

## **Instructions for Completing the Environmental Covenant Form**

An Environmental Covenant is the legal instrument recorded on real property. An Environmental Covenant is governed by the Uniform Environmental Covenants Act (UECA), Chapter 30, Title 55, Idaho Code. Environmental Covenants are used to implement a risk-based cleanup by controlling the potential risks presented by that residual contamination. An Environmental Covenant is created by a written agreement in which the parties bind themselves, and the successors in interests to the land, to the conditions and/or restrictions of land use, also called “Activity and Use Limitations.” Activity and Use Limitations run with the land.

An Environmental Covenant arises as part of an “environmental response project” and creates restrictions and/or obligations regarding activity and uses on real property to protect the integrity of a cleanup action and assure the continued protection of human health and the environment. Activity and Use Limitations are used to prevent exposure to contaminants by limiting pathways of the contaminants, such as extraction of ground water or the exposure to vapors in a structure, etc.

When the proposed Environmental Covenant is submitted, along with the legal description, map and copy of the current deed, to DEQ for review, DEQ will advise the parties as to its acceptability. If the terms are acceptable, DEQ and the parties to the Environmental Covenant will execute and return the Environmental Covenant to the property owner for filing with the Recorder’s Office in the county the property is located. Once the Environmental Covenant is recorded, the property owner should provide a copy of the recorded Environmental Covenant to DEQ. DEQ maintains an Environmental Covenant Registry of the recorded documents.

DEQ has posted on the website an Environmental Covenant template. A party may use the template as a format, or may create their own for proposal to DEQ so long as it is consistent with the Uniform Environmental Covenants Act (UECA), Chapter 30, Title 55, Idaho Code. To complete an Environmental Covenant, a legal description, map and a copy of a current deed identifying the owner of the property are needed. DEQ recommends the property owner consult with an attorney experienced in Idaho environmental law and/or property law for drafting and implementing an Environmental Covenant. It is imperative that the parties understand the terms of the Environmental Covenant, including under what conditions the Environmental Covenant can be removed.