



9/30/2024

Huerfano County Land Use Department
401 Main Street, Suite 304
Walsenburg, CO 81089

Re: Walsenburg Carbon Sequestration Project Site - (IC-00104)

Dear Land Use Department,


Enclosed is a Notice of Environmental Use Restrictions (NEUR) for the Walsenburg Carbon Sequestration Project Site in Huerfano County.

In Colorado, regulation of land use occurs primarily at the local level. Nonetheless, environmental cleanup decisions sometimes result in a state or federal agency imposing restrictions on land use to protect human health or the environment from residual contamination. The Colorado Environmental Covenant statute, C.R.S. § 25-15-321 to 327, imposes reciprocal obligations on the Colorado Department of Public Health and Environment Hazardous Materials and Waste Management Division (the Division) and affected local governments to coordinate with one another regarding land that is subject to environmental use restrictions. See C.R.S. § 25-15-324.

It is important that local government entities with authority over land use changes or excavation and construction activities be aware of any land use restrictions imposed in connection with environmental remediation projects, as those restrictions may conflict with proposed development activities. Therefore, the statute requires that local governments notify the Division when they receive applications affecting land use or development of land that is subject to an environmental covenant or restrictive notice. In turn, the Division must review the proposed application and provide timely advice to the local government as to whether the application is consistent with the terms of the covenant or restrictive notice.

Please retain the enclosed NEUR to assist you in reviewing applications that affect the land use or development of the parcel described in the covenant.

With regards,

 Digitally signed by Sarah
Foreman
Date: 2024.09.30
09:40:41 -06'00'

Sarah Foreman
sarah.foreman@state.co.us | 303.692.3316

ec: Carl Young - Huerfano County Administrator
Robin Sykes - Huerfano County Environmental Health Director



This property is subject to a notice of environmental use restrictions imposed by the Colorado Department of Public Health and Environment pursuant to section 25-15-321.5, Colorado Revised Statutes

Notice of Environmental Use Restrictions

Whereas, Ray and Nancy Bongiovanni (“Owners”) are the owners of certain property commonly referred to as Lot 30, River Ridge Ranch, Phase I, located within a portion of the Northwest ¼ of Section 2, Township 29 south, Range 67 West of the sixth principal meridian, Huerfano county, State of Colorado, more particularly described in Attachment A, and depicted in Attachment B attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as “the Property”); and

WHEREAS, a portion of the Property is known as the Wood Vault Area. The Wood Vault Area is more particularly described in Attachment C and depicted in Attachment D, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as “the Wood Vault Area”); and

WHEREAS, Owners have executed a separate Easement Agreement with Wood Cache Completion Corp, a Kansas for Profit Corporation, whose street address is 80127 W. 145th Street, Overland Park, KS 66223 (“Operator”) recorded with the Huerfano County Clerk and Recorder at Reception No. 430313 that permits Operator to construct and maintain a wood preservation project on the Property for purposes of generating carbon dioxide removal certificates/credits (“Easement Agreement”).

WHEREAS, the Easement Agreement between Owners and Operator requires that Owners accept a restrictive covenant on the Property to facilitate the construction and operation of the wood preservation project in exchange for Operator accepting all ongoing responsibilities associated with the wood preservation project including any responsibilities under this Notice of Environmental Use Restrictions not expressly assigned to Owner under the terms of the Easement Agreement.

Whereas, the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment (“the Department”), which is located at 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530, is authorized to issue Notices of Environmental Use Restrictions (a/k/a “Restrictive Notices”) pursuant to § 25-15-320(4)(a) of the Colorado Hazardous Waste Act, § 25-15-101, et seq., Colorado Revised Statutes; and

Whereas, for purposes of indexing in the County Clerk and Recorder's office Grantor-Grantee index only Ray and Nancy Bongiovanni shall be considered the **Grantors**, and the Department shall be considered the **Grantee**. Nothing in the preceding sentence shall be construed to create or transfer any right, title or interest in the Property; and

Whereas, the purpose of this Restrictive Notice is to ensure protection of human health and the environment by restricting activities associated with the Wood Vault Area to promote carbon sequestration; and

Whereas, Ray and Nancy Bongiovanni have requested that the Department approve this Restrictive Notice as provided in Article 15 of Title 25, Colorado Revised Statutes;

Now, therefore, the Department approves this Restrictive Notice pursuant to § 25-15-321.5, Colorado Revised Statutes The Wood Vault Area of the Property described in **Attachment C** and **depicted in Attachment D** shall hereinafter be subject to the following use restrictions set forth in paragraph 1. The Property described in **Attachment A** and **depicted in Attachment B** shall hereinafter be subject to the following requirements set forth in paragraphs 2 through 13 below, which shall be binding on the Owners and all persons, including the Operator, now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein. As used in this Restrictive Notice, the term Owner means the current record owner of the Property and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

1. Use restrictions.

- a. Owner shall post signs legible from at least 20 feet on all four sides of the Wood Vault Area, stating "Monofill Cover. Authorized Personnel Only."
- b. Activities that may damage the Wood Vault Area are prohibited. Such activities include, but are not limited to, digging, drilling, tilling, grading, excavation, construction of any sort, use as an athletic field, placing of any objects or structures on the cover, and vehicular traffic. Nothing in the preceding sentence shall prohibit the use of vehicles needed to perform any authorized maintenance or repairs on the cover. Grazing is permitted.
- c. Access to the Wood Vault Area is prohibited, except for authorized monitoring, maintenance, and remedial activities.
- d. Irrigation of the Wood Vault Area is prohibited, except for as approved by the Department.
- e. Nothing in this Restrictive Notice shall prohibit the installation or use of monitoring or remedial wells on the Property. Installation of monitoring

or remedial wells within the Wood Vault Area is prohibited except for as approved by the Department.

- f. Nothing in this Restrictive Notice shall prohibit the installation or use of a domestic use well that serves residential buildings on the Property, so long as the well is not constructed within 50 feet of the Wood Vault Area.
 - g. Owner and Operator shall comply with all provisions of the approved Design & Operations Plan for the Wood Vault Area, on file with the Department at file #13240836. The Design & Operations Plan can be found in the Hazardous Materials and Waste Management Division's records (<https://oitco.hylandcloud.com/CDPHERMPublicAccess/index.html>). After clicking the link, select Search Type "CDPHERM HAZ Search by SW Facility ID" from the dropdown menu at the top of the page. In the field "SYS Document Handle" type in the file #13240836 to retrieve the Design & Operations Plan.
 - h. Nothing in this Restrictive Notice shall prohibit the installation of enclosed or non-enclosed structures on the Property. No enclosed or non-enclosed structures may be built or placed on the Wood Vault Area, except for as approved by the Department.
2. **Modifications.** This Restrictive Notice shall remain in full force and effect unless modified or terminated in accordance with this paragraph and pursuant to § 25-15-321.5, C.R.S. or any successor statute. Owner or Operator may request that the Department approve a modification or termination of the Restrictive Notice. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information and may request additional information. If the Department determines that the proposal to modify or terminate the Restrictive Notice will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Restrictive Notice shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:
- a. proposal to perform additional remedial work;
 - b. new information regarding the risks posed by the residual contamination;
 - c. information demonstrating that residual contamination has diminished;
 - d. information demonstrating that an engineered feature or structure is no longer necessary;
 - e. information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
 - f. other appropriate supporting information.

3. **Conveyances.** Owner or Operator shall notify the Department at least fifteen (15) days prior to any conveyance of any interest in any or all of the Property. Within thirty (30) days after any such conveyance, Owner or Operator shall provide the Department with the name, mailing address and telephone number of the new Owner.
4. **Notice to Lessees.** Owner agrees to incorporate either in full or by reference the restrictions of this Restrictive Notice in any leases, licenses, or other instruments granting a right to use the Property.
5. **Notification for proposed construction and land use.** Owner shall notify the Department simultaneously when submitting any application to a local government for a building permit or change in land use.
6. **Inspections.** The Department, including its authorized employees, agents, representatives and independent contractors, shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Restrictive Notice.
7. **Third Party Beneficiary.** The Owner of the Property and Operator are third party beneficiaries with the right to enforce the provisions of this Restrictive Notice as provided in § 25-15-322, C.R.S.
8. **No Liability.** The Department does not acquire any liability under State law by virtue of issuing this Restrictive Notice.
9. **Enforcement.** The Department may enforce the terms of this Restrictive Notice pursuant to § 25-15-322, C.R.S. against Owner and Operator and may file suit in district court to enjoin actual or threatened violations of this Restrictive Notice.
10. **Owner's Compliance Certification.** Owner shall execute and return a certification form provided by the Department, on an annual basis, detailing Owner and Operator's compliance, and any lack of compliance, with the terms of this Restrictive Notice.
11. **Severability.** If any part of this Restrictive Notice shall be decreed to be invalid by any court of competent jurisdiction, all of the other provisions hereof shall not be affected thereby and shall remain in full force and effect.
12. **Notices.** Any document or communication required under this Restrictive Notice shall be sent or directed to:

Sarah Foreman
Solid Waste Engineering Unit
Hazardous Materials and Waste Management Division

Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

FOR OWNER

Ramon Bongiovanni and Nancy Bongiovanni
4912 County Road 350
La Veta, Co. 81055
raybon02@swbell.net

FOR OPERATOR

Wood Cache Completion Corp
c/o Serge Bushman
80127 W. 145th Street,
Overland Park, KS 66223
serge.bushman@gmail.com

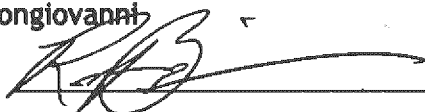
13. **Subdivision of Property.** At least 90 days prior to any subdivision of the Property, Owner shall submit a plan addressing the certification of compliance set forth in paragraph (10) of this Restrictive Notice. The plan may provide for contractual assignment of such obligations to, and assumption of such obligations by, a property management entity charged with managing the Property (including but not limited to a homeowner's association of multiple Owners). The Department shall approve the plan if it determines that the plan reasonably will ensure continued compliance with the requirements of this Restrictive Notice. Any Department notice of disapproval shall include the Department's rationale for its decision, including any additional information or changes to the plan that the Department requires before the plan can be approved. Any appeal of a Department notice of disapproval shall be taken in accordance with section 25-15-305(2), C.R.S. If Owner fails to obtain approval of such plan prior to subdividing the Property, the owner of each subdivided parcel shall be responsible for certifying its own compliance with the restrictions set forth in paragraph (1) of this Restrictive Notice.

Current Facility Owner Signature Block

Ray and Nancy Bongiovanni have caused this instrument to be

executed on July 30th, 2024.

Ray Bongiovanni

By: 

Nancy Bongiovanni

By: 

State of Colorado)

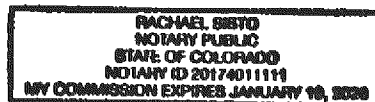
County of Loutt) ss:

This record was acknowledged before me on July 30th, 2024 by

Ray and Nancy Bongiovanni [Insert Name of Signatory]

on behalf of Ray and Nancy Bongiovanni.


Notary Public



My commission expires: January 19, 2026.

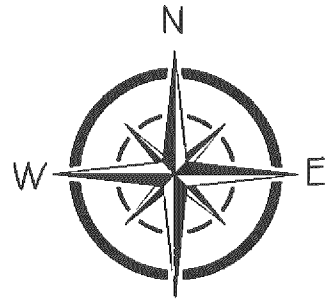
Attachment "A"
to the
Notice of Environmental Use Restrictions
Legal Description of The Property

Lot 30, River Ridge Ranch, Phase I, located within a portion of the Northwest $\frac{1}{4}$ of Section 2, Township 29 south, Range 67 West of the sixth principal meridian, Huerfano county, State of Colorado.

Also referred to as

Parcel No. 393490, Map number 28-5265-022-00-000

Attachment "B"
to the
Notice of Environmental Use Restrictions
Property Depiction



S
SCALE 1" = 300'

LOT 29
(CONTAINS 35.60± ACRES)
PARCEL NO. 393489
HONEYCOMB HIDEOUT TRUST

LOT 30
(CONTAINS 35.59± ACRES)
PARCEL NO. 393490
RAMON & NANCY BONGIOVANNI

LOT 31
(CONTAINS 35.03± ACRES)
PARCEL NO. 393481
ROBERT & RHONDA PECHAM

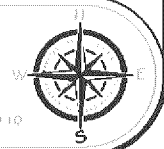
CEDARWOOD TRAIL
(60' WIDE INGRESS / EGRESS PRIVATE ROAD)

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 33°11'40" W	237.48'
L2	N 26°38'18" E	160.00'
L3	S 63°21'42" E	180.00'
L4	S 26°38'18" W	160.00'
L5	N 63°21'42" W	180.00'
TOP OF CAP	ELEVATION	
A	EL=6581.53	
B	EL= 6581.69	
C	EL=6579.03	
D	EL=6578.50	

PROJECT: RAY BONGIOVANNI
DESCRIPTION: CARBON SEQUESTRATION EASEMENT
LOT 30 (RIVER RIDGE RANCH PHASE I)

SHEET 1 OF 1	JOB NUMBER: 2023 372
DATE: 10-17-2023	FILE NAME: 2023_372
SCALE: 1" = 300'	REF: JOB NO

Cardinal Points
Surveying Inc.

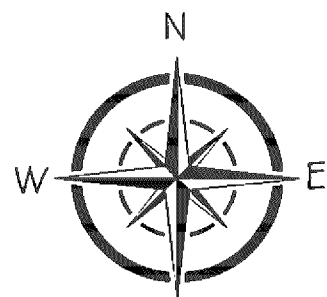


Attachment "C"
to the
Notice of Environmental Use Restrictions
Legal Description of the Wood Vault Area

An easement within a portion of lot 30, River Ridge Ranch Phase I, located within a portion of the NW 1/4 of section 2, Township 29 South, Range 67 West of the sixth principal meridian. Huerfano county, Colorado.

Attachment "D"
to the
Notice of Environmental Use Restrictions
Depiction of the Wood Vault Area

AN EASEMENT WITHIN A PORTION OF LOT 30, RIVER RIDGE RANCH PHASE I, LOCATED WITHIN A PORTION OF THE NW 1/4 OF SECTION 2, TOWNSHIP 29 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, HUERFANO COUNTY, COLORADO



S
SCALE 1" = 300'

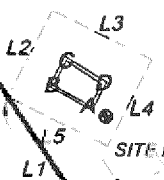
LOT 29
(CONTAINS 35.60± ACRES)
PARCEL NO. 393489
HONEYCOMB HIDEOUT TRUST

LOT 30
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PARCEL NO. 393490
RAMON & NANCY BONGIOVANNI

LOT 31
(CONTAINS 35.03± ACRES)
PARCEL NO. 393481
ROBERT & RHONDA PECHAM

WOOD CACHE
CARBON SEQUESTRATION AREA
CONTAINS 0.66 ACRES

TRUE POINT OF
BEGINNING / TERMINUS



CEDARWOOD TRAIL
160' WIDE INGRESS EGRESS PRIVATE ROAD

BASIS OF BEARINGS
N55°53'49"E 1000.00'

POINT OF COMMENCEMENT
SOUTHWEST CORNER LOT 30

FOUND NO. 4 REBAR WITH YELLOW
PLASTIC CAP PLS NO. 15183 30" W
OF TRUE CORNER

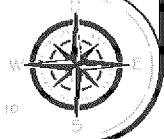
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TOP OF CAP		ELEVATION
A		EL=6581.53
B		EL= 6581.69
C		EL=6579.03
D		EL=6578.50

PROJECT RAY BONGIO ANIII
DESCRIPTION: CARBON SEQUESTRATION EASEMENT
LOT 30 RIVER RIDGE RANCH PHASE I

SHEET: 1 OF 1 JOB NUMBER: 2023 372
DATE: 10 17 2023 FILE NAME: 2023 372
SCALE: 1" = 300' REF. JOB NO

Cardinal Points
Surveying Inc.



4601 Englewood Place, Suite 110
Pueblo, Colorado 81006
(719) 253-0874 (719) 253-0878 fax