located in the Indiana Government Center North building at 100 N. Senate Avenue, Indianapolis, Indiana. The documents may also be viewed electronically in the Department's Virtual File Cabinet by accessing the Department's Web Site (currently www.in.gov/idem/).

NOW THEREFORE, GSD Petroleum, LLC subjects the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

FILED

APR 21 2022

JOHN E. PETALAS
LAKE COUNTY AUDITOR

25
CC
LK

NOT AN OFFICIAL DOCUMENT

I. RESTRICTIONS

1. Restrictions. The Owner:

- (a) Shall not use or allow the use of the Real Estate for residential purposes, including, but not limited to, daily childcare facilities or educational facilities for children (e.g., daycare centers or K-12 schools).
- (b) Shall not use or allow the use or extraction of groundwater at the Real Estate for any purpose, including, but not limited to: human or animal consumption, gardening, industrial processes, or agriculture, except that groundwater may be extracted in conjunction with environmental investigation and/or remediation activities.
- (c) Prior to the change in use of the site construction of new structures to be occupied by persons at the Real Estate, the current Owner of the Real Estate shall confirm there is no unacceptable exposure risk due to vapor migration in accordance with then-applicable agency guidance, regulation, or law. This may include conducting groundwater, soil, and/or soil-gas sampling for the volatile organic compounds ("VOCs") or semi-volatile organic compounds ("SVOCs") of concern. The results and analyses of such sampling shall be presented to IDEM in support of the Owner's determination whether an unacceptable vapor exposure risk exists. If the results demonstrate that no such risk currently exists, IDEM will provide its concurrence in writing and grant the Owner a waiver of this restriction for the proposed change in site use and/or new construction. If the results demonstrate that an unacceptable risk to human health exists, then the Owner must submit plans for mitigation for approval by IDEM and must conduct adequate indoor sampling to demonstrate the effectiveness of the approved remedy.

II. GENERAL PROVISIONS

2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in or right to occupancy in all or any part of the Real Estate by any person shall affect the restrictions set forth herein. This Covenant is imposed upon the entire Real

NOT AN OFFICIAL DOCUMENT

Estate unless expressly stated as applicable only to a specific portion thereof.

3. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent Owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
4. Access for Department. The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of monitoring compliance with this Covenant and ensuring its protectiveness; this right includes the right to take samples and inspect records.
5. Written Notice of the Presence of Contamination. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances), the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED _____ 20____, RECORDED IN THE OFFICE OF THE RECORDER OF LAKE COUNTY ON _____, 20____, INSTRUMENT NUMBER (or other identifying reference) _____ IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide the Department with the notice within thirty (30) days of the conveyance and: (a) include a certified copy of the instrument conveying any interest in any portion of the Real Estate, and (b) if it has been recorded, its recording reference, and (c) the name and business address of the transferee.
7. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

NOT AN OFFICIAL DOCUMENT

III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate IDEM if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder. As a result, if any owner of the Real Estate, or any owner's Related Parties, breach this Covenant or otherwise default hereunder, IDEM shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to challenge the provisions or the appropriate court's jurisdiction.

IV. TERM, MODIFICATION AND TERMINATION

9. Term. The restrictions shall apply until the Department determines that the contaminants of concern no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
10. Modification and Termination. This Covenant shall not be amended, modified, or terminated without the Department's prior written approval. Within thirty (30) days of executing an amendment, modification, or termination of the Covenant, Owner shall record such amendment, modification, or termination with the Office of the Recorder of Lake County and within thirty (30) days after recording, provide a true copy of the recorded amendment, modification, or termination to the Department.

V. MISCELLANEOUS

11. Waiver. No failure on the part of the Department at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's right to enforce such term, and no waiver on the part of the Department of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.
12. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner of its obligation to comply with any other applicable laws.

NOT AN OFFICIAL DOCUMENT

13. Change in Law, Policy or Regulation. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, guidance, or remediation policies (including those concerning environmental restrictive covenants, or institutional or engineering controls) change as to form or content. All statutory references include any successor provisions.
14. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:

GSD Petroleum, LLC
9653 North Granville Road
Mequon, Wisconsin 53097

To Department:

IDEM, Office of Land Quality
100 N. Senate Avenue
IGCN 1101
Indianapolis, IN 46204-2251
Attn: Chief Petroleum Remediation Program


An Owner may change its address or the individual to whose attention a notice is to be sent by giving written notice via certified mail.

15. Severability. If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.
16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

NOT AN OFFICIAL DOCUMENT

IN WITNESS WHEREOF, *GSD Petroleum, LLC*, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 28th day of March, 2022.

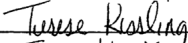


GSD Petroleum, LLC

STATE OF Wisconsin
) SS:
COUNTY OF Ozaukee

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared RUDAL DANAVAL the member of the Owner, *GSD Petroleum, LLC*, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

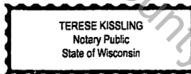
Witness my hand and Notarial Seal this 28th day of March, 2022.



Terese Kissling, Notary Public
Residing in Ozaukee County, Wisconsin

My Commission Expires:

4-14-2022



This instrument prepared by:

Sean Coats, Golars Environmental Engineering, 9761 Crosspoint Blvd, Suite 500, Indianapolis, IN 46265

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law:

Sean Coats, Golars Environmental Engineering, 9761 Crosspoint Blvd, Suite 500, Indianapolis, IN 46265

NOT AN OFFICIAL DOCUMENT

EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

Part of the Northwest Quarter of the Southwest Quarter of Section 11, Township 36 North, Range 8 West of the 2nd P.M., described as follows:

Beginning on the South line of 15th Avenue(60 feet in width) and 203 feet East of the West line of the Southwest quarter of said Section 11, measured along said South line; thence East along the South line of 15th Avenue 175 feet to the West line of Illinois Street; thence South and parallel with the West line of Southwest Quarter of said Section 11 and along the West line of Illinois Street a distance of 150 feet; thence West and parallel with the South line of 15th Avenue a distance of 175 feet; thence North 150 feet to the point of commencement, City of Gary, Lake County, Indiana.

Property of Lake County Recorder