



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



C. HEIDI GRETHUR
DIRECTOR

July 5, 2017

Mr. Andy Maloy, Director
EH&S Risk Management
Stericycle Environmental Solutions/PSC
18000 72nd Avenue South, Suite 217
Kent, Washington 98032

Dear Mr. Maloy:

SUBJECT: Conditional Approval, Corrective Measures Study Report;
Petro-Chem Processing Group of Nortru, LLC, Detroit, Michigan;
MID 980 615 298

The Michigan Department of Environmental Quality (MDEQ), Waste Management and Radiological Protection Division (WMRPD), has reviewed the Corrective Measures Study report (CMS), dated November 17, 2016, for the Petro-Chem Processing Group of Nortru, LLC facility located at 421 Lycaste Street in Detroit, Michigan (Facility). The WMRPD reviewed the CMS for compliance with the hazardous waste management Facility operating license, effective December 18, 2012 (License), and Part 111, Hazardous Waste Management, of the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451). Based on this review, the WMRPD approves the CMS with the following conditions:

1. Section 2.2 Relevant Exposure Pathways and Applicable Criteria – Restrictive Covenant: Before filing the Restrictive Covenant, a draft must be provided to the WMRPD for review and approval. The draft should be included in the required Corrective Measures Implementation Plan (CMIP).
2. Section 2.2, Page 5, Relevant Exposure Pathways and Applicable Criterion, exposure pathways considered relevant – Vapor Intrusion: The United States Environmental Protection Agency and the MDEQ have an emphasis regarding the vapor intrusion to indoor air inhalation exposure pathway. Until the cleanup criteria promulgated pursuant to the provisions of Part 201, Environmental Remediation, of Act 451 (Part 201) are updated to assure that the cleanup criteria applicable to vapor intrusion to indoor air inhalation are adequately protective, any language referencing applicable Part 201 cleanup criteria (i.e. Soil Volatilization to Indoor Air Inhalation and Groundwater Volatilization to Indoor Air Inhalation) may not be adequately protective under Part 111 and the federal Resource Conservation and Recovery Act of 1976, as amended (RCRA).

In addition, the MDEQ has rescinded Appendix D of the 2013 MDEQ Vapor Intrusion Guidance (please refer to the attached announcement). The vapor intrusion screening values provided in Appendix D.1 (i.e., Residential Vapor Intrusion Screening Values) and in Appendix D.2 (i.e., Nonresidential Vapor Intrusion Screening Values) of the 2013 MDEQ Vapor Intrusion Guidance no longer reflect the

MDEQ's determination of values that represent the best available information regarding the toxicity and volatilization to indoor air exposure risks posed by the hazardous substances as required by Section 20120b of Act 451. Because Appendix D has been rescinded, the values in Appendix D may no longer be utilized to conduct a site-specific evaluation of the volatilization to indoor air pathway (VIAP).

If the Part 201 cleanup criteria are not updated by the time the draft restrictive covenant is developed, then the following alternative language should be used in the draft restrictive covenant:

- a. The Owner shall prohibit the construction of new structures, basements and/or the addition to existing structures, unless such construction incorporates engineering controls designed to eliminate the potential for subsurface vapor phase hazardous substances to migrate into the new structure at concentrations greater than appropriate screening levels protective of public health; or, unless prior to construction of any structure, an evaluation of the potential for any hazardous substances to volatilize into indoor air assures the protection of persons who may be present in the buildings.
3. Section 4.3 Identification of Corrective Measure Alternatives: To reliably restrict exposure, the required CMIP must include a Dig Plan for construction or utility workers, if one is not already in place.
4. Section 6.0 Recommended Corrective Measure Alternative and Rationale: Based on the MDEQ's review of the VIAP by screening soil and perched groundwater data, additional corrective measures are needed to address vapor intrusion to indoor air inhalation.
 - a. Buildings of standard design with full-time occupants need to be investigated for the VIAP via the collection of sub-slab soil vapor and possibly indoor air samples.
 - b. Potential exposure at buildings with non-standard design (i.e., partially open to the atmosphere) and less than full-time occupancy must be reliably controlled through institutional controls implemented via the Facility's License.
 - c. The details regarding current Facility operations with respect to compliance with Michigan Occupational Safety and Health Administration (MIOSHA) (i.e., ambient air and/or personnel monitoring) must be incorporated in the CMIP to determine how these may serve to function as exposure controls in buildings where active waste storage, treatment and handling occurs.
 - d. Soil gas sample collection points must be installed between the existing known contamination and the residences to the south to investigate the potential for vapor intrusion to be occurring.
 - e. Further review of existing information or investigation into the location, size, depth, etc., of the utility corridors on or immediately adjacent to the Facility

must be conducted. Based on the results of this investigation, the utility corridors must then be investigated regarding their potential to act as preferential pathways for the off-site migration of contaminated soil gas and, as applicable, groundwater.

5. CMIP: License Condition VI.K, Summary of Corrective Action Submittals, requires a CMIP to be submitted within 60 days of approval of the CMS Final Report.

Should you have any questions regarding this review, please contact me at 517-284-6571; slaytond@michigan.gov; or MDEQ, WMRPD, P.O. Box 30241, Lansing, Michigan 48909-7741.

Sincerely,

A handwritten signature in blue ink that reads "David Slayton".

David Slayton, Unit Supervisor
Management & Tracking Unit
Hazardous Waste Section
Waste Management and Radiological
Protection Division

cc: Mr. Jeffrey Davis, PSC Environmental Services
Ms. Kellie Wing, Bureau Veritas North America, Inc.
Ms. Tracy Kecskemeti/Ms. Virginia Himich, MDEQ
Mr. Jim Day/ Mr. Dan Dailey MDEQ
Mr. John McCabe/Dr. Kristen Kellock MDEQ
Corrective Action File

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Rescinding Portions of the 2013 Vapor Intrusion (VI) Guidance Document

Michigan Department of Environmental Quality sent this bulletin at 06/20/2017 03:48 PM EDT

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The Department of Environmental Quality (DEQ) developed the 2013 Guidance Document for the Vapor Intrusion Pathway (2013 DEQ VI Guidance) to provide information to DEQ staff and their contractors conducting investigations and remedial or corrective actions at sites with potential VI issues. The document is available as a technical reference to assist any party conducting activities to address volatilization to indoor air.

The DEQ has the following modifications to the 2013 DEQ VI Guidance:

1. **Rescission of Screening Values:** The DEQ rescinds [Appendix D of the 2013 DEQ VI Guidance](#). The vapor intrusion screening values provided in Appendix D.1 (i.e., Residential Vapor Intrusion Screening Values) and in Appendix D.2 (i.e., Nonresidential Vapor Intrusion Screening Values) of the 2013 DEQ VI Guidance no longer reflect the DEQ's determination of values that represent the best available information regarding the toxicity and volatilization to indoor air exposure risks posed by the hazardous substances as required by Section 20120b of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Because Appendix D has been rescinded, the values in Appendix D may no longer be utilized to conduct a site-specific evaluation of the volatilization to indoor air pathway (VIAP).

Site-Specific Evaluation: Conditions that must exist in order for the generic criteria to apply are found in the Part 201 Administrative Rules for the generic Groundwater Volatilization to Indoor Air Inhalation Criteria (GVIIC) and the Soil Volatilization to Indoor Air Inhalation Criteria (SVIIC) [R 299.14(2) and R 299.24(2)]. If those conditions are not met and therefore the generic criteria do not apply, a site-specific evaluation of the inhalation risks must be conducted. Details regarding these conditions are contained in [Appendix C of the 2013 DEQ VI Guidance Document](#) - Checklist for Determining if Generic Volatilization to Indoor Air Inhalation Criteria Apply. These rules also contain a provision that allows the use of representative soil gas concentrations to demonstrate compliance with criteria for the VIAP [R 299.14(5) and R 299.24(5)]. This evaluation relies upon satisfying site-specific soil gas criteria.

Request for Site Specific Criteria: As noted above, when the generic criteria do not apply or when a person chooses to rely upon representative soil gas concentrations to evaluate the VIAP, a person must conduct a site-specific evaluation. The DEQ will assist with the development of site-specific criteria that may be used for the site-specific evaluation. Please contact the appropriate DEQ Remediation and Redevelopment Division District Office for guidance on how to request assistance. Alternatively, a person may generate site-specific criteria and submit the necessary information to the DEQ for review and approval.

2. Rescission of Alternate Approach Considering Biodegradation: The DEQ also [rescinds Appendix B.3 of the 2013 DEQ VI Guidance](#) – Alternate Approach for Investigating Vapors for Petroleum Hydrocarbons Considering Biodegradation. In place of this document, the DEQ views the [ITRC Technical and Regulatory Guidance Web-Based Document, Petroleum Vapor Intrusion: Fundamentals of Screening, Investigation, and Management \(PVI-1, 2014\)](#) as suitable for a petroleum vapor intrusion assessment pursuant to the relevant statutory provisions.

If you have questions please call the [DEQ District Office](#) where your site is located.



Questions?
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Ph: 800-662-9278

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10/13/2015

Michigan Department of Environmental Quality
Office of Waste Management and Radiological Protection

INSTRUCTIONS FOR THE ATTACHED MODEL DOCUMENT ENTITLED:

DECLARATION OF RESTRICTIVE COVENANT

THIS IS A MODEL DOCUMENT WHICH IS SUBJECT TO REVISION. IT IS PROVIDED TO THE PUBLIC AS PRELIMINARY GUIDANCE AS TO THE CONTENT, FORMAT AND TERMS OF THIS DOCUMENT. IT IS NOT INTENDED, NOR CAN IT BE RELIED UPON, TO CREATE ANY RIGHTS, SUBSTANTIVE OR PROCEDURAL, BY ANY OTHER PARTY. PLEASE CONTACT HAZARDOUS WASTE SECTION, OFFICE OF WASTE MANAGEMENT AND RADIOLOGICAL PROTECTION, MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY, TO RECEIVE THE MOST RECENT DRAFT OF THIS DOCUMENT OR IN CASES THAT DO NOT FIT THE MODEL ASSUMPTIONS.

NOTE: There are recording requirements for instruments filed with Michigan county register of deeds offices which are contained in Section 1 of the Recording Requirements Act, 1937 PA 103, as amended, Michigan Compiled Laws (MCL) 565.201 *et seq.* (Act 103), [link to Act 103](#).

The Michigan Department of Environmental Quality (MDEQ) will not discriminate against any individual or group on the basis of race, sex, religion, age, national origin, color, marital status, disability or political beliefs. Questions or concerns should be directed to the MDEQ Quality of Life Human Resources Office, P.O. Box 30473, Lansing, MI 48909.

INTRODUCTORY GUIDANCE

This Declaration of Restrictive Covenant (Restrictive Covenant) model document is to be used for hazardous waste facilities that do NOT require closure as a landfill, but have soil and/or groundwater contamination that requires the preparation of a restrictive covenant to comply with Part 111, Hazardous Waste Management, MCL 324.11101 et seq. (Part 111), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and the administrative rules promulgated pursuant to that part, MAC 299.9101 et seq. (Part 111 rules). This document is only appropriate for use with corrective actions approved by the MDEQ, Office of Waste Management and Radiological Protection under the limited or site-specific cleanup criteria allowed for under Part 111, R 299.9629.

The following Exhibits (1-4) must be attached to the Restrictive Covenant form:

EXHIBIT 1: LEGAL DESCRIPTION OF PROPERTY. This exhibit shall contain a legal description of the Property. In addition to the legal description, Exhibit 1 shall also include the parcel identification number(s) of the Property.

EXHIBIT 2: LEGAL DESCRIPTION AND SURVEY OF RESTRICTED AREAS OF THE PROPERTY. This exhibit shall include a survey of the entire Property identified in the legal description provided in Exhibit 1. The survey shall depict any permanent markers which are part of the CMIP. If land use and resource use restrictions of this Restrictive Covenant apply to the whole Property, the initial survey is sufficient. If the land use and resource use restrictions of this Restrictive Covenant apply to discrete portions of the Property, then those areas need to be legally described, surveyed individually, and identified on the survey of the Property above. Areas of the Property that are restricted for groundwater use must be identified.

EXHIBIT 3: LIST OF [CONTAMINANTS OR HAZARDOUS WASTES OR HAZARDOUS SUBSTANCES] ABOVE CRITERIA IN SOILS OR GROUNDWATER. Exhibit 3 shall include a list of all hazardous wastes, contaminants, or hazardous substances which are over the cleanup criteria in soils and/or groundwater.

EXHIBIT 4: DESCRIPTION OF ALLOWABLE USES. Exhibit 4 shall include the allowable uses of the Property that are considered consistent with the exposure assumptions for the chosen cleanup criteria.

The following Exhibits (W-Z) may be attached to the Restrictive Covenant depending upon the facts pertinent to the Property that is being restricted:

EXHIBIT W: CONSENT OF OWNER. This exhibit shall include written authorization from the Owner to the recording of this restrictive covenant. This authorization is required in cases where the Grantor is not the sole Owner or current Owner of the Property upon which the restricts are imposed.

EXHIBIT X: CONSENT OF EASEMENT HOLDERS. This exhibit shall include written authorization from any easement holder to the conditions of the restrictive covenant.

EXHIBIT Y: CONSENT OF LEASEHOLDER. This exhibit shall include written authorization from any leaseholder to the conditions of the restrictive covenant.

EXHIBIT Z: ADJACENT AFFECTED PROPERTIES. This exhibit shall include a map of off-site adjacent properties affected by contamination if the contamination originates from the property identified in Exhibit 1.

At the time of Corrective Measures Implementation Plan (CMIP) approval, the MDEQ will assign a reference number to the Restrictive Covenant and CMIP approval date. The person responsible for CMIP implementation then has 21 days from the completion of the final corrective measures construction or in accordance with the CMIP schedule to file for recording or cause to be filed for recording the Restrictive Covenant with the Register of Deeds for the county in which the Property is located.

The final format of the document shall comply with Section 1 of Act 103 to allow for recordation by the Register of Deeds.

MODEL DOCUMENT LEGEND

1. *[NOTE: Model document instructions will be placed in brackets, typed in italicized font, and identified by the term "NOTE." Please delete each Note from the Restrictive Covenant prior to submission of the Restrictive Covenant to MDEQ for review along with the CMIP.]*
2. **[Optional and/or site specific language will be placed in brackets, and typed in regular bold font. Please select the appropriate alternative and/or site specific language, finalize the selection in regular font, and delete unused options prior to submission of the Restrictive Covenant to MDEQ for review along with the CMIP.]**

THE MODEL DOCUMENT STARTS ON THE NEXT PAGE.

[NOTE 1: The top margin of this page must be 2 ½ inches.]

MDEQ Revised 10/13/2015

DECLARATION OF RESTRICTIVE COVENANT

MDEQ Reference No.: RC-OWMRP-111-__-__

Facility MID Number MID ____

MDEQ Approval Date _____

This Declaration of Restrictive Covenant is made to protect public health, safety, or welfare, or the environment pursuant to the provisions of Part 111, Hazardous Waste Management, Michigan Compiled Laws (MCL) 324.11101 *et seq.* (Part 111) and the applicable sections of Part 201, Environmental Remediation, MCL 324.20101 *et seq.* (Part 201) of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.101 *et seq.* and the administrative rules promulgated pursuant to those Parts, MAC R 299.9101 *et seq.* and MAC R 299.5101 *et seq.* and the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 *et seq.*

This Declaration of Restrictive Covenant (Restrictive Covenant) is made on _____ (date) by _____, the Grantor(s), whose address is _____, _____, for the benefit of the Grantee, Michigan Department of Environmental Quality (MDEQ), whose address is 525 West Allegan Street, PO Box 30473, Lansing, Michigan 48909-7973.

This Restrictive Covenant has been made to prohibit or restrict activities that could result in unacceptable exposure to environmental contamination present at the property located at _____, in the Township of _____, County of _____, Michigan, and legally described in Exhibit 1 (Property).

The Property Number (Property's Tax ID Number) is _____.

[NOTE 2: In cases where releases have contaminated areas beyond the facility boundary defined by the Part A Application [EPA Form 8700-23], please ensure that all off-site affected properties are identified in Exhibit Z].

The Property is associated with _____ (facility name), MID _____ for which a Corrective Measure Implementation Plan (CMIP) [or equivalent document] submitted on _____, 20____ [include the following if applicable **[and subsequently amended on _____]** was approved by the MDEQ on _____, 20____. The corrective measures being implemented to address environmental contamination are fully described in the CMIP entitled _____ submitted by [insert consultant name, if applicable] _____ on behalf of [insert facility name] _____.

The CMIP requires the recording of this Restrictive Covenant to: 1) restrict unacceptable exposures to **[hazardous waste/contaminants/hazardous substances]** located on the Property *[NOTE 3: Insert numeral 2 if there is an enduring physical component of the corrective measure (e.g., exposure barrier)]*; and 2) assure that the use of Property is consistent with the exposure assumptions utilized in the development of **[choose as appropriate: residential; nonresidential; OR site-specific cleanup criteria]** and the exposure control measures relied upon in the CMIP; [and 3) to prevent damage or disturbance of monitoring wells or any other element of the corrective measures constructed on the Property.

The land or resource use restrictions contained in this Restrictive Covenant are based upon information available to the MDEQ at the time the CMIP was approved by the MDEQ. Failure of the corrective measures to achieve and maintain the cleanup criteria, exposure controls, and requirements specified in the CMIP; future changes in the environmental condition of the Property or changes in the cleanup criteria; the discovery of environmental conditions at the Property that were not accounted for in the CMIP; or use of the Property in a manner inconsistent with the restrictions described herein, may result in this Restrictive Covenant not being protective of public health, safety, or welfare, or the environment. Additional restrictions may become necessary. Information pertaining to the environmental conditions at the Property and the corrective actions undertaken at the Property is on file with the MDEQ, Office of Waste Management and Radiological Protection.

Exhibit 2, attached hereto, provides a survey and a map that identifies those portions of the Property that are subject to land use or resource use restrictions as specified herein.

Summary of Corrective Measures

[Hazardous waste/contaminants/hazardous substances] listed in Exhibit 3 have been found in soils or groundwater at the Property in concentrations above the cleanup criteria for unrestricted residential use for relevant exposure pathways. Areas of the Property described in Exhibit 2 may contain **[hazardous waste/contaminants/hazardous substances]** in excess of the concentrations that satisfy the cleanup criteria for unrestricted residential use. *[NOTE 4: In cases of commingled plumes or plumes coming onto subject project that may not be addressed under the CMIP, include the following statement "and may not have been addressed by the corrective measures that have been undertaken to date."]*

The following corrective measures have been or will be undertaken to minimize the migration of **[hazardous waste/contaminants/hazardous substances]**, as described in the CMIP:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Despite the corrective measures named above, **[hazardous waste/contaminants/hazardous substances]** remain present in soils or groundwater at levels that require controls to prevent unacceptable exposures.

Definitions

"Grantee" shall mean the MDEQ and the United State Environmental Protection Agency (USEPA), their respective successor entities, and those persons or entities acting on their behalf.

"Grantor" shall mean _____, the title holder of the Property at the time this Restrictive Covenant was executed, any persons or entities authorized to act on the title holder's behalf, and any future title holder of the Property or some relevant sub-portion of the Property.

"MDEQ" means the Michigan Department of Environmental Quality, its successor entities, and those persons or entities acting on its behalf.

"Owner" means at any given time the then current title holder of the Property or any portion thereof, including any lessees and those persons or entities authorized to act on the title holder's behalf.

"Part 111" means Part 111, Hazardous Waste Management, of the NREPA in effect at the time of the recording of this Restrictive Covenant.

All other terms used in this document which are defined in Part 111 of the NREPA and the Part 111 Administrative Rules, or Part 201 of the NREPA and the Part 201 Administrative Rules solely to the extent not inconsistent with the definitions in Part 111 or the Part 111 Administrative Rules, shall have the same meaning in this document as in those statutes and rules as on the date this Restrictive Covenant is made.

NOW THEREFORE,

Declaration of Land Use or Resource Use Restrictions

The Grantor(s) hereby declare(s) and covenant(s) that **[the Property OR the portion of the Property outlined in Exhibit 2]**, shall be subject to those restrictions on use described below and intends that said restrictions and covenants shall run with the land, and may be enforced in perpetuity against the Owner by the following entities: (1) the Grantor, if it is no longer owner; and (2) MDEQ.

1. Land Use Prohibitions. The Owner shall prohibit all uses of **[the Property OR the portion of the Property outlined in Exhibit 2]** that are not compatible or consistent with the exposure assumptions for the **[residential, nonresidential, OR site-specific]** cleanup criteria. Uses that are compatible with nonresidential cleanup criteria are generally described in the Description of Allowable Uses, attached hereto as **[Exhibit 4]**.

[NOTE 4: If the local zoning ordinance allows for more intensive uses within the Property's current zoning, insert the following:

The following uses allowed under the [NOTE 5: Insert name of local zoning authority and zoning code designation.] _____ zoning code designations are prohibited:]

[NOTE 6: If the local zoning ordinance allows more intensive uses within the Property's current zoning, list the more intensive uses permitted by the local zoning ordinance that are prohibited.]

- a. _____
- b. _____
- c. _____
- d. _____]

2. **Activities Prohibited.** The Owner shall prohibit activities on **[the Property OR the portion of the Property outlined in Exhibit 2]** that may result in exposures above levels established in the CMIP. These prohibited activities include:

[NOTE 7: List below all restricted property-specific prohibited activities that are necessary to reliably restrict exposures to hazardous waste or contaminants or hazardous substances here. Examples of such restrictions are restrictions on groundwater use, excavation or other intrusive activity that affect the exposure barrier, construction of wells, construction of buildings, etc.]

- a. _____
- b. _____
- c. _____
- d. _____

3. The Owner shall prohibit activities on **[the Property OR the portion of the Property outlined in Exhibit 2]** that may interfere with any element of the CMIP, including prohibiting activities that may interfere with the performance of operation and maintenance activities, monitoring, or other measures necessary to ensure the effectiveness and integrity of the CMIP; including but not limited to:

[NOTE 8: List below all property specific prohibited activities that are necessary to maintain the effectiveness and integrity of the CMIP.]

- a. _____
- b. _____
- c. _____

[NOTE 9: Insert the following paragraph if volatilization to indoor pathway must be addressed.]

- [4. **Soil Vapor Management.** RESERVED. Pending EPA approval of proposed language for this section.]

[NOTE 10: Insert the following paragraph if permanent markers are required, and renumber the paragraphs as appropriate.]

- [5. **Permanent Markers.** The Owner shall not remove, cover, obscure, or otherwise alter or interfere with the permanent markers placed at the locations noted in Exhibit 2. The Owner shall keep vegetation and other materials clear of the permanent markers to assure that the markers are readily visible.]

6. Monitoring Wells. The Owner shall not remove, disturb or damage any monitoring wells on the Property except as provided in the CMIP without MDEQ approval.
7. Contaminated Soil Management. The Owner shall manage contaminated soils, media and/or debris and all other soils located on the Property in accordance with the requirements of Part 111, RCRA Subtitle C, the administrative rules promulgated pursuant to Part 111 and the RCRA, and all other relevant state and federal laws, including, but not limited to, MCL 324.20120c. This includes if the Owner elects to remove any slabs, pavement or other impervious surface on the Property,
8. Access. The Owner shall grant to the MDEQ the right to enter the Property at reasonable times for the purpose of determining and monitoring compliance with the CMIP and this Restrictive Covenant, including the right to take samples, inspect the operation of the corrective measures, inspect any records relating thereto, and to perform any actions necessary to maintain compliance with the Part 111 and the CMIP.
9. Transfer of Interest. The Grantor shall provide notice at the address provided in this document to the MDEQ of the Grantor's intent to transfer any interest in the Property, or any portion thereof, at least fourteen (14) business days prior to consummating the conveyance. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Grantor without adequate and complete provision for compliance with the terms and conditions of this Restrictive Covenant. The Grantor shall include in any instrument conveying any interest in any portion of the Property, including, but not limited to, deeds, leases, and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A DECLARATION OF RESTRICTIVE COVENANT DATED _____ AND RECORDED WITH THE _____ COUNTY REGISTER OF DEEDS, LIBER _____, PAGE _____.

A copy of this Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest.

10. Notices. Any notice, demand, request, consent, approval, or communication that is required to be made or obtained under this Restrictive Covenant shall be made in writing; include a statement that the notice is being made pursuant to the requirements of this Restrictive Covenant; include the Michigan facility identification number, MID ____-____-____, and the MDEQ Reference No. RC-OWMRP-111-____-____; and shall be served either personally, or sent via first class mail, postage prepaid, as follows:

Hazardous Waste Section Chief
Office of Waste Management and Radiological Protection
Michigan Department of Environmental Quality
P.O. Box 30241
Lansing, Michigan 48909-7741

11. Term. This Restrictive Covenant shall run with the Property and shall be binding on the Owner, and all current and future successors, lessees, easement holders, their assigns, and their authorized agents, employees, or persons acting under their direction and

control. This Restrictive Covenant may only be modified or rescinded with the written approval of the MDEQ.

12. Enforcement. The Grantor is entitled to enforce the restrictions and covenants of this Restrictive Covenant by specific performance or other legal action in a court of competent jurisdiction against subsequent Owners of all or part of the Property. The Grantor, on behalf of itself, and its successors in title, intends and agrees that MDEQ is entitled to enforce the restrictions and covenants in this Restrictive Covenant by specific performance or other legal action in a court of competent jurisdiction against the Grantor, as Owner, and thereafter against subsequent Owners of all or part of the Property. All remedies available hereunder shall be in addition to any and all other remedies at law or equity.
13. Modification/Release/Rescission. The Grantor or Owner may request in writing to the MDEQ, at the address provided herein, modifications to, or release or rescission of, this Restrictive Covenant. This Restrictive Covenant may be modified, released or rescinded only with the written approval of the MDEQ. Any approved modification to, or release or rescission of, this Restrictive Covenant shall be filed with the appropriate Registrar of Deeds by the Grantor or Owner and a certified copy shall be returned to the MDEQ at the address provided herein.
14. Severability. If any provision of this Restrictive Covenant is held to be invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions of this Restrictive Covenant and all other provisions shall continue to remain in full force and effect.
15. Authority to Execute Restrictive Covenant. The undersigned person(s) executing this Restrictive Covenant **[is/are]** the Owner(s), or **[has/have]** the express written permission of the Owner(s) and all other holders of a legal interest whose interest is materially affected by this Restrictive Covenant **[as documented and attached hereto as Exhibit W/X/Y]** and represent and certifies that he or she is duly authorized and has been empowered to execute and deliver this Restrictive Covenant.

IN WITNESS WHEREOF, _____ has caused this Restrictive Covenant, RC-OWMRP-111-__-__, to be executed on this _____ day of _____, 20__.

By: _____
Signature

Name: _____
Grantor

Its: _____
Title

STATE OF MICHIGAN
COUNTY OF _____

[NOTE 11: Choose only one of the following four acknowledgments:

OPTION 1: If Grantor is an individual:

The foregoing instrument was acknowledged before me this _____ (date) by _____, an individual.]

OPTION 2: If Grantor is a corporation:

The foregoing instrument was acknowledged before me this _____ (date) by [NOTE: Insert name of officer or agent, and title of officer or agent signing the document.] _____ of [NOTE: Insert name of corporation] _____, a [NOTE: Insert state or place of incorporation] _____ Corporation, on behalf of the corporation.]

OPTION 3: If Grantor is a partnership:

The foregoing instrument was acknowledged before me this _____ (date) by [NOTE: Insert name of partner or agent] _____, [partner/agent] on behalf of [NOTE: Insert name of partnership] _____, a partnership.]

OPTION 4: For an individual acting as principal by an attorney in fact (power of attorney):

The foregoing instrument was acknowledged before me this _____ (date) by [NOTE: Insert name of attorney in fact] _____ as attorney in fact on behalf of [NOTE: Insert name of principal] _____.]

Notary Public
State of Michigan, County of _____
Acting in the County of _____
My commission expires: _____

EXHIBIT 1

LEGAL DESCRIPTION OF PROPERTY

[NOTE: This exhibit shall contain the legal description. Exhibit 1 shall also include the parcel identification number(s) of the Property.]

EXHIBIT 2

LEGAL DESCRIPTION AND SURVEY OF RESTRICTED AREAS OF THE PROPERTY

[NOTE: This exhibit shall include a survey of the entire Property identified in the legal description provided in Exhibit 1. The survey shall depict any permanent markers which are part of the CMIP. If the land use and resource use restrictions of this Restrictive Covenant apply to the whole Property, the initial survey is sufficient. If the land use and resource use restrictions of this Restrictive Covenant apply to discrete portions of the Property, then those areas need to be legally described, surveyed individually, and identified on the survey of the Property above. Areas of the Property that are restricted for groundwater use must be identified. All surveys must be conducted by a licensed professional surveyor and shall identify and clearly delineate and graphically depict the spatial extent of all restricted areas in relation to the Property boundaries and the key features of the corrective measures. Surveys must be signed by the surveyor; be sealed with the surveyor's stamped certificate; have a basis of bearings; and certify compliance with all of the requirements of PA 132 of 1970, as amended.]

EXHIBIT 3

LIST OF [CONTAMINANTS OR HAZARDOUS WASTES OR HAZARDOUS SUBSTANCES] ABOVE CRITERIA IN SOILS OR GROUNDWATER

[NOTE: This exhibit shall include a list of contaminants or hazardous wastes or hazardous substances which are over the applicable cleanup criteria for soils and/or groundwater.]

[CONTAMINANTS/HAZ WASTE/HAZ SUBSTANCES] CAS NUMBER APPLICABLE CRITERIA (ppb)

EXHIBIT 4

DESCRIPTION OF ALLOWABLE USES

[NOTE: This exhibit is only necessary when the property is restricted to nonresidential or site-specific land uses. It must be consistent with the zoning of the property and with the generic or alternative exposure assumptions used to develop the cleanup criteria.]

[NOTE: This exhibit must be consistent with the generic exposure assumptions, or alternative exposure assumptions used to derive a site-specific criterion, if one was approved in the CMIP and those uses are consistent with the property zoning.]

Option 1: Insert the following if the property is restricted to the nonresidential land use category:

Nonresidential Land Use: This land use is characterized by any use which is not residential in nature and is primarily characterized by industrial and commercial uses. Industrial uses typically involve manufacturing operations engaged in processing and manufacturing of materials or products. Other examples of industrial uses are utility companies, industrial research and development, and petroleum bulk storage. Commercial uses include any business or income-producing use, such as commercial warehouses, lumber yards, retail gas stations, auto dealerships and service stations, as well as, office buildings, banks, and medical/dental offices (not including hospitals). Commercial uses also include retail businesses whose principal activity is the sale of food or merchandise within an enclosed building and personal service establishments which perform services indoors, such as health clubs, barber/beauty salons, photographic studios, etc.

Any residential use is specifically prohibited from the non-residential land use category. This would include the primary use of the property for human habitation and includes structures such as single family dwellings, multiple family structures, mobile homes, condominiums, and apartment buildings. Any uses which are intended to house, educate, or provide care for children, the elderly, the infirm, or other sensitive populations, and therefore could include day care centers, educational facilities, hospitals, elder care facilities, and nursing homes, may not fit the nonresidential exposure assumptions. Residential or site specific environmental protection standards may need to be considered. The use of any accessory building or portion of an existing building as a dwelling unit permitted for a proprietor or storekeeper and their families, located in the same building as their place of occupation, or for a watchman or caretaker is also prohibited. Any authority that allows for residential use of the Property as a legal non-conforming use is also restricted per the prohibitions contained in this restrictive covenant.]

Option 2: Insert the following if the property is restricted to the site-specific land use category:

Site-specific land use: If the property is restricted to the site-specific land use category, insert a paragraph that describes those uses that are consistent with

assumptions used to develop site-specific criteria pursuant to MCL 324.20120a(2) and MCL 324.20120b of the NREPA as approved by the MDEQ.]

EXHIBIT W

CONSENT OF OWNER

I, _____, the current and legal Owner of the Property, do hereby consent to the recording of this Restrictive Covenant, RC-OWMRP-111-____-____, and authorize _____ (Grantor) to file the Restrictive Covenant with the _____ County Register of Deeds for recording.

By: _____
Signature
Name: _____
Print or Type Name
Its: _____
Title

STATE OF MICHIGAN
COUNTY OF _____

Notary Public Signature
State of Michigan
County of _____
My Commission Expires: _____
Acting in the County of _____

EXHIBIT X

CONSENT OF EASEMENT HOLDERS

As evidenced below by my signature, I agree to be subject to the restrictions specified in this Restrictive Covenant.

[NOTE: Insert additional signature blocks if multiple easement holders.]

By: _____
Signature
Name: _____
Print or Type Name
Its: _____
Title

STATE OF MICHIGAN
COUNTY OF _____)

[NOTE 12: Choose only one of the following four acknowledgments:

[OPTION 1: If easement holder is an individual:

The foregoing instrument was acknowledged before me this _____ (date) by _____, an individual.]

[OPTION 2: If easement holder is a corporation:

The foregoing instrument was acknowledged before me this _____ (date) by _____ of [NOTE: Insert name of corporation]
_____, a [NOTE: Insert state or place of incorporation]
_____, Corporation, on behalf of the corporation.]

[OPTION 3: If easement holder is a partnership:]

The foregoing instrument was acknowledged before me this _____ (date) by _____, [partner/agent] on behalf of [NOTE: Insert name of partnership] _____, a partnership.]

[OPTION 4: For an individual acting as principal by an attorney in fact (power of attorney):

The foregoing instrument was acknowledged before me this _____ (date) by _____ as attorney in fact on behalf of [NOTE: Insert name of principal] _____.]

Notary Public Signature
State of Michigan
County of _____
My Commission Expires: _____
Acting in the County of _____

**EXHIBIT Y
CONSENT OF LEASEHOLDER**

As evidenced below by my signature, I agree to be subject to the restrictions specified in this Restrictive Covenant.

[NOTE: Insert additional signature blocks if multiple leaseholders]

By: _____
Signature
Name: _____
Print or Type Name
Its: _____
Title

STATE OF MICHIGAN
COUNTY OF _____

[NOTE 13: Choose only one of the following four acknowledgments:

OPTION 1: If lessee is an individual:

The foregoing instrument was acknowledged before me this _____ (date) by _____, an individual.]

OPTION 2: If lessee is a corporation:

The foregoing instrument was acknowledged before me this _____ (date) by [NOTE: Insert name of officer or agent, and title of officer or agent signing the document.] _____ of [NOTE: Insert name of corporation] _____, a [NOTE: Insert state or place of incorporation] _____ Corporation, on behalf of the corporation.]

OPTION 3: If lessee is a partnership:]

The foregoing instrument was acknowledged before me this _____ (date) by [NOTE: Insert name of partner or agent] _____, [partner/agent] on behalf of [NOTE: Insert name of partnership/grantor] _____, a partnership.]

OPTION 4: For an individual acting as principal by an attorney in fact (power of attorney):]

[The foregoing instrument was acknowledged before me this _____ (date) by [NOTE: Insert name of attorney in fact] _____ as attorney in fact on behalf of [NOTE: Insert name of principal] _____.]

Notary Public Signature
State of Michigan
County of _____
My Commission Expires: _____
Acting in the County of _____

EXHIBIT Z

ADJACENT AFFECTED PROPERTIES

[NOTE: A map shall include off-site adjacent properties affected by the contamination originating from the Property.]

