

Indianapolis, IN
Ft. Wayne, IN
Evansville, IN
South Bend, IN
Milwaukee, WI



CORPORATE OFFICE
5757 West 74th Street
Indianapolis, IN 46278
phone 317.472.0999
fax 317.472.0993
www.wilcoxenv.com

December 16, 2016

Mr. Loic Maniet
Indiana Department of Environmental Management
Office of Land Quality/LUST Branch
100 North Senate Avenue
Indianapolis, Indiana 46206

Re: Recorded ERC Transmittal
Crystal Flash #26, Fishers, Indiana
FID #14207, IDEM Incident #2009-09-510
Wilcox Project #337.10

Dear Ms. Maniet:

This letter transmits a copy of the recorded environmental restrictive covenant (ERC) for the referenced property. If you have any questions or comments, please feel free to contact the undersigned.

Sincerely,
Wilcox Environmental Engineering, Inc.

A handwritten signature in black ink that reads "Paul Melillo". The signature is written in a cursive style.

Paul Melillo
Operations Director Investigation and Remediation Services Division

Enclosure: Limitations Statement
Recorded ERC

cc: Mr. David H. Kamen, Crane Leasing L.L.C.
Mr. David Marsh

LIMITATIONS STATEMENT

Wilcox Environmental Engineering, Inc.'s (Wilcox's) services, data, opinions, and recommendations described in this report are for Client's sole and exclusive use, and the unauthorized use of or reliance on the data, opinions, or recommendations expressed herein by parties other than Wilcox's Client is prohibited without Wilcox's express written consent. The services described herein are limited to the specific project, property, and dates of Wilcox's work. No part of Wilcox's report shall be relied upon by any party to represent conditions at other times or properties. Wilcox will accept no responsibility for damages suffered by third parties as a result of reliance upon the data, opinions, or recommendations in this report.

Wilcox's services are subject to all limitations, qualifications, and indemnifications enumerated in the terms and conditions or contract governing the work. Wilcox's findings, interpretations, opinions, and recommendations are probabilities based on Wilcox's professional judgment of Site conditions as discernible from the limited, and often indirect, information provided by others, information available to us at the time we performed our work, or information observed or developed by Wilcox using the methods specified in the scope of work. Wilcox does not warrant the accuracy, completeness, or validity of information and independent opinions, conclusions, and recommendations provided or developed by others, nor does Wilcox assume any responsibility for documenting or reporting conditions detectable with methods or techniques not specified in the scope of work. Maps and drawings in this report are included only to aid the reader and should not be considered surveys or engineering studies. The investigation described in this report was also conducted within the context of agency rules, regulations, action levels, and enforcement policies in effect at the time Wilcox performed its work. Later changes in agency rules, regulations, action levels, or policies may result in different conclusions than those expressed in this report.

Wilcox has striven to perform the services in a manner consistent with that level of care and skill ordinarily exercised by other environmental consultants practicing in the same locality and under similar conditions existing at the time we performed our services. **No other warranty is either expressed or implied in this report or any other document generated in the course of performing Wilcox's services.**

Recorded ERC

27
9

2016044443 MISC \$27.00
08/29/2016 04:18:36P 9 PGS
Jennifer Hayden
HAMILTON County Recorder IN
Recorded as Presented
[Barcode]

Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT ("Covenant") is made this 29th day of August, 2016, by *Crane Leasing L.L.C. 1440 South Liberty Drive Bloomington, IN 47403.*

WHEREAS: Owner is the fee owner of certain real estate in the County of Hamilton, Indiana, which is located at 11544 Allisonville Road Fishers, IN 46038 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 December 27, 2006, and recorded on September 17, 2007, as Deed Record 2007052860, in the Office of the Recorder of Hamilton County, Indiana. The Real Estate consists of approximately 0.872 acres and has also been identified by the county as parcel identification number 15-14-02-00-01-007.000 and by the state as parcel identification number 2914-02-001-007.000-006.

WHEREAS: Corrective action was implemented in accordance with IC 13-23 and other applicable Indiana law as a result of a release of petroleum gasoline relating to the Crystal Flash #26. The incident number assigned by the Indiana Department of Environmental Management ("Department" or "IDEM") for the release is 2009-09-510, and the relevant facility identification number is 14207.

WHEREAS: Certain contaminants of concern ("COCs") remain in the groundwater and soil 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 COCs in groundwater are benzene and methyl tert-butyl ether (MTBE). The COCs in soil are benzene, toluene, ethylbenzene, and naphthalene.

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, Crane Leasing L.L.C. subjects the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

I. RESTRICTIONS

1. Restrictions. The Owner:

- (a) 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.
- (b) Must manage soils that are excavated in accordance with the applicable federal and state laws; and disposal of such soils must also be done in accordance with all applicable federal and state laws.

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 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 August 29 2016 RECORDED IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY ON August 29, 2016 INSTRUMENT NUMBER (or other identifying reference) 201604443 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.

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 Hamilton 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.
13. Change in Law, Policy or Regulation. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, RISC-based guideline, 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:
Crane Leasing L.L.C.
1440 South Liberty Drive
Bloomington, IN 47403

To Department:
IDEM, Office of Land Quality
100 N. Senate Avenue
IGCN 1101
Indianapolis, IN 46204-2251
Attn: Chief, Leaking Underground Storage Tank 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.

IN WITNESS WHEREOF, **Crane Leasing L.L.C.**, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 29th day of August, 2016.


David H. Kamen, Member
David H. Kamen, Member

EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE & SPECIAL WARRANTY DEED

Legal description: Block Numbered 7 in Fishers Landing, Section One, an Addition in Hamilton County, Indiana, as per plat thereof recorded in Plat Book 15 pages 38-41, in the Office of the Recorder of Hamilton County, Indiana.

1800
200
2002

2007052860 SP W DEED \$20.00
09/17/2007 11:40:03A 2 PGS
Jennifer J Hayden
HAMILTON County Recorder IN
Recorded as Presented

File No. 07070152

SPECIAL WARRANTY DEED

This Indenture Witnesseth, That CRYSTAL FLASH PETROLEUM, LLC, an Indiana limited liability company ("Grantor"), BARGAINS, SELLS AND CONVEYS to CRANE LEASING L.L.C., an Indiana limited liability company ("Grantee"), for the sum of Ten & 00/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Hamilton County, in the State of Indiana:

Block Numbered 7 in Fishers Landing, Section One, an Addition in Hamilton County, Indiana, as per plat thereof recorded in Plat Book 15 pages 38-41, in the Office of the Recorder of Hamilton County, Indiana

(the "Real Estate") and commonly known as 11544 Allisonville Road, Fishers, Indiana.

This conveyance is subject to the following: (i) the lien for taxes not yet due and payable, (ii) all easements, rights-of-way, covenants, restrictions, encumbrances and other matters apparent or of record; (iii) all matters that would be revealed or discovered by a physical inspection and accurate survey of the Real Estate; and (iv) all zoning and land use laws, ordinances, rules and regulations.

To Grantor's knowledge, there is no Indiana Gross Sales Tax due on this transfer of the Real Estate.

Grantor shall warrant and defend the title to the Real Estate to Grantee, it successors and assigns, against the lawful claims and demands of all persons claiming by, through or under Grantor but against none other.

The undersigned persons executing this deed on behalf of the Grantor represents that he is the President of Grantor and has been fully empowered by proper resolution to execute and deliver this special warranty deed; that Grantor has full capacity to convey the Real Estate; and that all necessary actions to make such conveyance has been done.

Grantor herein certifies that on December 27, 2006 Crystal Flash Petroleum Corporation, an Indiana Corporation merged with and into Crystal Flash Petroleum, LLC, an Indiana limited liability company pursuant to those certain Articles of Merger filed with the Indiana Secretary of State and that the entity is now known as Crystal Flash Petroleum, LLC, an Indiana limited liability company.

DULY ENTERED FOR TAXATION ^{b, b}
Subject to final acceptance for transfer
17 day of September, 2007
Robin Mills Auditor of Hamilton County
Parcel # 15-14-02-00-01-007.000



In Witness Whereof, Grantor has executed this Special Warranty Deed this 2nd day of August, 2007.

Crystal Flash Petroleum, LLC
an Indiana limited liability company

David A Marsh
David A. Marsh, President

STATE OF INDIANA)
) ACKNOWLEDGEMENT
COUNTY OF MARION)

Before me, a Notary Public in and for the said County and State, personally appeared David A. Marsh, the President of Crystal Flash Petroleum, LLC, an Indiana limited liability company, who acknowledged execution of the foregoing Special Warranty Deed.

Witness my hand and notarial seal this 2nd day of August, 2007.

My Commission Expires:

Lori Brines
Signature

My County of Residence:

Printed



Return following recording to: Security Title Services, LLC, Attn: Lori Brines, 9225 Priority Way West Dr. #110, Indianapolis, IN 46240.

Subsequent tax bills should be sent to: Crane Leasing L.L.C., Attn: David H. Kamen, 1440 S. Liberty Drive, Bloomington, Indiana 47403.

Grantee's mailing address: Crane Leasing L.L.C., Attn: David H. Kamen, 1440 S. Liberty Drive, Bloomington, Indiana 47403.

This instrument was prepared by Jared Simmons, Wallack Somers & Haas, P.C., One Indiana Square, Suite 1500, Indianapolis, Indiana 46204.

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: Jared A. Simmons.