

Appendix E

ACCESS AGREEMENT BETWEEN  
THE NEVADA DIVISION OF ENVIRONMENTAL PROTECTION  
AND  
NAME OF PROPERTY OWNER

THIS ACCESS AGREEMENT (“Agreement”) is made as of TODAY’S DATE, 2010, by and between NAME OF PROPERTY OWNER and the NEVADA DIVISION OF ENVIRONMENTAL PROTECTION (NDEP). Collectively, hereinafter, the “Parties.”

1. DEFINITIONS

1.1 Property -- NAME OF PROPERTY OWNER owns certain real property located at ADDRESS OF PROPERTY. In general the Property is composed of SIZE OF PROPERTY acres of land which has been assigned NAME OF COUNTY WHERE PROPERTY IS Assessor parcel number ASSOCIATED PARCEL NUMBER (“Property”).

1.2 Work -- The work for this Access Agreement is defined as: NDEP shall enter and investigate the Property as part of an environmental investigation relative to locating orphaned and/or abandoned underground storage tanks (USTs) within the State of Nevada. The site investigation will be performed in accordance with applicable environmental laws and regulations. The Parties will agree to the timing of access for site investigation. Investigation activities will be executed in a non-invasive form. The investigation will involve personnel entering the Property to conduct a visual survey, looking for evidence and/or existence of out of use USTs. Furthermore, if NDEP personnel deem it necessary, additional visits will be coordinated with NAME OF PROPERTY OWNER for NDEP representatives to conduct supplementary survey work using non-invasive geophysical technical equipment.

2. AGREEMENT

The Parties agree as follows:

2.1 The Parties enter into this Agreement to allow NDEP or its representatives or contractors the right of entry to the Property.

2.2 NAME OF PROPERTY OWNER hereby grants NDEP, or its representatives or contractors, permission to enter the Property for the purpose of performing the Work authorized by this Agreement. NAME OF PROPERTY OWNER authorizes NDEP or its representatives or contractors to release any and all analytical, geotechnical, and site assessment data or information obtained during the performance of the Work to appropriate government agencies. NDEP shall provide copies of released data or information to NAME OF PROPERTY OWNER.

2.3 NDEP shall not permit any liens to stand against the Property for the Work done or materials furnished to NDEP, and NDEP shall indemnify, defend and hold NAME OF PROPERTY OWNER harmless to the extent authorized by law from any such liens for the Work performed under this Agreement.

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2.5 NDEP agrees to indemnify and hold NAME OF PROPERTY OWNER harmless to the extent provided by law (NRS Chapter 41).

2.6 This Agreement shall terminate upon the completion of the Work.

2.7 NDEP shall use its best efforts to perform the Work at a time and in a manner such as to not significantly impede NAME OF PROPERTY OWNER use and occupation of the Property. NAME OF PROPERTY OWNER, its employees, invitees and authorized representatives shall not interfere or tamper with the NDEP's performance of the Work and, furthermore, shall exercise reasonable care with regard to NDEP's performance of the Work.

2.8 This Agreement shall not be assigned without the prior written consent of the Parties. Furthermore, this Agreement shall bind and inure to the benefit of successors and assigns of the Parties.

2.9 By executing this Agreement, or conducting any of the Work, neither NAME OF PROPERTY OWNER nor NDEP waives any rights either may have against any person or entity in connection with any contamination which exists at, or in the vicinity of, the Property.

2.10 This agreement shall not be interpreted for the benefit of any other party.

2.11 The signatories to the Agreement represent that they have the authority to bind the Party they represent

IT IS HEREBY AGREED:

NDEP

NAME OF PROPERTY OWNER

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

(Print)

Name: \_\_\_\_\_

(Print)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Appendix E Continued - Call Form**

Locating Orphaned/Abandoned USTs within the State of Nevada,  
American Reinvestment & Recovery Act (ARRA) of 2009

Date: \_\_\_\_\_ Caller: \_\_\_\_\_ Site ID: \_\_\_\_\_

Owner Name: \_\_\_\_\_

Site Name: \_\_\_\_\_

Call Reason:  Initial, Phase 2, Contact  Follow Up

New Owner, First Attempt  Hostile

Helpful

Other Explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Owner  Tank(s) How Many? \_\_\_\_\_

Confirmed Presence of:  Fuel Island

Filling Pipe

Owner  Tank(s) \_\_\_\_\_

Denied Presence of:  Fuel Island

Filling Pipe

Documentation  
provided to support  
above?

Yes  No

NO UST(s) AT SITE

Method used to confirm that there are no Abandoned/Orphaned  
USTs on property?

\_\_\_\_\_  
\_\_\_\_\_

**Appendix E Continued:**  
Phase II Call Script  
Locating Orphaned/Abandoned USTs within State of Nevada  
American Reinvestment & Recovery Act (ARRA) of 2009

Hello, my name is \_\_\_\_\_, with Broadbent and Associates, Inc. We have been contracted by the Nevada Division of Environmental Protection to assist in efforts to clean up Underground Storage Tanks (USTs), in the state of Nevada.

Are you the owner of \_\_\_\_\_ (Property address and description) \_\_\_\_\_?

This parcel has been identified as potentially containing an UST.

Can you confirm if any unused fuel storage tanks exist?

It is important for you to understand that as a property owner, you have a responsibility to address such USTs, they must be assessed for potential environmental impact, this is a requirement of State of Nevada \_\_\_\_\_. Under the American Reinvestment and Recover Act of 2009, Federal funds have been allocated to potentially assist property owners with costs associated with cleaning up sites containing out of use USTs. I would like your cooperation in performing a complete assessment of your site.

Can I count on your cooperation Mr./Mrs. \_\_\_\_\_?

(If yes) Wonderful!

(If no) Do you have questions that I might answer, that can help you to be more comfortable with my roll and the responsibilities you have as a property owner with a potential UST site?

Are there any known USTs on your property?

Were there ever any present?

Can you provide documentation that demonstrates that they were removed?

Are you willing to meet with our representatives, for a comprehensive site analysis, at no cost to you?

**Site Visit Form**  
Phase II Locating Orphaned/Abandoned USTs within the State of Nevada,  
American Reinvestment & Recovery Act (ARRA) of 2009

Date: \_\_\_\_\_ Inspected By: \_\_\_\_\_ Site ID: \_\_\_\_\_

Owner Name: \_\_\_\_\_

Site Name: \_\_\_\_\_

Visit Reason:       Snow on Previous Trip                       Office Order

Accompany 3rd Party Contractor

Other                      Explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Notes:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Confirmed Present:            UST(s)      How Many? \_\_\_\_\_

     Fuel Island      Orphaned or Abandoned?

     Filling Pipe      \_\_\_\_\_

     NO UST(s)

Method used to confirm whether or not there are USTs on property and their status as orphaned or abandoned? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Appendix E Continued**  
Phase II Talking Points  
Locating Orphaned/Abandoned USTs within State of Nevada  
American Reinvestment & Recovery Act (ARRA) of 2009

- Confirm ownership; are you the owner of \_\_\_\_\_ (this property)?
- Explain the list of sites and that this property has been identified on the list. The intent of the program is to identify sites that may have USTs. The reason this is suspected on your property is that \_\_\_\_\_.
- The goal will be focused on gathering necessary information and documentation to enable your property to be removed from the list.
- Important questions: Can you confirm if any unused USTs exist on your property? Were there ever any USTs present to your knowledge? If not, were you made aware of any USTs when you acquired or purchased the property? Can you provide documentation that demonstrates that USTs were removed?
- If an UST is discovered, the site may be eligible to receive federal funds for assist with the situation, via the American Reinvestment and Recovery Act of 2009.
- If we don't have documentation that USTs were closed, we must assess the presence or absence of USTs on the site. In order to receive any assistance, we must do the assessment. The assessment is at no cost to the property owner.
- Best case scenario, no tank, we all move on, and you will have documentation that the assessment was performed.
- Worst case, you gain guidance on how to free your property from environmental liabilities, related to USTs.
- Obligations as a property owner if tank is found: USTs must be closed properly and soil conditions must be assessed for potential environmental impact, as this is a requirement of the State of Nevada. This is to protect waters of the state. Under the American Reinvestment and Recovery Act of 2009, Federal funds have been allocated to identify properties that may have USTs, help property owners understand their responsibilities, and possibly assist property owners with certain costs associated with dealing with these situations.
- Be prepared to explain how Federal funds could become available - the site must be higher on the ranking system.
- Representing the State NDEP
- Help us to confirm whether USTs exist, or not, on your site