



David H. Fell & Company, Inc.
Precious Metals Refiner and Manufacturer of Quality Mill Products

March 28, 2001

Ms. Wei-Wei Chui
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

Re: Deed restriction for 4176 Pacific Way facility

Dear Ms .Wei-Wei Chui:

Enclosed please find the completed deed restriction for the above referenced facility,
which is recorded in Los Angeles County.

Sincerely,

Max Rafii
Environmental Manager REA II

Enclosure:

PO Box 910952 • Los Angeles CA 90091-0952
(800) 822-1996 • (323) 722-9992
Fax (323) 722-6567
E-mail: info@dhfco.com
www.dhfco.com

MAR 23 2001

COPY of Document Recorded
DEED RESTRICTION 01 0470323

COVENANT TO RESTRICT USE OF PROPERTY
ENVIRONMENTAL RESTRICTION

.....
This document is compared with original.
Original will be returned when
processing has been completed.

4176 Pacific Way
Commerce, California

LOS ANGELES COUNTY REGISTRAR - RECORDER

Parcel Number 5243-008-037

This Covenant and Agreement ("Covenant") is made by and between David H. Fell, Sondra Fell Hauge, and Sondra L. Hauge as trustee of the Sondra L. Hauge Trust dated December 2, 1995 (the "Covenantors"), the current owners of certain property situated in City of Commerce, County of Los Angeles, State of California, described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property"), and the Department of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471(c), the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code ("H&SC") section 25260. The Covenantors and the Department, collectively referred to as the "Parties", therefore intend that the use of the Property be restricted as set forth in this Covenant, in order to protect human health, safety and the environment.

ARTICLE I

STATEMENT OF FACTS

1.01. The Property, totaling approximately 5,742 square feet, is more particularly described and depicted in Exhibit "A", attached hereto and incorporated herein by this reference. The Property is located in the County of Los Angeles, State of California. This Property is more specifically described as Los Angeles County Assessor's Parcel No. 5243-008-037. The entire Property is capped with asphalt (Cap).

1.02. The Property has been involved in recycling hazardous waste precious metals since 1974. David H. Fell & Co., Inc. operated a hazardous waste treatment facility under an Interim Status Document. The Department has been overseeing the

closure activities required at the Property.

1.03. Under the Department oversight, hazardous constituents, including copper and lead remain in the soil at the Property, a deed restriction is required as part of the closure activities for the Property.

ARTICLE II

DEFINITIONS

2.01. Department. "Department" shall mean the California Department of Toxic Substances Control and shall include its successor agencies, if any.

2.02. Owner. "Owner" shall mean the Covenantors, their successors in interest, and their successors in interest, including heirs and assigns, who at any time hold title to all or any portion of the Property.

2.03. Occupant. "Occupant" shall mean Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

ARTICLE III

GENERAL PROVISIONS

3.01. Restrictions to Run With the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as "Restrictions"), upon and subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and every one of the Restrictions: (a) shall run with the land pursuant to H&SC sections 25202.5, and 25202.6 and Civil Code section 1471; (b) shall inure to the benefit of and pass with each and every portion of the Property, (c) shall apply to and bind the respective successors in interest to the Property, (d) are for the benefit of, and shall be enforceable by the Department, and (e) are imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02. Binding Upon Owners/Occupants. Pursuant to Health and Safety Code section 25202.5(b), this Covenant shall be binding upon all of the owners of the land, their heirs, successors, and assignees, and the agents, employees, and lessees of the

owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471(b), all successive owners of the Property are expressly bound hereby for the benefit of the covenantee(s) herein. "Owner" shall include "Covenantors".

3.03. Written Notice of Hazardous Substance Release. The Owner shall, prior to the sale, lease, or rental of the Property, give written notice that a release of hazardous substances has come to be located on or beneath the Property, pursuant to Health and Safety Code section 25359.7. Such written notice shall include a copy of this Covenant to be used at sites where it is important that buyers and tenants be specifically aware of the ongoing remediation and their obligations.

3.04. Conveyance of Property. Covenantors agree that the Owner shall provide notice to the Department not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding leases, or mortgages, liens, and other non-possessory encumbrances). The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect such proposed conveyance, except as otherwise provided by law, by administrative order, or specific provision of this Covenant.

ARTICLE IV

RESTRICTIONS

4.01. Prohibited Uses. The Property shall not be used for any of the following purposes:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.
- (b) A hospital for humans.
- (c) A public or private school for persons under 21 years of age.
- (d) A day care center for children.
- (e) A recreational facility involving direct contact with soil.

4.02. Soil Management

- (a) No activities (e.g., excavation, grading, removal, trenching, filling, earth movement or mining) which will disturb the soil shall be

permitted on the Property except as specifically addressed in a Soil Management Plan as approved by the Department and a Health and Safety Plan as approved by the Department.

- (b) The Soil Management Plan shall include provisions that, among other things, (i) shall contain engineering controls to prevent migration of contaminated soil into surface or groundwater, and (ii) prohibits the transfer of contaminated soil from the Property to any other property.
- (c) Any contaminated soil brought to the surface by grading, excavation, trenching or backfilling shall be managed in accordance with the applicable state or local laws or regulations and the Soil Management Plan as approved by the Department. If any contaminated soil is to be removed and disposed of offsite, or handled or managed in a manner not addressed the Soil Management Plan as approved by the Department, it shall be managed in accordance with applicable state and local laws and their implementing regulations.
- (d) The Owner will provide the Department written notice at least fourteen (14) days prior to any building, filling, grading, mining or excavating at the Property.

4.03. Prohibited Activities. The following activities shall not be conducted at the Property:

- (a) No raising of food (cattle, food crops, cotton) shall be permitted on the property.
- (b) No groundwater shall be extracted at the Property for purposes other than site remediation or construction dewatering.

4.04. Non-Interference with the Cap. Covenantors agree:

- (a) Any activities which will disturb the Cap (e.g. excavation, grading, removal, trenching, filling, earth movement, or mining) shall be

permitted only if such activities are performed in accordance with the Soil Management Plan as approved by the Department.

- (b) All uses and development of the Property shall preserve the integrity of the Cap.
- (c) Any proposed alteration of the Cap (except as permitted under Section 4.04(a) above) shall require written approval by the Department.
- (d) Covenantors shall notify the Department of each of the following: (i) The type, cause, location and date of any disturbance to the Cap which could affect the ability of the Cap to contain subsurface hazardous wastes or hazardous materials in the Property, and (ii) the type and date of repair of such disturbance. Notification to the Department shall be made as provided below within ten (10) working days of both the discovery of any such disturbance(s) and the completion of any repairs. Timely and accurate notification by any Owner or Occupant shall satisfy this requirement on behalf of all other Owners and Occupants.

4.05. Access for Department. Covenantors agree that the Department shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department in order to protect the public health and safety.

4.06. Access for Implementing O&M. Covenantors agree that the entity or person responsible for implementing any Operation and Maintenance (O&M) Plan shall have reasonable right of entry and access to the Property for the purpose of implementing such O&M Plan until such time as the Department determines that no further O&M will be required.

ARTICLE V

ENFORCEMENT

5.01. Enforcement. Failure of the Covenantors and/or Owner to comply with any

of the Restrictions specifically applicable to it shall be grounds for the Department, by reason of this Covenant, to require that the Covenantors and/or Owner modify or remove any improvements ("Improvements" herein shall mean all buildings, roads, driveways, and paved parking areas, constructed or placed upon any portion of the Property constructed in violation of the Restrictions. Violation of this Covenant shall be grounds for the Department to file civil and/or criminal actions against the Covenantors and/or Owner as provided by law.

ARTICLE VI

VARIANCE, TERMINATION, AND TERM

6.01. Variance. Any Owner or, with the Owner's written consent, any Occupant of the Property or any portion thereof may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with H&S Code section 25202.6.

6.02. Termination. Any Owner, and/or, with the Owner's written consent, any Occupant of the Property, or any portion thereof, may apply to the Department for a termination of the Restrictions or other terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with H&S Code section 25202.6.

6.03. Term. Unless ended in accordance with the Termination Paragraph above, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII

MISCELLANEOUS

7.01. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02. Department References. All references to the Department include successor agencies/departments or other successor entity.

7.03. Recordation. The Covenantors shall record this Covenant, with all

referenced Exhibits, in the County of Los Angeles within ten (10) days of the Covenantors' receipt of a fully executed original.

7.04. Notices. Whenever any person gives or serves any notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Owners: David H. Fell

16058 Bonaire Circle

Huntington Beach, California 92649

Sondra L. Hauge

236 Palmetto Drive

Pasadena, California 91105

To Department: Branch Chief
 Standardized Permits and Corrective Action Branch
 Department of Toxic Substances Control
 700 Heinz Avenue, Suite 200
 Berkeley, CA 94710

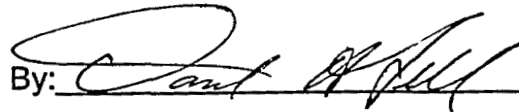
Any party may change its address or the individual to whose attention a notice is to be sent by giving written notice in compliance with this paragraph.

7.05. Partial Invalidity. If any portion of the Restrictions or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

IN WITNESS WHEREOF, the Parties execute this Covenant.

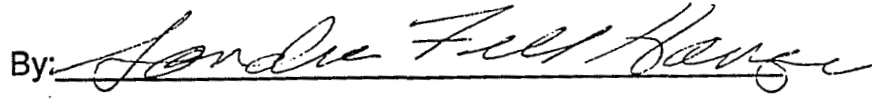
"Covenantors"

Date: 3/5/01

By: 

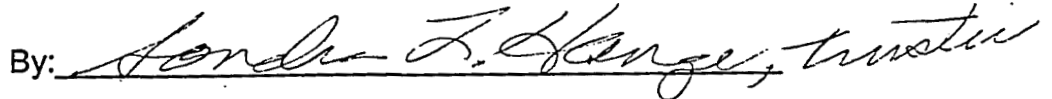
David H. Fell

Date: 3/5/01

By: 

Sondra Fell Hauge

Date: 3/5/01

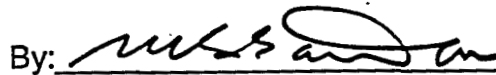
By: 

Sondra L. Hauge, as trustee of the Sondra L. Hauge

Trust dated December 2, 1995

"Department"

Date: 3/15/01

By: 

Mohinder S. Sandhu, P.E., Branch Chief

Standardized Permits and Corrective Action Branch

Department of Toxic Substances Control

State of California

County of ALAMEDA

On this 15TH day of MARCH, in the year 2001

before me MELISSA RALLIS, personally appeared MOHINDER S. SANDHU

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Melissa Rallis
Notary Public



My Commission Expires July 11 2004.

State of California

County of Los Angeles

On this 5 day of March, in the year 2001

before me MARIAN R CAVATAIO, personally appeared _____

DAVID H FELL SONORA J. HAUKE

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Marian R Cavataio
Notary Public



My Commission Expires June 27 2002