



west virginia department of environmental protection

Division of Land Restoration
601 57th Street SE
Charleston, WV 25304
(304) 926-0455

Joe Manchin III, Governor
Randy C. Huffman, Cabinet Secretary
www.wvdep.org

September 16, 2010

Larry Sweeney
Delta Environmental Consultants
565 Allegheny Avenue, Suite 100
Oakmont, PA 15139

CERTIFIED MAIL: 91 7108 2133 3937 0432 2923

RE: Land Use Covenant for Former Rich Oil # 7230
1229 State Route 152, Wayne County, VRP # 07811

Dear Mr. Sweeney:

Enclosed please find the signed and notarized Land Use Covenant for the subject parcel. Please make arrangements to have the land use covenant properly recorded with the Wayne County Clerk, and request the Clerk to return a copy of the recorded instrument to my attention:

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

The Land Use Covenant will become a part of the Certificate of Completion to be issued for the subject site, once the Final Report is completed and approved.

Thank you for your attention to this matter, and please feel free to contact Assistant Director Don Martin (304-926-0499, ext. 1275) or me if you have any questions.

Sincerely,

Ken Ellison
Director

Enclosure

cc: Gary Allen, Ashland Oil Inc., 5200 Blazer Parkway, Dublin, OH 43017 w/out enclosure
Don Martin, Assistant Director
Ruth Porter, Project Manager
File: VRP #07811

Promoting a healthy environment.

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:

The property subject to the covenant is located at 1229 State Route 152, Wayne, Wayne County, WV. A map of the property is provided as Exhibit A and the legal description of the property consists of the following:

“Being known and designated as Lot Number 14 in the Shumate Addition to the town of Wayne and beginning at a stake on the line of right of way on the Norfolk and Western Railway Company at the upper end of said lot; then N 13° E 45 feet to a stake thence N 88° 15' E 90 feet to a stake thence S 8° 30' E 35 feet to a stake on line of right of way of said railroad company thence with the same S 81° 35' W 116 feet to the beginning.”

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:

- a) 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).
- b) No construction, excavation, or disturbance of subsurface soils shall be conducted without prior notification to the Secretary of the West Virginia Department of Environmental Protection. Prior to initiating excavation 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 current owners of record of the property, and their contact information, are:

Mr. James R. Ramey
100 Palo Alto Street
Wayne, West Virginia 25571
Phone: 304-272-999

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:

Mr. James Ramey

The facts regarding the remediation response project at this property are: The property was previously used as a retail petroleum facility, and was occupied under a lease agreement from 1972 to 1985 by a service station operated by Rich Oil Inc. (a subsidiary of Ashland Inc.) Underground storage tanks were removed sometime prior to January 1987. Site investigations were initiated following the discovery of a petroleum release, which was reported to WVDEP in April 1999. A series of assessment activities found soils had been impacted by petroleum products in the vicinity of the former pump island and the former tank pit. The extent of soil impacts was fully delineated. Groundwater impacts were noted beneath the site historically, but have since been abated to below De Minimis levels. Soil vapor samples found detectable concentrations of several volatile organic compounds. Of the suite of compounds most commonly associated with the presence of gasoline, only two – benzene and toluene- were detected in site soil vapor samples, and at very low concentrations. The soil gas data was fully evaluated in the risk assessment and was shown to be acceptable.

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 once 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. The written report shall describe the inspection performed, the observations made, and any corrective actions taken.

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 in accordance with W. Va. Code § 22-22B-10, by and between the Owner at the time of the proposed amendment, modification or termination, the Secretary of the West Virginia Department of Environmental Protection, and the holders of this covenant. 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 Wayne 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 office and is entitled "*Rich Oil # 7230, VRP Site No. 07811*".

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 holder has executed this covenant on the date indicated.

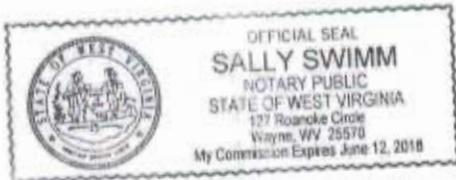
MR. JAMES R. RAMEY

SIGNED: [Signature]

DATE: 4-21-10

Printed: James Ramey

I Sally Swimm, A Notary Public in and for the County of Wayne
WV, State of WV, do hereby certify that the
holder(s) whose (name is) (names are) signed above, this day executed this document in my
presence on this day and acknowledged same to be the true act and deed of said holder(s).



[Signature]
Notary Public

IN WITNESS WHEREOF, the following agency has executed this covenant on the date indicated.

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

SIGNED: Ken Ellison

DATE: 9/16/10

Printed: Ken Ellison

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

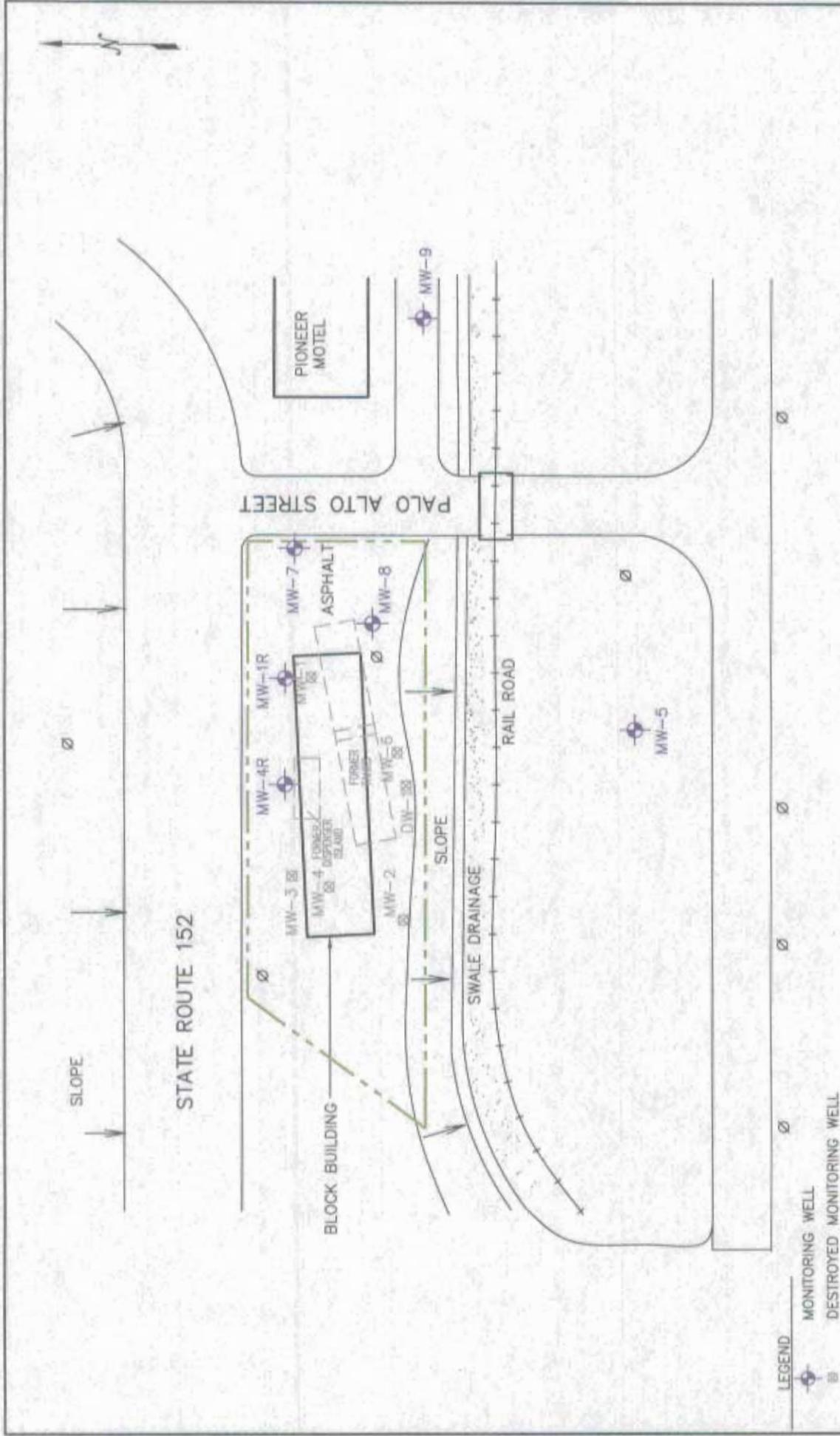


Jessica A. Henson
Notary Public

**EXHIBIT A
TO LAND USE COVENANT**

LEGAL DESCRIPTION OF THE PROPERTY

“Being known and designated as Lot Number 14 in the Shumate Addition to the town of Wayne and beginning at a stake on the line of right of way of the Northfork and Western Railway Company at the upper end of said lot; thence N 13° E 45 feet to a stake thence N 88° 15' E 90 feet to a stake thence S 8° 30' E 35 feet to a stake on line of right of way of said railroad company thence with the same S 81° 35 W 116 feet to the beginning.”



SITE MAP
 FORMER RICH OIL No. 7230
 ROUTE 152 AND PALO ALTO STREET
 WAYNE, WAYNE COUNTY, WEST VIRGINIA

PROJ. NO.	PREP. BY	DRAWN BY
Q0WV-169	JMH	LRS
DATE	REV. BY	SCALE
3/18/10	KMB	1" = 30'

