

Mountain View Mobile Home Estates 2010 Five Year Review

Appendix B Declaration of Environmental Use Restriction (DEUR), December 2007



Gila County, AZ
Linda Haught Ortega, Recorder
12/20/2007
10:25AM
Doc Code: DRES

Doc Id: 2007-02051
Receipt #: 61487
Rec Fee: 14.00

ARIZONA DEPARTMENT OF ENVIRONM

When recorded, return to:

Arizona Department of Environmental Quality
Attention: Samantha L. Roberts
1110 West Washington
Phoenix, AZ 85007



Gila County, AZ

DRES

2007-020517

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**DECLARATION OF ENVIRONMENTAL USE RESTRICTION
FOR PROPERTY WITH ENGINEERING CONTROL
AND NON-RESIDENTIAL RESTRICTION**

*CERCLA National Priorities List (NPL) Site
Mountain View Mobile Home Estates
Globe, Arizona*

This Declaration of Environmental Use Restriction (“Declaration”), when recorded, is a covenant that runs with and burdens the Property, binds all owners and owners’ heirs, successors and assigns, and inures to the benefit of the Arizona Department of Environmental Quality (“Department”) and the State of Arizona.

This Declaration is executed and recorded by Louis B. Trammell, Director, Arizona Department of Emergency Management (“Owner”).

DECLARATION

Owner covenants and agrees as follows:

A. Presence of Contamination. Environmental contaminants are present on all of real property located at the Mountain View Mobile Home Estates located on the north side of State Route 70 (SR 70) at the intersection of SR70 and SR77 in Globe, Arizona (“Property”)

B. Warranty of Title. Owner is the only owner of, and holds equitable and legal title to, the Property and has authority to execute and record this Declaration.

C. Legal Description. Owner’s deed setting forth the legal description of the Property at which the contamination is located is attached and marked “Exhibit 1. The Gila County Assessor parcel numbers for the property are 102-28-014-A and 102-28-014-B.

D. Maps. The location of the Property identified in “Exhibit 1” is depicted on a map attached and marked as “Exhibit 2”.

E. Completion of Remediation. The date that remediation, remedial action, corrective action or response action was completed: January 7, 1986.

F. Environmental Contaminant Information. Complete the attached form “Exhibit 3, Environmental Contaminant Information,” by providing a description of each environmental contaminant subject to a



remediation, remedial action, corrective action or response action, and the remaining contaminant concentrations. If this is being accomplished pursuant to Title 18, Chapter 7, Article 2, Arizona Administrative Code, Exhibit 3 need include only those concentrations that are above the predetermined residential soil remediation levels in Appendix A, referenced in R18-7-205. For risk assessments, provide the resulting site-specific cumulative excess lifetime cancer risk and hazard index. Indicate exposure pathways which have been eliminated or reduced.

G. Engineering/Institutional Control Statements. Because Owner is using an engineering control and an institutional control to satisfy the requirements of A.R.S. §§ 49-152 or 49-158, Owner agrees to the following:

1. The institutional control limits the use of the Property to non-residential use as defined in A.R.S. § 49-151 where natural persons are not reasonably expected to be in frequent contact with the soil.

The engineering control consists of the following:

- Permanent relocation of subdivision residents;
- Burial of contaminated mobile homes and other site structures;
- Fencing of the perimeter of the site;
- Provide signs identifying the site as restricted to public access;
- Provide for drainage of storm water thru the site;
- Grading and consolidation of contaminated soil and asbestos tailings;
- Capping of contaminated soil, tailings and contaminated structures with a filter fabric liner and two (2) to ten (10) feet of clean fill

2. The engineering control was constructed on January 7, 1986

3. The maintenance requirements of the institutional control are that Owner assure that the restricted area not be subject to residential use as defined in by A.R.S. § 49-151. The maintenance requirements of the engineering control are described in the Operation & Maintenance Plan dated November 1986. Owner agrees to maintain the specified maintenance requirements and implement the procedures outlined in the plan which include the following:

- Conduct semi-annual inspections of the site and after rainfall events of greater than one inch during a twenty-four hour period;
- Fence maintenance;
- Storm water open channel maintenance;
- Storm water subsurface channel maintenance;
- Maintenance of site vegetation to prevent root penetration of the filter fabric and to reduce fire danger;

4. In order to protect the public health and the environment, the engineering control and the institutional control must remain in place because contaminant levels exceed residential soil standards, and because:

- To prevent exposure to the buried asbestos, asbestos-contaminated soil, asbestos tailings and asbestos-contaminated structures buried on site;
- The Centers for Disease Control (CDC) has determined that chrysotile asbestos is both fibrogenic and carcinogenic and is a hazard to human health. Exposure to the contaminated soil and other materials exceeds a 1×10^{-5} excess cancer risk;
- Air quality sampling conducted on the un-capped site exceeded air quality standards



- for asbestos;
- In April 1983 the CDC issued a public health advisory for the Mountain View Mobile Home Estates

5. If any person desires to cancel or modify the engineering control or institutional control in the future, the person shall obtain the Department's prior written approval. Any modification of the engineering or institutional control without the Department's prior written approval is void and a violation of this Declaration.

6. Owner hereby grants to the Department and its representatives, authorized agents, attorneys, investigators, consultants, advisors, and contractors the right of access to the Property at all reasonable times to verify that the engineering control and institutional control are being maintained. The Department's right of access is continuing and runs with the land. If access to the Property is restricted, Owner shall have any barrier to entry opened or removed at the Department's request.

7. Owner shall incorporate the terms of this Declaration into any lease, license or other agreement that is signed by Owner and that grants a right with respect to the Property. The incorporation may be in full or by reference.

8. Owner agrees to provide a copy of the Engineering Control Plan document dated November 1986 (Operation & Maintenance Plan dated November 1986) to the subsequent purchaser of the property. Additional copies can be obtained through the *ADEQ Remedial Projects Section*.

H. Engineering Control Plans/Financial Assurance. The engineering control plan and financial assurance mechanism is prescribed pursuant to A.R.S. § 49-152.01. The financial mechanism approved by the Department shall remain in place until an alternate mechanism has been approved by the Department. A subsequent owner shall demonstrate financial assurance pursuant to A.R.S. § 49-152.01(B) within 30 days of the sale or the transfer of the Property. The financial assurance mechanism shall be sufficient to cover the cost of maintaining the engineering control for 30 years and restoring the engineering control if it fails.

I. Periodic Inspections and Reports. Because Owner has elected to use an engineering control and institutional control to satisfy the requirements of A.R.S. §§ 49-152 or 49-158, Owner shall maintain the controls to ensure that they continue to protect public health and the environment, and shall inspect the engineering control at least once each calendar year or more in accordance with the Engineering Control Plan Document (*Operation & Maintenance Manual dated November 1986*). Within thirty days after each inspection, Owner shall submit to the Department a written report that:

1. Describes the condition of the engineering control and the status of the institutional control and uses the inspection checklist contained in the Operation & Maintenance Manual dated November 1986;
2. States the nature and cost of all restoration made to the engineering control during the calendar year;
3. Includes current photographs of the engineering control; and
4. Describes the status of the financial assurance mechanism prescribed by A.R.S. § 49-152.01, and a certification that the financial assurance mechanism is being maintained.



J. Additional Information. More detailed information on the remediation is maintained and available at the Arizona Department of Environmental Quality, located at 1110 W. Washington Street, Phoenix, Arizona 85007.

K. Release of this Declaration. Request for the release of this Declaration pursuant to A.R.S. §§ 49-152(D) or 49-158(L) may be filed by owners holding all equitable and legal title to the Property or having legal authority to file the request. The release portion of the fee specified in R18-7-604 was ~~(was)~~ (not) *[circle one]* paid for this Declaration. If Owner elected, pursuant to R18-7-605, not to pay the release portion with the original fee, a release will not be granted until the Department receives payment of the release portion of the fee specified in R18-7-604, which is in effect at the time of the release request.

L. Sale or Transfer of the Property. At least five working days before the sale or other transfer of title to or an interest in the property or any portion of the property, the Owner and buyer or transferee shall provide written notice and written commitment as required by A.R.S. §49-152.01(C).

M. Failure to Comply. If Owner fails to comply with this declaration or to implement the Engineering Control Plan document dated November 1986 (Operation & Maintenance Manual dated November 1986), the Department shall give Owner written notice by certified mail of the failure. If Owner fails to take the action specified in the Department's notice, the Department may issue an order pursuant to A.R.S. §§ 49-152.02 and 49-158(I) and take any other action allowed by law.

N. Related Rules. If this Declaration is being used to comply with R18-12-263.01(B)(4)(d), the remaining information required by that rule is attached as Exhibits: *Not Applicable*



Gila County, AZ

DRES

2007-020517

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ARIZONA DEPARTMENT OF EMERGENCY MANAGEMENT,
an agency of the State of Arizona,

by: *Louis B. Trammell*

Louis B. Trammell, Director
Arizona Department of Emergency Management
5636 East McDowell Road
Phoenix, Arizona 85008

This Declaration of Environmental Use Restriction was subscribed and sworn before me this 30th
day of October, 2007, by Louis B. Trammell, Director of the Arizona Department of
Emergency Management.



ROBERT E. ROONEY
Notary Public - Arizona
Maricopa County
Expires 04/15/2011

Robert E. Rooney
Notary Public

My commission expires: 4/15/2011

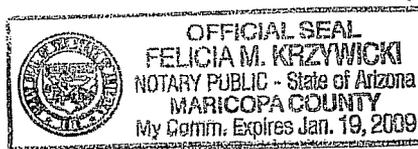


ARIZONA DEPARTMENT OF ENVIRONMENTAL
QUALITY, an agency of the State of Arizona,

by: *Amanda E. Stone*
Amanda E. Stone
Director, Waste Programs Division
Arizona Department of Environmental Quality

This Declaration of Environmental Use Restriction was subscribed and sworn to before me this 1st
day of November, 2007, by Amanda E. Stone, Director of the Waste Programs Division,
on behalf of Arizona Department of Environmental Quality:

Felicia M. Krzywicki
Notary Public



My commission expires: Jan 19, 2009



EXHIBIT 1

Legal Description:

That portion of Section 5, Township 1 South, Range 16 East, Gila and Salt River Meridian (Unsurveyed), Gila County, Arizona, patented as Mineral Survey No. 4523, Arizona, on July 13, 1962, known as Central, Central No. 1 and Central No. 2 mill sites, and containing the following parcels of land:

Lots 1 – 44 and tracts A, B and D, Mountain View Mobile Home Estates, according to map No. 486, records of Gila County, Arizona.

Lots 45 – 50, replat of Tract C of Mountain View Mobile Home Estates subdivision, according to map 556, records of Gila County, Arizona.

That portion of Lot 1 of said Section 5 recorded in docket 637, page 243, records of Gila County, Arizona, described as follows:

Beginning at the southwest corner of said Lot 1,
Thence North 20°44'28" East along the West line of said Lot 1, a distance of 214.75 feet;
Thence South 58°28'58" East, a distance of 152.68 feet;
Thence South 20°44'28" West, parallel to the aforesaid West line, a distance of 192.75 feet to the South line of said Lot 1;
Thence North 67°26'21" West along said South line, a distance of 50.14 feet;
Thence North 66°25'21" West along said South line, a distance of 100 feet to the point of beginning.

That portion of Lot 1 of said Section 5 recorded in docket 625, page 100, records of Gila County, Arizona, described as follows:

Commencing at the Southwest corner of said Lot 1,
Thence North 20°44'28" East along the West line of said Lot 1, a distance of 296.49 feet to a point on a nontangent curve having a radius of 995.65 feet, said point being the point of beginning;
Thence Easterly along said curve, a distance of 150.57 feet;
Thence South 20°44'28" West, parallel to the aforesaid West line, a distance of 98.92 feet;
Thence North 58°28'58" West, a distance of 152.68 feet to the aforesaid West line;
Thence North 20°44'28" East along the aforesaid West line, a distance of 81.74 feet to the point of beginning.

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563 346

STATE OF ARIZONA, County of Gila, ss:
I do hereby certify that the within instrument was filed and recorded at the request of Gila County Board of Supervisors

Date May 11, 1982 Time 3:10 P. M. Docket 563 Official Records Page 346
Records of Gila County, Arizona.

WITNESS my hand and official seal the day and year first above written.
INDEXED GILA County Recorder: MARY V. DE PAOLI,
PAGE# By Jeri Lipsword, Deputy

RECEIVED
AUG 30 2002
By _____

Treasurer's Deed

Know All Men by These Present:

WHEREAS, on the 21st day of January, 19 82

notice according to law was published in the ARIZONA SILVER BELT
a newspaper published in the County of Gila, State of Arizona, that application for a Treasurer's Deed to the premises assessed to METATE ABSESTOS CORP & NEAL hereinafter described had been made by the Grantee named CAPPER NEAL LAND & DEV. CORP herein, and that, unless redemption be had before the 10th day of MAY, 19 82, a Treasurer's Deed will issue to the said Grantee, and

WHEREAS, said property has not been redeemed from such sale, I therefore, pursuant to said notice and in conformity with the law have conveyed, and do hereby convey, unto said STATE OF ARIZONA

the following described premises situated in the County of Gila, State of Arizona, to-wit:
PARCEL NUMBER 102-39-045 Mountain View Mobile Home Estate Tract A.

IN WITNESS WHEREOF, I, PRISCILLA M. L. KNUCKEY Treasurer
of the County of Gila, State of Arizona, by virtue of Law, have hereunto set my hand and seal this 11th
day of MAY, 19 82.
Priscilla M. Knuckey
Treasurer of Gila County

STATE OF ARIZONA, ss.
County of Gila.

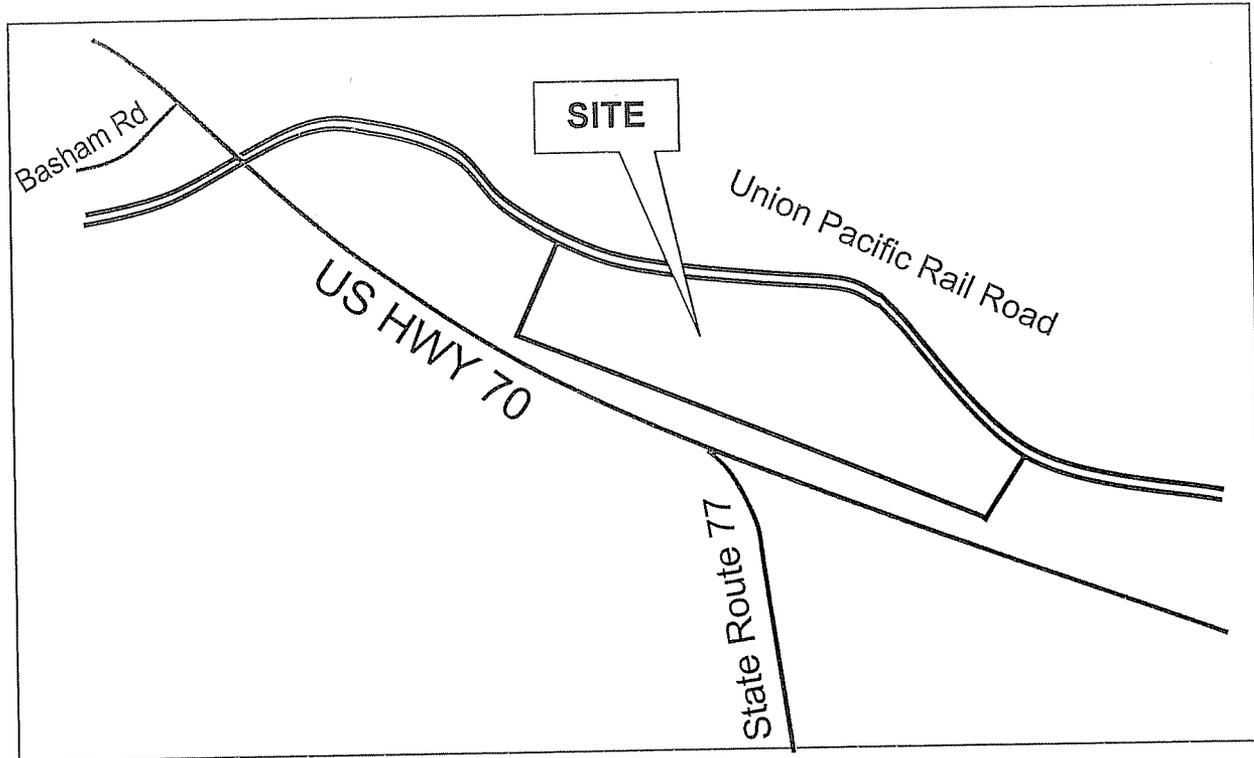
This instrument was acknowledged before me this 11th day of
May, 19 82, by Priscilla M. L. Knuckey
as Treasurer of the County of Gila, State of Arizona, who then and there stated to me that he executed the same for the purposes and consideration herein expressed.

My Commission Expires January 7, 1985





Exhibit 2



MOUNTAIN VIEW MOBILE HOME ESTATES

LOTS 1-44, TRACTS A, B AND D, MOUNTAIN VIEW MOBILE HOME ESTATES, ACCORDING TO MAP 486, RECORDS OF GILA COUNTY, ARIZONA; LOTS 45-51, TRACT C OF MOUNTAIN VIEW MOBILE HOME ESTATES SUBDIVISION, ACCORDING TO MAP 556, RECORDS OF GILA COUNTY, ARIZONA; TOGETHER WITH GILA COUNTY ASSESSOR'S PARCEL NUMBERS 102-28-014A AND 102-28-014B, LOCATED IN SECTION 5, T1S, R16E (UNSURVEYED) OF THE GILA AND SALT RIVER MERIDIAN, GILA COUNTY, ARIZONA

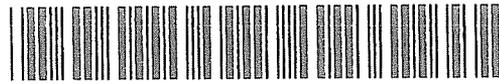


EXHIBIT 3

ENVIRONMENTAL CONTAMINANT INFORMATION

| Contaminant Name | Chemical Abstract No. | Concentration(1) | Exposure Pathway(s)(2) | Non-residential(3) | | Residential(4) | |
|--|-----------------------|--|------------------------|--------------------|----------|----------------|----------|
| | | | | Carc | Non-carc | Carc | Non-carc |
| Chrysotile and other forms of Asbestos | 12001-29-5 | >600,000 mg/kg 44 subsurface samples ranging from 50,000 to >600,000 mg/kg asbestos | * | | | | |
| Chrysotile and other forms of asbestos | 12001-29-5 | 86 surface samples ranging from 10,000 mg/kg to >200,000 mg/kg asbestos | * | | | | |
| Total | | | | | | | |

** all exposure pathways have been eliminated through the engineering control cap*

- (1) Units are mg/kg. The concentration is the maximum detected at the property, or the statistically determined value representative of the site-specific contaminant distribution in the area of concern. This value is not the exposure point determined by risk assessment methodology.
- (2) Indicate all applicable complete exposure pathways as "O" for oral ingestion, "D" for dermal contact, and "I" for inhalation. One or more pathways may be eliminated by an institutional control, other than a restriction to non-residential uses. All three pathways are considered complete when the only restriction is limiting use of the Property to non-residential use.
- (3) If a risk assessment has been conducted, list the calculated non-residential risk or hazard quotient for each contaminant. At the bottom of the carcinogen (carc) column, provide the cumulative excess lifetime cancer risk. At the bottom of the non-carcinogen (non-carc) column, provide the hazard index.
- (4) Optional information, unless one of the following conditions occur:
 - (a) A risk assessment evaluation for residential uses is required by the program;
 - (b) A risk assessment evaluation is conducted for residential use which requires implementation of any land use controls; or
 - (c) The Property use may change from non-residential to residential in the reasonably foreseeable future, and no risk assessment was conducted for residential use. Standard default residential exposure assumptions must be used to determine values for this column.



Janet Napolitano
Governor

ARIZONA DEPARTMENT
OF
ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov



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DRES



Stephen A. Owens
Director

December 19, 2007

RPU08:192

Hand Delivered

Judy Smrdel
Office Manager for the Gila County Recorder
1400 E. Ash St.
Globe, AZ 85501

Re: Recording of Declaration of Environmental Use Restriction for Mountain View in Globe
Arizona.

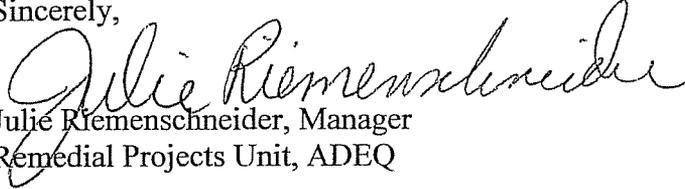
Dear Ms. Smrdel,

The Arizona Department of Environmental Quality (ADEQ) has enclosed the signed Declaration of Environmental Use Restriction (DEUR) for the Mountain View site located on the north side of State Route 70 (SR70) at the intersection of SR70 and SR77 in Globe, Arizona.

On December 18, 2008, ADEQ's contractor submitted the new surveyed plat map for this area to the Gila County Recorder's office for recording. The new plat became Map 790. Please note this new map was a replat of Lot 1-44 of Plat Map 486, and Lots 45-51 and Tract C of Plat Map 556. Therefore, this signed DEUR is for the area known as Map 790 which use to be Lot 1-44 of Plat Map 486, and Lots 45-51 and Tract C of Plat Map 556.

Thank you very much for your time and effort in recording this DEUR for ADEQ. Should you have any questions or concerns please feel free to contact me at 602-771-4411.

Sincerely,


Julie Riemenschneider, Manager
Remedial Projects Unit, ADEQ