

**PLANNING & DEVELOPMENT**

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Timothy Huey  
Director

To: Mahesh Sharma, County Administrator

From: Timothy Huey, Planning Director

Date: July 13, 2020

**Re: Approval of authorization for the Board Chair to sign Environmental Covenants for the County Tax Deed property known as North Pine Service located at 6630 Northwest Boulevard in the City of Davenport**

The County took a tax deed to the North Pine Service property in June of 1996. At that time it was listed by the Iowa DNR as Leaking Underground Storage Tank Site #8LTD26 and classified as a High Risk site. Planning and Development has administered the monitoring, remediation and clean-up efforts of the site since the County took the tax deed. All the costs associated with this clean up and monitoring have been paid through the State Underground Storage Tank Board. Remedial costs for such site, when owned by a unit of local government, are 100% funded through the Iowa Underground Storage Tank Fund with a maximum allowable total expenditure for this site of \$1,000,000.00. To date \$410,442.99 has been spent and reimbursed, which includes the costs of the annual Site Monitoring Reports which has totaled \$57,740.77.

Currently Seneca Environmental Services is the firm working for the County to monitor the site and has managed all the projects to clean up the site. In November, 2011 the Underground Storage Tank Section of Iowa DNR approved reclassification of the site to Low Risk. Since that time Seneca has continued to seek a No Further Action Required classification of the site. The plume of hydrocarbons from the leaking tanks, even though abating has expanded under many of the surrounding properties. Seneca has obtained approval from all the surrounding property owners affected by the plume for restrictive environmental covenants to be filed on their properties to prohibit the installation of any water wells on their property. Seneca has requested that Scott County file similar covenants against the North Pine Service property. Hopefully this will be the final step to obtain the No Further Action Required classification of the site from the Iowa DNR.

Staff recommends that the Board of Supervisors approve a resolution authorizing the Chair to sign such environmental covenants for this Tax Deed property, the former North Pine Service Station.



CORPORATE HEADQUARTERS • DES MOINES, IOWA

P.O. Box 3360  
Des Moines, IA 50316-0360

4140 E. 14<sup>th</sup> Street  
Des Moines, IA 50313-3804  
Phone: 515-262-5000  
Toll-Free: 800-369-5500  
Fax: 515-262-4951

*The Complete Solution*

July 6, 2020

Tim Huey  
Scott County Planning and Development  
600 W 4<sup>th</sup> Street  
Davenport, IA 52801

**Re: ENVIRONMENTAL COVENANTS FOR FORMER NORTH PINE SERVICE : 6630 NORTHWEST BLVD.,  
DAVENPORT, IA  
LUST #: 8LTD26                      REGISTRATION #: 8603488**

Dear Tim,

Please find enclosed the Environmental Covenant for the above referenced site. Please sign, notarize and return the Covenant to the address below:

Kay Watson  
Seneca Companies  
4140 E 14<sup>th</sup> Street  
Des Moines, IA 50313

If you have any questions regarding this matter, please contact me at 515-264-4337 or [kwatson@senecaco.com](mailto:kwatson@senecaco.com).

Sincerely,  
Seneca Environmental Services

A handwritten signature in blue ink that reads "Kay Watson".

Kay Watson  
Seneca Companies

[www.senecaco.com](http://www.senecaco.com)

Fuel Systems • General Contracting • Environmental Services • Waste Solutions Services  
Remediation & Process Controls • Automotive & Fleet Equipment



**IOWA UNDERGROUND STORAGE TANK PROGRAM  
ENVIRONMENTAL COVENANT**

This environmental covenant is established pursuant to Iowa Code (IC) chapter 455I entitled Uniform Environmental Covenants Act.

Scott County Iowa, hereafter "grantor(s)," Scott County Iowa hereafter "holder(s)," and the Department of Natural Resources (Department) in its capacity as an agency of the State of Iowa, 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 included herein pursuant to the authority granted to the Department in IC chapter 455I, IC § 455B.103(7), and Department rules in chapter 567 Iowa Administrative Code (IAC) 135.

**1. Affected Property.** The grantor(s) identified below is the fee title owner(s) of the property located at 6630 Northwest Blvd, Davenport, Iowa, at which petroleum exists. The property is legally described as:

Lot 1, except the West 45 feet of Rosewill Addition to the City of Davenport, Scott County, Iowa described as follows;

Part of the Northeast Quarter of the Southeast Quarter of Section 4 in Township 78 North, Range 3 East of the 5<sup>th</sup> P.M., more particularly described as follows; Beginning at a point in the Northerly line of the Southeast Quarter of said Section 4, Township 78 North Range 3 East of the 5<sup>th</sup> P.M., which point is 44 feet West of the Northeast corner of the Southeast Quarter of said Section 4; thence North 88° 44' West along the Northerly line of the Southeast Quarter of said Section 4 for a distance of 135.00 feet; thence South on a line parallel to the Easterly line of said Section 4 for a distance of 140.00 feet; thence North 88° 44'; East for a distance of 135.00 feet; thence North 140.00 feet to the beginning.

Subject to an easement for roadway purposes over and across that part of the above described real estate which is more particularly described as follows: Part of the Northeast Quarter of the Southeast Quarter of Section 4 in Township 78 North, Range 3 East of the 5<sup>th</sup> P.M., more particularly described as follows: Beginning at a point in the North line of the tract of real estate hereinabove described which point is 95 feet West of the Northeast corner of the tract of real estate hereinabove described; thence from said point of beginning running South 140.00 feet to the Southerly line of the tract of real estate hereinabove described; thence South 88° 44' West along the Southerly line of the tract of real estate hereinabove legally described for a distance of 20 feet; thence north 140.00 feet to the North line of the real estate hereinabove described; thence North 88° 44' East along the North line of the tract of real estate hereinabove described for a distance of 20 feet to the point of beginning.

Is in Scott County, Iowa.

**2. Risk Management and Institutional Controls.**

Seneca Companies for Scott County Iowa has conducted a soil and groundwater investigation and risk assessment (tiered site assessment) of the UST source site located at 6630 Northwest Blvd, Davenport, Iowa, in accordance with Department rules in chapter 567 IAC 135. Persons associated with the UST source site have requested that the grantor execute this environmental covenant in order to satisfy regulatory requirements applicable to the UST site.

This assessment constitutes an environmental response project as defined in IC § 455I.2(5). The purpose of this environmental covenant is to manage the risk of future exposure to existing soil and/or groundwater contamination at the site by limiting specified land use activities at this property, establishing affirmative obligations, and enforcing the terms of this covenant.

**3. Tiered Assessment Reports.** Department files reference the UST source site located at 6630 Northwest Blvd, Davenport, IA by Registration No. 8603488 and LUST No. 8LTD26.

12/10/1999 – Tier 2	3/11/2014 - SMR
4/10/2006 – Tier 2	3/18/2015 - SMR
7/18/2006 – SMR	1/15/2016 - SMR
6/3/2008 – SMR	12/28/2016 - SMR

4/27/2009 – SMR	2/12/2018 - SMR
9/21/2010 – SMR	12/14/2018 - SMR
4/25/2012 – SMR	3/24/2020 - SMR
2/4/2013 – SMR	8/18/2006 – CA (Tier 3)

**4. Reopening.** The signatories to this covenant acknowledge that failure of the activity and use limitations to serve their intended purpose including the prevention of exposure to contamination could result in the Department reopening its review and regulation of the contaminant condition on the property as provided under the terms of this covenant, IC chapters 455B and 455I, and applicable Department administrative rules.

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

**GRANTOR(S):** Scott County, Iowa, 600 W. 4<sup>th</sup> Street, Davenport, IA 52801

**HOLDERS:** Scott County, Iowa, 600 W. 4<sup>th</sup> Street, Davenport, IA 52801

**AGENCY:** Iowa Department of Natural Resources

**6. Representations and Warranties.** The grantor(s) warrants to the other signatories to this covenant the following:

- a. The grantor[s] is/are the sole fee title owner[s] of the property;
- b. the grantor[s] 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. the grantor[s] has/have identified all other persons holding legal or equitable interests, including, but not limited to, contract buyers, mortgage holders, other consensual lienholders and lessees, and secured their consent either by signatures on this covenant or by a separate subordination and consent agreement attached as Exhibit A.

**7. Running with the Land.** This environmental covenant is perpetual and runs with the land as provided in IC § 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.

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

No drinking water or non-drinking water wells as defined in Iowa Department of Natural Resources Rule 567 Iowa Administrative Code 135.2 and as subsequently amended shall be installed within the property boundaries. For purposes of reference, drinking water well means, "Any groundwater well used as a source for drinking water by humans and groundwater wells used primarily for the final production of food or medicine for human consumption in facilities routinely characterized with the Standard Industrial Codes (SIC) group 283 for drugs and 20 for foods (or the North American Industry Classification System (NAICS) Codes of 3254 for drugs and 311 for food)." Non-drinking water well means, "any groundwater well (except an extraction well used as part of a remediation system) not defined as a drinking water well including a groundwater well which is not properly plugged in accordance with department rules in 567- Chapters 39 and 49."

**9. 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 eight (8) if they have actual knowledge of these conditions or would reasonably be deemed to have knowledge within the normal course of administration of their property interest.

**10. 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 a right to possession of the property.

**11. Access to Property.** Reasonable access to the property is granted 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 includes, 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. additional drilling
- e. construction of soil boring and/or groundwater monitoring wells
- f. other activities authorized or otherwise directed by the Department.

**12. Groundwater Hazard Statement Notice.** IC § 558.69 requires submission of a groundwater hazard statement and disclosure if "hazardous waste" exists on the property as defined in IC § 455B.411(3) or if the Department determines that solid waste exists on the property that is potentially hazardous. 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 \_\_\_\_\_  
RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE  
\_\_\_\_\_ COUNTY RECORDER ON \_\_\_\_\_  
IN \_\_\_\_\_.

THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

*No drinking water or non-drinking water wells as defined in Iowa Department of Natural Resources Rule 567 Iowa Administrative Code 135.2 and as subsequently amended shall be installed within the property boundaries. For purposes of reference, drinking water well means, "Any groundwater well used as a source for drinking water by humans and groundwater wells used primarily for the final production of food or medicine for human consumption in facilities routinely characterized with the Standard Industrial Codes (SIC) group 283 for drugs and 20 for foods (or the North American Industry Classification System (NAICS) Codes of 3254 for drugs and 311 for food)." Non-drinking water well means, "any groundwater well (except an extraction well used as part of a remediation system) not defined as a drinking water well including a groundwater well which is not properly plugged in accordance with department rules in 567-Chapters 39 and 49."*

**13. Modification and Termination.** Modification or termination of the terms of this covenant shall comply with the standards in IC 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 IC § 455I.10(1)"c" in accordance with and subject to the provisions of IC § 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 in accordance with IC § 455I.9 and such additional terms as specified in this covenant.

**14. 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 IC § 455I.11.

15. **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.

16. **Governing Law.** This environmental covenant shall be governed by and interpreted in accordance with the laws of the State of Iowa.

17. **Recordation.** Within thirty (30) days after Department approval of this environmental covenant, the grantor[s] shall record the environmental covenant in the same manner as a deed to the property with the Scott County Recorder's Office.

18. **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 Scott County Recorder's Office.

19. **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  
UST Section Supervisor  
Wallace State Office Building  
502 E 9<sup>th</sup> Street  
Des Moines, IA 50319

20. **Subordination and Consent.** By signing this environmental covenant, the signatories knowingly and intentionally acknowledge their consent to the terms of this agreement and agree to subordinate their interest in the property. The following persons have expressly consented and subordinated interests:

No subordinated interests.

**ACKNOWLEDGMENTS**

**GRANTORS:**

\_\_\_\_\_ Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_  
Scott County

On this \_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared

\_\_\_\_\_, who being duly sworn, did say that they are the corporation, and that the instrument was signed on behalf of said corporation by authority of its board of directors and that the said officers acknowledge the execution of said instrument to be the voluntary act and deed of said corporation by them voluntarily executed.

\_\_\_\_\_  
Notary Public, State of Iowa:

**HOLDERS:**

\_\_\_\_\_ Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_  
Scott County

On this \_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared

\_\_\_\_\_, who being duly sworn, did say that they are the corporation, and that the instrument was signed on behalf of said corporation by authority of its board of directors and that the said officers acknowledge the execution of said instrument to be the voluntary act and deed of said corporation by them voluntarily executed.

\_\_\_\_\_  
Notary Public, State of Iowa:

AGENCY:

Kayla Lynn  
Kayla Lynn

Signed this 23 day of June, 2020.

Director, Iowa Department of Natural Resources

State of Iowa )  
County of Polk ) ss.

On this 23 day of June, 2020 before me personally appeared Kayla Lynn, 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.

Willie Bracke Boett  
Notary Public for State of Iowa

SUBORDINATED INTERESTS:

No subordinated interests.

2-23-  
2022



## North Pine Service Station

### Background

- 1953 Station built with two 4,000 gal. gas storage tank, one 6,000 gal. gas storage tank, and one 500 gal. waste oil underground storage tank (UST) installed.
- 1990 Release of gas discovered and reported to Iowa Department of Natural Resources
- Feb. 1992 Well pit explosion occurs. Likely caused by petroleum vapor in the well pit being set off by electrical equip.
- Mar. 1992 Site Clean-up report (SCR) completed by Seneca Environmental Services resulting in **High Risk** classification of site.
- April 1992 Copper water lines installed from main to site, ice cream shop, and dance studio.
- 1992 Owner declares bankruptcy
- 1996 Scott County takes Tax Deed to the property with assurances that State would fund all required monitoring, reports and corrective actions.
- 1997 Iowa Underground Storage Tank Board approves funding for the monitoring and clean up of the site.
- Mar. 1997 Station's underground storage tanks, gas pumps and product lines removed.
- Apr. 1997 thru Jan. 2000 – Evaluation of the site through the Tier 2 Risk Based Corrective Action (RBCA) process. The site was assigned a high risk classification and site specific target levels based on concentrations of contaminants and the type and proximity of sensitive receptors. Receptors in this case include: non-drinking water well; protected groundwater source, and any enclosed spaces (sanitary sewers).
- The site is still Classified **High Risk**.
- 1998 On-site well abandoned and plugged.
- 2000 thru 2006 - Corrective Action Design Report prepared as a result of the conclusions from the Tier 2 process. Report recommends over-excavation of site.
- Sep. 2004 Iowa Underground Storage Tank (IUST) Fund approves budget for over-excavation (OE) of contaminated soils completed at the site as corrective action. Approximately 4500 cubic yards (6700 tons) of contaminated soils excavated and disposed of at Scott County Landfill. Excavation completed to a depth of 15 feet in places. Excavation leaves some contaminated soil in place that exceeds site specific target levels.
- Following over-excavation site remains classified **High Risk**.

- Aug. 2006 Teleconference held with Scott County, IDNR, IUST Fund, and Seneca Environmental Services to determine best approach to address remaining high risk conditions. Conference resulted in agreement to attempt to remediate site to target level of 2.32 ppm for soil vapor to sanitary sewer concerns. The possible remediation of the site to a target level of 0.57 ppm is determined to be problematic due to off site access and size of plume.
- Nov. 2006 Seventeen direct push borings completed to further delineate extents of 2.32 ppm & 0.57 ppm plumes. Borings determine area of plumes to be shrinking. IDNR requires continued groundwater monitoring until receptor pathways classified as No Further Action Required.
- July 2007 Further over-excavation of the site completed with funding approved by the State Underground Storage Tank Board.
- Feb. 2009 State approves contract for additional site monitoring and preparation of site monitoring report requesting reclassification of the site.
- April 2009 Site Monitoring Report submitted by Seneca. Site still identified as High Risk with no change recommended.
- August 2010 Site Monitoring Report submitted by Seneca with recommendation to reclassify the site **Low Risk**.
- Nov. 2011 Elaine Douskey, UST Section with Iowa DNR approves reclassification of the site to **Low Risk**. Annual Site Monitoring Report still required.
- April 2012 2011 Site Monitoring Report submitted by Seneca. Site still identified as Low Risk with no change recommended.
- Jan. 2013 2012 Site Monitoring Report submitted by Seneca. Site still identified as Low Risk with no change recommended.
- March 2014 2013 Site Monitoring Report submitted by Seneca. Site still identified as Low Risk with no change recommended.
- Feb. 2015 2014 Site Monitoring Report submitted by Seneca. Site still identified as Low Risk with no change recommended.
- Jan. 2016 2015 Site Monitoring Report submitted by Seneca. Site still identified as Low Risk with no change recommended.
- July 2016 Seneca submits letter with Report on Plume Assessment. Recommends changes in future assessment proceeds and Site Monitoring Reports.

- Dec. 2016 2016 Site Monitoring Report submitted by Seneca. Site still identified as Low Risk with no change recommended.
- Jan. 2018 2017 Site Monitoring Report submitted by Seneca. Site still identified as Low Risk with no change recommended.
- Nov. 2018 2018 Site Monitoring Report submitted by Seneca. Site still identified as Low Risk with no change recommended.
- Feb. 2020 2019 Site Monitoring Report submitted by Seneca. Site still identified as Low Risk but Seneca recommends deed restrictions on County property and all surrounding affected property. Seneca indicates that all the adjacent property owners have agreed to place the recommended covenants on their property.
- July 2020 Seneca prepares Environmental covenants to be filed against the North Pine Service and neighboring properties to prohibit the installation of water wells.

**Currently**

Final disposition of the site could be made with the site currently classified low risk but the requirement to prepare annual Monitoring Reports would stay in place. The Iowa UST funding could be transferred to the new owner to pay those monitoring costs. However Planning Staff believes waiting for reclassification to No Further Action Required is the better alternative to dispose of the site. The building on the property remains in a very deteriorated condition. Any demolition costs for the building would be at Scott County’s expense, not reimbursable from the Iowa UST Fund and is not being considered. When the site is classified as No Further Action Required it can be sold at public Tax Deed Auction by Scott County. Under current COVID-19 restrictions staff would recommend that the sale be conducted by submission of sealed bid.

Remedial costs are 100% funded through the Iowa Underground Storage Tank Fund with a maximum allowable total expenditure for this site of \$1,000,000.00.

To date \$410,442.99 has been spent, which includes the costs of the annual Site Monitoring Reports which has totaled \$57,740.77.

Prepared by:  
 Scott County Planning and Development  
 July 10, 2020

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES THAT  
THIS RESOLUTION HAS BEEN FORMALLY APPROVED BY  
THE BOARD OF SUPERVISORS ON \_\_\_\_\_  
DATE

\_\_\_\_\_  
SCOTT COUNTY AUDITOR

**RESOLUTION**

**SCOTT COUNTY BOARD OF SUPERVISORS**

**July 23, 2020**

**APPROVAL OF AUTHORIZATION FOR BOARD CHAIR TO SIGN ENVIRONMENTAL  
COVENANTS ON COUNTY OWNED TAX DEED PROPERTY KNOWN AS NORTH PINE  
SERVICE**

BE IT RESOLVED by the Scott County Board of Supervisors as follows:

Section 1. The County holds the tax deed for the property known as North Pine Service and located at 6630 Northwest Boulevard.

Section 2. North Pine Service, is classified as a low risk site by the Iowa Department of Natural Resources and the County has administered a remedial clean up and monitoring of the site funded through the Iowa Underground Storage Tank Board.

Section 3. The requested environmental covenants have been determined to be necessary and prudent by the County's Certified Groundwater Specialists and approved by the Iowa Department of Natural Resources.

Section 4. The environmental covenants are hereby approved, as submitted, and the Chairman is authorized to sign the easement documents.

Section 5. This resolution shall take effect immediately.