



Division of Land Restoration
Office of Environmental Remediation
1356 Hansford Street
Charleston, WV 25301-1401
Telephone: (304) 558-2508
Fax Number: (304) 558-3998

West Virginia Department of Environmental Protection

Bob Wise
Governor

Stephanie R. Timmermeyer
Cabinet Secretary

May 3, 2004

Mr. Bob Childers
Parkview LP
6 Fairway Drive
Huntington, WV 25705

**RE: Certificate of Completion, VRA Project # 02779
Former Polan Industries Parcel 4 Site, Huntington, Cabell County, WV**

Dear Mr Childers:

I am pleased to provide you the accompanying Certificate of Completion for your site located at Huntington, West Virginia. As you know, the certificate contains a provision relieving the persons who undertook the remediation, as well as subsequent successors and assigns, from all liability to the state as provided under Chapter 22 Article 22 of the West Virginia Code. This provision shall remain effective as long as the property complies with the applicable standards in effect at the time the certificate of completion was issued. This certificate is subject to the reopener provisions of section fifteen of the article, and includes a land-use covenant as provided in section fourteen. In this manner, we trust that the property will remain in productive and protective use for the citizens of our State.

I thank you for your participation in the Voluntary Remediation program, and ask that you feel free to contact our staff or me if you have any questions or comments related to the process.

Sincerely,

Ken Ellison
Director, Division of Land Restoration

Enclosure

cc: Donald Martin, Assistant Director, DLR
John Meeks, LRS, Triad Engineering



West Virginia Department
of Environmental Protection

"Promoting a healthy environment."

**STATE OF WEST VIRGINIA
VOLUNTARY REMEDIATION PROGRAM**

CERTIFICATE OF COMPLETION AND COVENANT

Structures Resources, Inc. ("Applicant") entered into a Voluntary Remediation Agreement with the Secretary of the Department of Environmental Protection ("WVDEP"), dated December 15, 2003 ("Agreement"). The Agreement was entered into to address the release of any contaminants at Parcel 4 of the former Polan Industries Facility ("Site") located at the eastern terminus of Park Avenue, in the City of Huntington, in Kyle District, Cabell County, West Virginia. The following documents are incorporated as a part of this Certificate and Covenant:

The application dated July 21, 1999, the site assessment submitted with the application, and the Site Characterization and Risk Assessment dated March 18, 2004.

The above cited Agreement.

A map depicting Parcel 4 (See Exhibit A).

A list of the contaminants for which the remediation standards specified in the Agreement have been met (See Exhibit B).

The final report submitted for the site issued by a licensed remediation specialist.

A description of any institutional or engineering controls, or remedies that were used to achieve a remediation standard (See Exhibit C)

The land use covenant that is to be recorded for this site (See Exhibit D).

This Certificate of Completion is issued pursuant to W.Va. Code § 22-22-13 to Applicant in recognition of the completion of the work required under the Agreement.

Pursuant to W.Va. Code §§22-22-7(f) 22-22-13, 22-22-14, and 22-22-18, the Secretary of WVDEP, in the name of and on behalf of the State of West Virginia, now covenants not to bring any civil, criminal or administrative action or claim, resulting from or based upon the release or threatened release of contaminants that were the subject of the Voluntary Remediation Agreement. This covenant shall bar actions against Applicant, Applicant's successors and assigns, and those persons identified in W.Va. Code §22-22-18, from all public and private claims arising under Chapter 22 of the West Virginia Code or rules adopted thereunder in connection with the release or threatened release that was the subject of the Voluntary Remediation Agreement. This covenant shall not apply to Applicant's predecessors in title.

CONDITIONS

This Certificate and the covenant it contains are subject to the terms and conditions set forth below:

1. The following conditions, contained in W.VA. Code §22-22-15, which may cause the Voluntary Remediation Agreement to be reopened:
 - a) Fraud was committed in demonstrating attainment of a standard at the site that resulted in avoiding the need for further remediation of the site;
 - b) New information confirms the existence of an area of previously unknown contamination which contains contaminants that have been shown to exceed the standards applied to the previous remediation at the site;
 - c) The level of risk is increased significantly beyond the established level of protection at the site due to substantial changes in exposure conditions, such as, a change in land use, or new information is obtained about a contaminant associated with the site which exposure assumptions beyond the acceptable range. This condition applies only where the level of risk is increased by a factor of at least five, or the hazard index exceeds 1, or exceeds 10 where multiple systemic toxicants do not affect the same organ;
 - d) The release occurred after the effective date of this Article on a site not used for industrial activity prior to the effective date of this Article; the remedy relied, in whole or in part, upon institutional or engineering controls instead of treatment or removal of contamination; and treatment, removal or destruction has become technically and economically practicable; or
 - e) The remediation methods failed to meet the remediation standard or combination of standards.

For purposes of this paragraph, "new information" means any information obtained directly or indirectly by the WVDEP from any person after issuance of a Certificate of Completion, but does not include information the WVDEP has received in the application for participation in the voluntary remediation program, including any site assessment, or other information available to the WVDEP under the voluntary remediation program prior to the execution of the Certificate of Completion. Information that does not qualify as new information may be considered by the WVDEP along with new information if necessary, to determine whether any of the conditions for reopening set out in section 16 of this rule, have occurred.

Where one of the foregoing conditions is found to exist for a portion but not all of the site, this certificate and covenant shall continue to apply to all portions of the site that were unaffected by the occurrence of that condition.

2. To the extent that the Agreement or any of the documents referenced in this certificate impose obligations that continue after the execution of this certificate, there shall be continued compliance with such obligations.

3. This certificate and covenant do not preclude the State of West Virginia from taking any unilateral action at the site, under any existing or future statutory authority, to protect human health and the environment; provided however, in no event shall the State have a right of recovery against Applicant or any other person to whom the covenant herein applies to the extent that such right of recovery arises under Chapter 22 of the West Virginia Code, and relates to matters covered by the Agreement.

4. This certificate and covenant do not preclude the State from seeking recovery of such sums as the Applicant has agreed to pay the WVDEP under the Agreement.

WHEREFORE, the Secretary of WVDEP, on behalf of the State of West Virginia, issues this certificate and covenant, with all aforementioned privileges, responsibilities, conditions and reservations, this 3rd day of MAY, 2004, to Applicant.

Ken Ellison Director
Department of Environmental Protection

EXHIBIT B

List of Contaminants

Groundwater	Soils
trichloroethene	No Contaminants of Concern
chloroform	
carbon tetrachloride	
chloromethane	

EXHIBIT C

List of Institutional and Engineering Controls, and Proposed Remedies

Institutional Controls

A land use covenant has been recorded with the Clerk of the Cabell County Commission which prohibits extraction of groundwater.

LAND USE COVENANT (PARCEL 4)

Structures Resources, Inc. (“Structures”), as the Applicant, and Parkview L.P (“Parkview”), as the Owner, have entered into a Voluntary Remediation Agreement (“Agreement”) with the Department of Environmental Protection for the State of West Virginia (WVDEP) pursuant to the Voluntary Remediation and Redevelopment Act, W.Va. Code §§22-22-1 through 22-22-2 (“Act”), for certain property, located at the eastern terminus of Park Avenue, in the City of Huntington, Kyle District, Cabell County, West Virginia and more particularly described in a deed of record in the office of the Clerk of the County Commission of Cabell County, West Virginia in Deed Book **733, Page Number 649**. Paragraph 30 of the Agreement requires Structures, as the owner of said property, to file a Land Use Covenant with the Clerk of the Cabell County Commission. The Agreement allows certain levels of contamination to remain on the property and requires a land use covenant be recorded in the office of the Clerk of the Cabell County Commission for the purpose of protecting public health and the environment and to prevent interference with the performance, operation and maintenance of any remedial actions required by the Agreement.

NOW THEREFORE, as Parkview, (“Owner,”) and the Secretary of WVDEP have provided in the Agreement, the following restrictions shall apply to this property:

1. The Owner shall prohibit all activities on the property that may interfere with the remedial action required by the Agreement.

2. The Owner shall prohibit all activities that may result in human exposures above those specified by the Agreement or that would result in the release of a contaminant that was contained as part of the remedial action. These activities include, but are not limited to:

Extraction of groundwater at the site for any potable or non-potable use.

3. The Owner shall provide written notice to WVDEP of the intent to transfer any interest in the property.

4. The Owner shall not convey any title, easement, or other interest in the property without adequate and complete provision for the continued implementation, operation and maintenance of any remedial action that has been implemented on the property pursuant to the Agreement and without assuring prevention of the releases and exposures described in the provisions of paragraph 2, above.

5. The Owner shall grant WVDEP and its designated representatives the right to enter the property at reasonable times for the purpose of monitoring compliance with the Agreement, and any Certificate of Completion, including the right to take samples, inspect the operation to evaluate the effectiveness of remedial activities, and inspect records all as provided in the Agreement.

6. The WVDEP may enforce the restrictions set forth in this Land Use Covenant by legal action in a court of appropriate jurisdiction.

7. In accordance with the provisions of the Act regarding land use covenants, West Virginia Code §22-22-15 and in addition to any rights or duties contained in the Certificate of Completion, this Land Use Covenant relieves the Owner and any subsequent successors and assigns of the Owner and any person identified in West Virginia Code §22-22-18, from any civil liability to the State of West Virginia, as provided under the Act, so long as the property complies with the applicable standards identified in the Agreement.

8. The restrictions and other requirements described in this Land Use Covenant shall run with the land and shall be binding upon any future owner, successors or assigns and their authorized agents, employees or persons acting under their direction or control. Subject to subsequent written modification or releases signed by WVDEP and the owner at the time of such modification or release, and filed in the office of the Clerk of the County Commission of Cabell County, where these covenants have been recorded, this Land Use Covenant shall continue in perpetuity.

9. If any provision of this Land Use Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof. All such other provisions shall continue unimpaired and in full force and effect.

10. This Land Use Covenant shall not be amended, modified or terminated except by written instrument executed by and between the owner at the time of the proposed amendment, modification or termination, and WVDEP, or his successor in accordance with regulations promulgated by the director or his successor. Within five days of executing an amendment, modification or termination of this Land Use Covenant, the owner shall record such amendment, modification or termination with the Clerk of the County Commission of Cabell County, and within five days thereafter the owner shall provide a true copy of the recorded amendment, modification or termination to WVDEP.

The undersigned persons executing this Land Use Covenant on behalf of the Owner represent and certify that they are duly authorized and have been fully empowered to execute and deliver this Land Use Covenant.

IN WITNESS WHEREOF, the said Owner of the above-described property and WVDEP, have caused this Land Use Covenant to be executed this 3rd day of May, 2004.

PARKVIEW L.P.

By _____

Its _____

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By Kim Elin _____

Its Director _____

Facility: VRP # : 02779
Former Polan Industries Parcel 4

Applicant:
Structures Resources

LRS:
John Meeks

LRS # : 8

Project Manager: David Hight

Date: 5-03-04

Check List for Certificate of Completion

	Check List Steps	Yes	No	Comments
1	Has the property been sub-divided? (§60-3-11.2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2	Does the COC address the correct tract (sub-division)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3	Did the applicant request a COC? (§60-3-12.1.c.1)	<input type="checkbox"/>	<input type="checkbox"/>	
4	Has the Final Report been approved? (§60-3-11.2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	--- Statement of Certification signed by the LRS and applicant (§60-3-11.9)	<input type="checkbox"/>	<input type="checkbox"/>	
	Contents of the COC			
5a	-----Legal description (§60-3-12.3.a.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5b	-----List of Chemicals of Concern (§60-3-12.3.a.2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5c	-----Voluntary Remediation Agreement (§60-3-12.3.a.3)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5d	-----Final Report (§60-3-12.3.a.4)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5e	-----Deed restriction (§60-3-12.3.a.5)	<input type="checkbox"/>	<input type="checkbox"/>	NA
5f	-----Land Use Covenant (§60-3-12.3.a.5)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5g	-----Engineering Controls (§60-3-12.3.a.5)	<input type="checkbox"/>	<input type="checkbox"/>	NA
6	-----Land Use Covenant recorded (§60-3-13.4)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	pending

Comments:

Facility: **VRP # : 02779**
 Polen Industries/Structures
 Resoucces Parcel 4

Applicant:
 Structures Resources

LRS:
 John Meeks

LRS # : 8

Project Manager: **David Hight**

Date: **4-29-04**

Check List for Final Report

	Check List Steps	Yes	No	Comments
1	Has the property been sub-divided?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2	Does the Final Report address the correct tract (sub-division)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3	Are all reports and work plans required by the VRA incorporated into the Final Report?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4	Ecological De Minimis Check List completed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5	Have all applicable standards been met?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6	Have the Names, Addresses, Telephone Numbers and Fax Numbers of the following been provided?			
6a	-----Current owners of the site	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6b	-----Current operators of the site	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6c	-----Owners and/or operators conducting the remediation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6d	-----Licensed Remediation Specialist	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6e	-----Individual names and titles for each organization	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
7	Site Location			
7a	-----Street address	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
7b	-----Legal description	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
7c	-----Site location map	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8	Engineering Controls Criteria			
8a	-----Cover/cap required	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
8b	-----Treatment system required	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
8c	-----Ground water or surface water monitoring	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Conducted under Remedial Action Workplan for Parcel 2
8d	-----Monitoring schedule	<input type="checkbox"/>	<input checked="" type="checkbox"/>	See RAWP Parcel 2
9	Institutional Controls			
9a	-----Deed restriction	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9b	-----Land Use Covenant	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Restriction on extraction of groundwater except for monitoirng purposes
9c	-----Site map identifying control areas	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No control areas other than groundwater restrictioins
10	Statement of Certification signed by the LRS and applicant	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Comments:
