

LAND USE COVENANT

This is an environmental covenant executed pursuant to the Voluntary Remediation and Redevelopment Act, West Virginia Code Chapter 22, Article 22, 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:

825 Don Knotts Boulevard (formerly University Avenue), Monongalia County, West Virginia and more particularly described in a deed of record (Deed Book 1237 & 1055, Page 180 & 230) in the office of the Monongalia County Clerk, West Virginia as Parcel Nos. 31 and 31.1 and 32 and 32.1 of First Ward Map 28 of Monongalia County, West Virginia.

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:

The Property may not be used for any purposes other than "Non-Residential purposes" as that term is defined in W. Va. Code § 22-22-2(q).

No excavation, drilling or penetration of paved area in the cross-hatched area depicted in attached Figure 1, shall be conducted without prior notification to the Secretary of the West Virginia Department of Environmental Protection. Prior to initiating excavation or other restricted activities, an appropriate property-specific Health and Safety Plan, identifying proper controls and protective measures to prevent environmental releases and worker exposure to chemical hazards, shall be approved by a West Virginia Licensed Remediation Specialist. The owner shall otherwise manage the use of the restricted area in accordance with the Voluntary Remediation and Redevelopment Act.

This covenant prohibits extraction of groundwater on the Property for any use, except monitoring.

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

PATKEN LIMITED LIABILITY
Patricia A. & Kenna J. Weaver
PO BOX 697
Morgantown, WV 26507-0697

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:

PATKEN LIMITED LIABILITY
Patricia A. & Kenna J. Weaver
PO BOX 697
Morgantown, WV 26507-0697

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

The property was utilized for residential purposes until the late 1940's. A historical review indicates that the property was utilized for retail petroleum and automotive repair sales from at least 1968 through to 1990.

At the termination of site operations in 1990, the site contained three 8,000-gallon gasoline USTs, one 1,000-gallon used oil UST and a single-story station building that contained two service bays. The site has remained vacant since 1990. The USTs were removed in 1991. The station building was torn down in 2005.

Sunoco removed four USTs in March 1991. Residual soil impacts were addressed with passive soil vapor extraction and in March 1992 key monitor wells were tied into a groundwater extraction system. In April 1993, MW-6, MW-12, MW-13 and VE-3 were converted to groundwater recover wells. Wells VE-1, VE-2, VE-3, VE-4, VE-5, MW-5, MW-6, and MW-11 through MW-15 were also utilized as venting wells.

In 1995, remedial efforts were focused on a single extraction point, MW-14. A total of 247 gallons of groundwater was extracted during a 1997 enhanced fluid recovery (EFR) event on MW-14. Previous reports indicate that the remediation system recovered approximately 589 gallons of product from 1990 through 1998.

In 2001, the remedial system was upgraded and utilized MW-14 as the single extraction point. In January 2003, the remediation system was deactivated due to limited effectiveness. Approximately 125,100 gallons of groundwater were recovered and treated from 2001 to 2003. Hydrocarbon recovery data collected during this period indicate that 9.73 pounds of dissolved phase hydrocarbons were recovered.

In June 2003, Oxygen Releasing Compounds (ORC), nutrients, and a small amount of hydrocarbon degrading bacteria (bioslurry) were injected. Injection points were selected up gradient of MW-2 and MW-14. The bioremediation consisted of three ORC, two nutrient and three bioslurry injections. The bioslurry event was supplemented in November 2004 and July 2005 with the injection of a 10% hydrogen peroxide solution via injection points OW-1, OW-2 and OW-3. The hydrogen peroxide injection events resulted in a reduction of benzene in MW-14. The site was subsequently monitored for attainment until June 2007, when it was accepted into the VRR program.

Site investigations have included the advancement of soil borings and the installation of monitor wells. Soil samples were collected from the borings and analyzed for the presence of various constituents of concern. Low levels of benzene, total benzene, toluene, ethylbenzene and xylenes (BTEX) and total petroleum hydrocarbons in

the gasoline range organics (TPH-GRO) have been detected in soil. Low levels of benzene have been detected in groundwater.

Based on a non-residential risk exposure assessment and the restrictions presented by paragraph three of this covenant, there are no hazards associated with the constituents that remain onsite.

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

This covenant relieves the applicant, owner, 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.

The administrative record for the environmental response project reflected in this covenant is maintained in the WVDEP, Division of Land Restoration, 601 57th St., Charleston, WV 25304 and is entitled, Sunoco 0002-1758, Morgantown, VRP # 07572.

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.

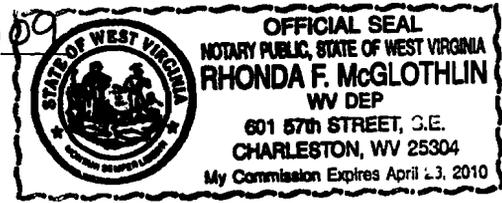
IN WITNESS WHEREOF, the following holders have executed this covenant on the dates indicated.

SIGNED: Ken Ely Date: July 10, 2009

I, Rhonda J. 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 13th day of July, 2009

Notary Public



SIGNED: Rhonda F. McGlothlin Date: July 13, 2009

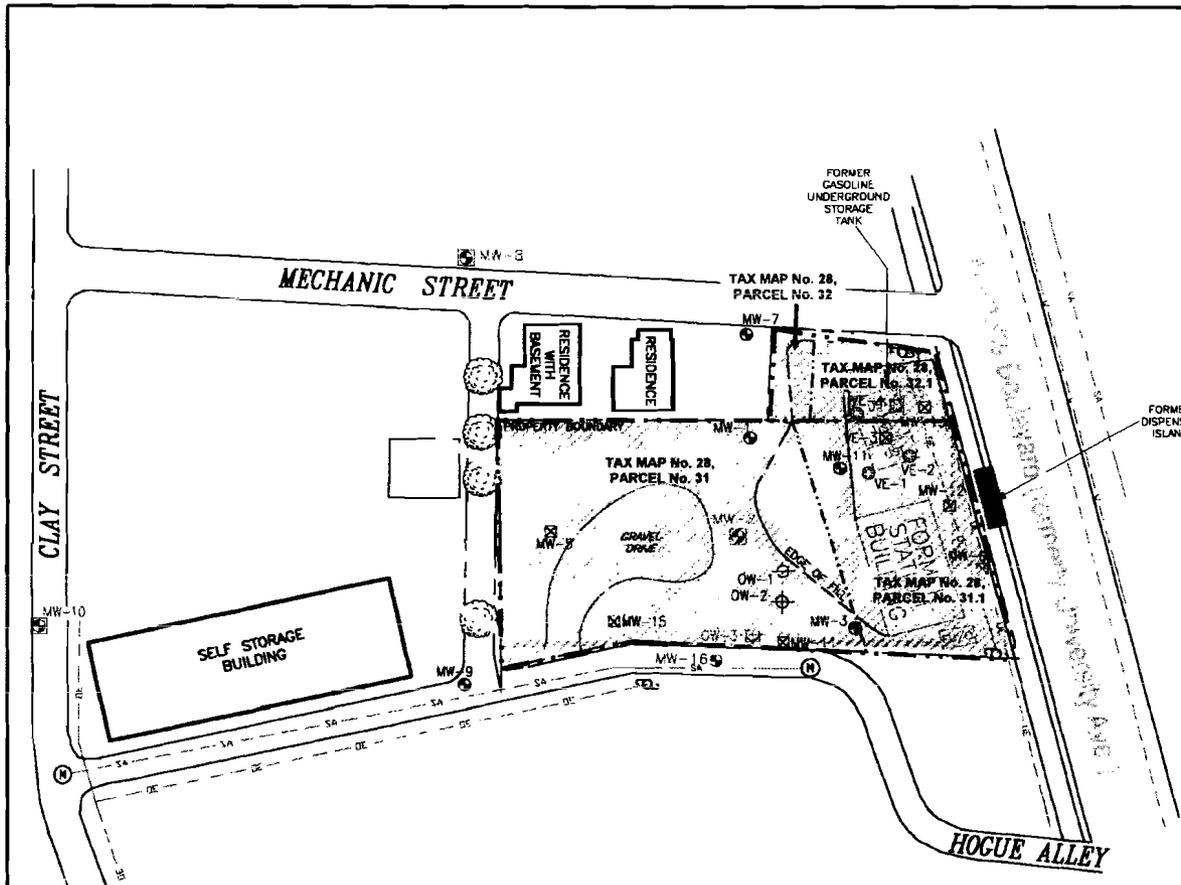
WV Department of Environmental Protection

I, _____, a Notary Public in and for the County of _____, State of _____, 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 ____ day of _____, 20____.

Notary Public

It is requested that a true and executed copy of this recorded Land Use Covenant be forwarded to the Secretary of the West Virginia Department of Environmental Protection to the following address: Ken Ellison, Director, WVDEP-DLR, 601 57th Street, SE, Charleston, WV 25304.



LEGEND

- ⊕ UTILITY POLE
- ⊗ SEWER MANHOLE
- ⊙ MONITORING WELL
- ⊕ RECOVERY WELL
- ⊗ ABANDONED WELL
- ⊙ VENTING WELL
- ⊕ OBSERVATION WELL
- UE --- UNDERGROUND ELECTRIC LINE
- OE --- OVERHEAD ELECTRIC LINE
- SA --- SANITARY SEWER LINE
- W --- WATER LINE
- T --- TRENCHING
- P --- PROPERTY BOUNDARY
- B --- PARCEL BOUNDARY

AREA REQUIRING PROCEDURES SPECIFIED IN THE LAND USE COVENANT FOR EXCAVATION AND/OR PENETRATION BELOW THE GROUND SURFACE

NOTES:

- 1) VRP No. 07572
- 2) TAX ID No. 23-1743283
- 3) MAP 28 FIRST WARD

DRAFTED BY JLV	LAND USE COVENANT FIGURE		
CHECKED BY NJL	FORMER SUNOCO FACILITY (DUNS #0002-1758)		
REVIEWED BY	825 DON KNOTTS BOULEVARD		
	MORGANTOWN, WEST VIRGINIA		
NORTH	GROUNDWATER & ENVIRONMENTAL SERVICES, INC.		
	800 Commonwealth Drive, Suite 201, Warrendale, PA 15086		
	SCALE IN FEET	DATE	FIGURE
	0 50	07/29/08	