

Recording Requested By and
When Recorded Return to:

Remediation Bureau Chief
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT PURSUANT TO THE UNIFORM ENVIRONMENTAL COVENANTS ACT, IDAHO CODE § 55-3001, et seq.

ENVIRONMENTAL COVENANT

This instrument is an Environmental Covenant (“Environmental Covenant”) executed by **Property Owner Name** (“OWNER), and the Idaho Department of Environmental Quality (“Department”).

This Environmental Covenant sets forth protective provisions, covenants, restrictions and conditions (collectively referred to as “Activity and Use Limitations”) on the Property described below. The Activity and Use Limitations are designed to protect natural resources, human health and the environment upon and or adjacent to the Property identified below and every portion thereof.

The Idaho Department of Lands (IDL) is a “holder” as defined in Idaho Code § 55-3002(6).

OWNER, as the current property owner grants this Environmental Covenant to all signatories to this instrument.

Property. This Environmental Covenant concerns real property in the Town of Triumph located at **Property Address** in the County of Blaine, State of Idaho, legally described as **Legal Description** (hereafter referred to as “the Property”). The Property is legally described in the attached Exhibit A.

Property Ownership. OWNER hereby represents and warrants to the other signatories to this Environmental Covenant that he/she/they is [are] the sole owner of the property, holds fee simple title to the property and OWNER has the power and authority to enter into this Environmental Covenant.

Reason for Activity and Use Limitations. The area in which the above described property is located is within an area affected by the Triumph Mine Tailings Pile Site. In 1995, IDL and ASARCO entered into a Consent Order with the Idaho Department of Environmental Quality (the “Department”) for the remediation of the Triumph Mine in Triumph, Blaine County, Idaho (“the site”). Pursuant to this Consent Order, the Department required the parties to establish

institutional controls to protect human health and the environment related to lands in and around the Triumph Mine and its associated workings and tailings pile.

A copy of the Administrative Record for this Environmental Clean-up Action may be found at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho.

Activity and Use Limitations. By acceptance and recordation of this Environmental Covenant, OWNER, and any successors in interest, are hereby required to comply with all terms and conditions of the Triumph Community Protection Measures (hereinafter "TCPM") attached hereto as Exhibit B and made a part herein by reference.

Amendment by Consent. The Environmental Covenant may be amended by consent pursuant to Idaho Code § 55-3010. Except for an assignment undertaken pursuant to a governmental reorganization, assignment of the Environmental Covenant to a new holder is an amendment.

Termination by Consent. The Activity and Use Limitations shall apply to the Property, or any subdivided portion thereof, unless OWNER, or its successors in interest, applies to the Department to have this Environmental Covenant terminated pursuant to Idaho Code § 55-3010 and demonstrates in a Department approved document that with respect to all or part of the Property or any subdivided portion thereof the Property does not contain contaminated soils or groundwater.

Provisions to Run With the Land. Each and all of the Activity and Use Limitations shall run with the land, and pass with each and every portion of the Property, and shall apply to and bind the respective successors in interest thereof. Each and all of the Activity and Use Limitations are imposed upon the entire Property unless expressly stated as applicable to a specific portion of the Property.

Concurrence of Subsequent Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, and their successors, that the Activity and Use Limitations as herein established must be adhered to and that their interest in the Property shall be subject to the Activity and Use Limitations contained herein.

Recording/Filing of Environmental Covenant. This Environmental Covenant and any amendment or termination of the Environmental Covenant shall be recorded in the county recorder's office of every county in which any portion of the Property subject to the Environmental Covenant is located. The Environmental Covenant or any amendment or termination shall be recorded by OWNER, or its successors in interest, within ten (10) days of receipt of this Environmental Covenant signed by the Department. Within ten (10) days of the recording of this Environmental Covenant, or any amendment or termination, OWNER, or its successors in interest, shall provide to the Department a copy of this recorded Environmental Covenant, or any amendment or termination of this Environmental Covenant. Upon receipt of the copy of the recorded Environmental Covenant, and any amendment or termination therein, the Department shall post the copy of the fully executed instrument in the Registry as required by Idaho Code Section 55-3012(1). In addition, a copy of the recorded Environmental Covenant, or any amendment or termination, shall be provided by OWNER, or by its successors in interest, to the following persons: (a) each person that signed the Environmental Covenant; (b) each

person holding a recorded interest in the Property; (c) each person in possession of the Property; (d) each municipality or other local government in which the Property is located; and (e) any other person the Department requires. The validity of the Environmental Covenant is not affected by failure to provide a copy of the Environmental Covenant as required under this section.

Enforcement. The Department and any Holder of the Environmental Covenant shall have authority to enforce the Activity and Use Limitations against OWNER or its successors-in-interest, including subsequent owners of the Property and any other person using the Property.

Property Access. The Department shall have a right of access to the Property for the purposes of ensuring compliance with this Environmental Covenant.

Notice of Conveyance of Property. Within thirty (30) days of the closing of any conveyance of the Property, or part thereof, the Conveyer of the Property, shall provide written notice to the Department and each municipality or other local government in which the Property is located, the name and address of all the then Owners and/or Occupants of the Property, or part thereof, conveyed. The Department shall not, by reason of this Environmental Covenant, have authority to approve, disapprove, or otherwise affect any conveyance of the Property except as otherwise provided by law.

Notices. All notices required or permitted to be given hereunder shall be in writing and mailed in the United States Mail, postage prepaid, by certified or registered mail, return receipt requested, to the appropriate address indicated below or at such other place or places as either OWNER or its successors, the Idaho Department of Lands or its successors, or the Department or its successors, may, from time to time, respectively, designate in a written notice given to the other. Notices which are deposited in the United States Mail in accordance with the terms of this provision shall be deemed received three (3) days after the date of mailing thereof.

OWNER: **ATTN:** Property Owner Name
Property Address

THE DEPARTMENT: Idaho Department of Environmental Quality
ATTN: Remediation Bureau Chief
1410 N. Hilton
Boise, ID 83706

THE IDL: **ATTN:** Eric Wilson
300 North 6th Street, Suite 103
P O Box 83720
Boise ID 83720-0050

Costs and Expenses. All costs of terminating this Environmental Covenant, including the cost of any remediation or abatement of any environmental condition related to Activity and Use Limitations pertaining to the Property, shall be borne by the party seeking such termination.

Partial Invalidity. If any portion of the Environmental Covenant or terms set forth herein is

determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such invalidated portion had not been included herein.

Headings. Headings at the beginning of each section of this Environmental Covenant are solely for the convenience of the parties and are not a part of the Environmental Covenant.

Idaho Code References. All references to the Idaho Code sections include successor provisions.

Reservation of Rights. Notwithstanding any provision of this Environmental Covenant, the Department retains all of its access and enforcement authorities under any applicable statute or rule. The Department's acceptance hereunder is based upon the information presently known or available to the Department with respect to the environmental condition of the Property, and the Department reserves the right to take appropriate action under applicable authorities in the event the Department determines new information warrants such action.

Effective Date. The effective date of this instrument shall be the date the fully executed Environmental Covenant is recorded at the county recorder's office.

Signature and Acknowledgments
Accepted:

Idaho Department of Environmental Quality

Signature: _____
Printed Name: DEQ Director
Title: Director, Idaho Department of Environmental Quality
Date: _____

State of Idaho)
) ss.
County of Ada)

On this ____ day of _____, in the year _____, before me, a Notary Public in and for said County and State, personally appeared **DEQ Director**, known or identified to me to be the Director of the Idaho Department of Environmental Quality that executed this Environmental Covenant, and acknowledged to me that the Idaho Department of Environmental Quality executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Idaho: _____
Residing at: _____
Commission Expires: _____

Idaho Department of Lands

Signature: _____
Printed Name: IDL Director
Title: Director, Idaho Department of Lands
Date: _____

State of Idaho)
) ss.
County of Ada)

On this _____ day of _____, in the year _____, before me, a Notary Public in and for said County and State, personally appeared **IDL Director**, known or identified to me to be the Director of the Idaho Department of Lands that executed this Environmental Covenant, and acknowledged to me that the Idaho Department of Lands executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Idaho: _____
Residing at: _____
Commission Expires: _____

Signature and Acknowledgments

Accepted:

Property Owner

Signature: _____
Printed Name: _____
Title: _____
Date: _____

State of Idaho)
) ss.
County of Blaine)

On this _____ day of _____, in the year _____, before me, a Notary Public in and for said County and State, personally appeared _____, known or identified to me to be the person that executed this Environmental Covenant, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Idaho: _____
Residing at: _____
Commission Expires: _____