City of St. Marys

418 Second Street
ST. MARYS, WEST VIRGINIA 26170
Phone: (304) 684-2401
Fax: (304) 684-2463

November 3, 2008

Mr. Ken Ellison, Director
WVDEP, Division of Land Restoration
601 57th Street
Charleston, WV 25304

Dear Mr. Ellison:

Enclosed please find a copy of the recorded LAND USE COVENANT. As per my instructions, a copy is being mailed to you and to Mr. Don Martin as well.

If you have any questions, please contact City Manager Thomas E. Painter.

Sincerely,

Linda K. Wilson

Linda K. Wilson, CMC
City Recorder

Enclosure

cc: Don Martin

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DEP Office of
Environmental Remediation

SUE E MORGAN
PLEASANTS County 04:02:38 PM
Instrument No 582628
Date Recorded 10/22/2008
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Book-Page 270-324
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LAND USE COVENANT

This is an environmental covenant executed pursuant to the Voluntary Remediation and Redevelopment Act, West Virginia Code Chapter 22, Article22, and the Uniform Environmental Covenants Act, West Virginia Code Chapter 22, Article 22B, to restrict the activities on, and uses of, the following described property:

That certain property, located at Creel Street in St Marys District, Pleasants County, West Virginia and more particularly described in a deed of record in the office of the Clerk of the County Commission of Pleasants County, Deed Book 53 Page Number 135, and as depicted in the attached drawing "Proposed Area for Voluntary Remediation Agreement Certificate of Completion VRRP# 07398", dated January 2006. The geographic location of the Site is within the Raven Rock 7.5 minute, United States Geologic Survey (USGS) Topographic Quadrangle at Northing 4359908.463, and Easting: 481935.114[1].

Activities on and uses of the above describe property that may result in excessive human exposure or in the release of a contaminant that was contained as part of the remedial action related to this covenant are prohibited. Those activities and uses include, but are not limited to:

- **Groundwater extraction except for monitoring purposes**
- **Residential land use**

The current owners of record of the property, and their contact information, are:

The City of St Marys
418 2nd Street
St. Marys, WV 26170

Any person, including a person that owns an interest in the real property, the state or federal agency determining or approving the environmental response project pursuant to which an environmental covenant is created, or a municipality or other unit of local government may be a holder of an environmental covenant. The following are all of the holders of this covenant:

The City of St Marys
418 2nd Street
St. Marys, WV 26170

and

West Virginia Department of Environmental Protection (WVDEP)
601 57th Street, SE
Charleston, WV 25304

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[1] Source: UTM 17, NAD 83, 84W to 78W, meters

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OCT 31 2008
CITY OF ST. MARYS

The facts regarding the remediation response project at this property are:

The Pennzoil-Quaker State Company, doing business as SOPUS Products (PQS) initiated remediation activities in the area of the City of St. Marys property and waste water treatment plant. The remediation was associated with petroleum releases attributed to the St. Marys Refinery product transfer lines (located from the river load-out to the refinery property on the east side of State Rt. 2) in response to contamination discovered during geotechnical investigations for the upgrade of the waste water treatment plant. PQS entered the site into the Voluntary Remediation and Redevelopment Program, administered by the West Virginia Department of Environmental Protection (WVDEP).

The limits of the Site, the City of St. Marys Wastewater Treatment Plant (WWTP) Expansion Project, are outlined in the Voluntary Remediation Program (VRP) Application submitted by PQS to the WVDEP on July 28, 2005. The application was accepted and a Voluntary Remediation Agreement (VRA) for cleanup was executed for the Site by WVDEP on March 6, 2006.

The Site is on a portion of property owned by the City of St. Marys along Alley A near Creel Street in St. Marys, Pleasants County, West Virginia. The Site is bordered by Creel Street and the Ohio River. The attached figure presents an outline of the area associated with this Land Use Covenant.

Up to 2 feet of Light Non-Aqueous Phase Liquid (LNAPL) consistent with a possible fuel release was removed using via Dual-Phase Extraction (DPE) with no rebound following cessation of DPE operation. Constituents of Concern (COCs) identified in soil prior to remediation include benzene, toluene, ethylbenzene, total xylenes, 1,2,4 trimethylbenzene, 1,3,5 trimethylbezene, naphthalene, benzo(a)anthracene, total petroleum hydrocarbons-gasoline range organics (TPH/GRO). and total petroleum hydrocarbons-diesel rrange organics (TPH/DRO). Dissolved-phase COCs in groundwater include benzene, toluene, naphthalene, 1,2,4 trimethylbenzene, 1,3,5 trimethylbezene, n-propylbenzene, and TPH/DRO. Upon completion of DPE remediation, residual soil and groundwater COC concentrations were addressed via bio-venting. Post remediation soil and groundwater sample results attain the Uniform Standard established under the WVDEP Voluntary Remediation Program (VRP). Non-residential exposure pathways evaluated under the Uniform Standard include: vapor intrusion from soil and groundwater and worker exposure via direct contact to soil and groundwater.

The owner(s) of the property shall provide written notice to the Secretary of the Department of Environmental Protection within 10 days following transfer of a specified interest in the property subject to this covenant, changes in use of the property, application for building permits regarding the property, or proposals for any site work affecting the contamination on the property.

The owner(s) shall conduct inspections of the property to monitor compliance with this Land Use Covenant at least one time per year, and shall submit two (2) signed copies of the

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inspection monitoring report to the WVDEP, DLR headquarters in Charleston, within thirty (30) days of the inspection.

This covenant relieves the applicant and subsequent successors and assigns from all civil liability to the state as provided under West Virginia Code Article 22 of Chapter 22 and shall remain in effect so long as the property complies with the applicable standards in effect at the time this covenant was issued.

This 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 the Secretary of the West Virginia Department of Environmental Protection, or his successor in accordance with regulations promulgated by the Secretary or his successor. Within 5 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 Pleasants County Commission, and within 5 days thereafter, the Owner shall provide a true copy of the recorded amendment, modification or termination to the Secretary of the Department of Environmental Protection.

The administrative record for the environmental response project reflected in this covenant is maintained in the **West Virginia Department of Environmental Protection, Division of Land Restoration, 601 57th Street, SE, Charleston, WV 25304** and is entitled

Shell Refinery PQS – St Marys WWTP
VRRA Project # 07398.

The West Virginia Department of Environmental Protection is granted full right of access to the property for the purpose of implementation or enforcement of this covenant.

All restrictions and other requirements described in this covenant shall run with the land and shall be binding upon all holders and their grantees, lessees, authorized agents, employees or persons acting under their direction or control.

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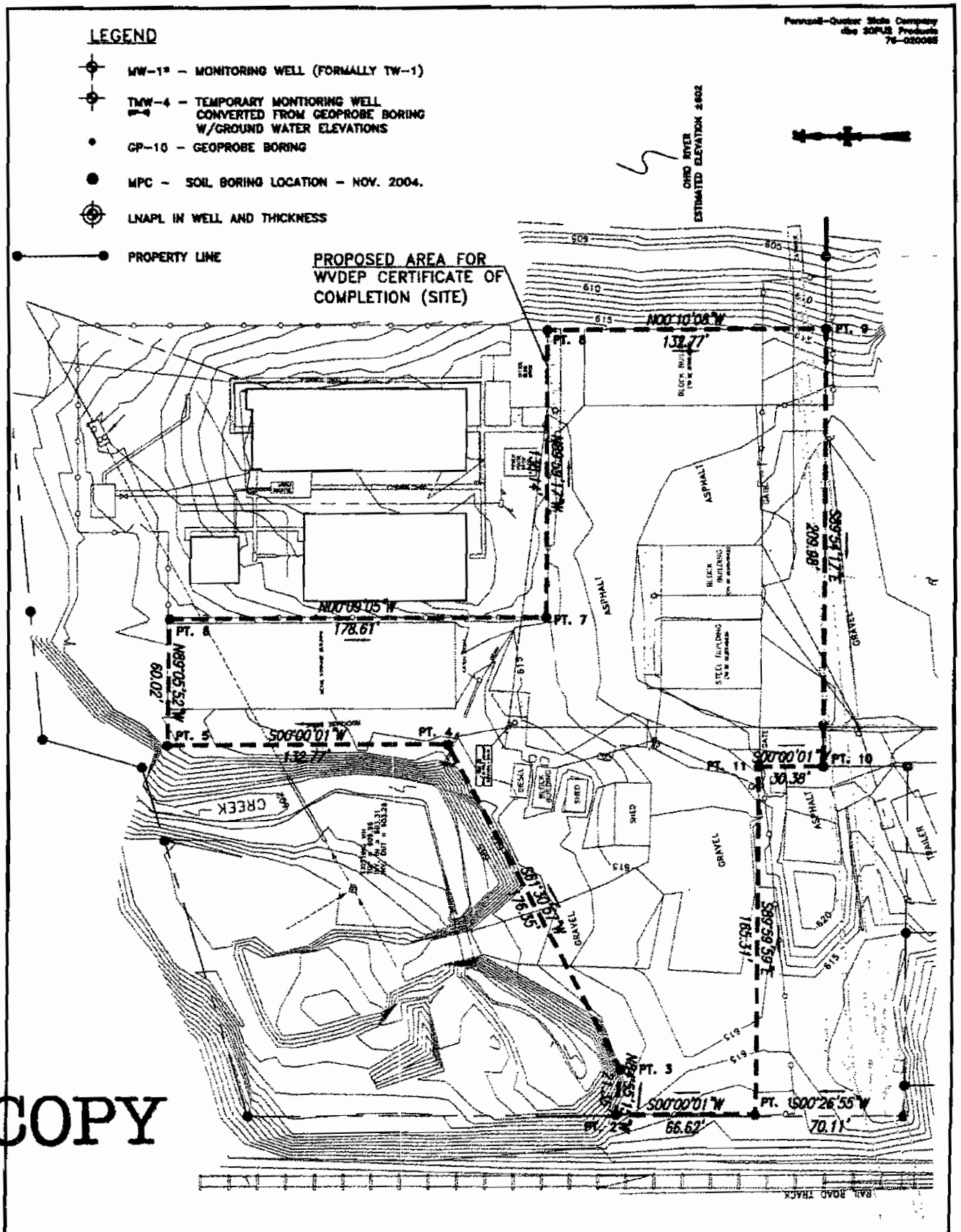

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MALCOLM PIRNIE

FIGURE 1

PROPOSED AREA FOR VOLUNTARY REMEDIATION AGREEMENT CERTIFICATE OF COMPLETION VRRP#07398

SCALE: 1" = 60'

MALCOLM PIRNIE, INC.

JANUARY 2006

IN WITNESS WHEREOF, the following holders have executed this covenant on the dates indicated.

L. Paul Ingram — 10/22/08

SIGNED: L. Paul Ingram, Mayor
City of St. Marys, WV

Date:

I, Linda K. Wilson, a Notary Public in and for the County of Pleasants, State of West Virginia, do hereby certify that the holder(s) whose (name is) (names are) signed above, this day executed this document in my presence or this day acknowledged same to be the true act and deed of said holder(s).

Given under my hand this the 22nd day of October, 20 08.

Notary Public
Linda K. Wilson

NOTARY PUBLIC OFFICIAL SEAL
STATE OF WEST VIRGINIA
LINDA K. WILSON
CITY OF ST. MARYS
418 SECOND STREET
ST. MARYS, WV 26170
MY COMMISSION EXPIRES DEC. 10, 2016

Ken Ellison — 10/14/08

SIGNED:
Mr. Ken Ellison
Director
WVDEP, Division of Land Restoration

Date:

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I, Rhonda F. McGlothlin, a Notary Public in and for the County of Kanawha, State of West Virginia, do hereby certify that the holder(s) whose (name is) (names are) signed above, this day executed this document in my presence or this day acknowledged same to be the true act and deed of said holder(s).

Given under my hand this the 14th day of Oct., 2008.

Notary Public
Rhonda F. McGlothlin

Prepared by Rhonda F. McGlothlin.

OFFICIAL SEAL
NOTARY PUBLIC STATE OF WEST VIRGINIA
RHONDA F. McGLOTHLIN
WV [illegible]
601 57th STREET, S.E.
CHARLESTON, WV 25304
My Commission Expires April 18, 2010