



# CITY OF CLARKSBURG

222 WEST MAIN STREET • CLARKSBURG, WV 26301

October 27, 2009

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



Re: "Quality Foundry"  
Land Use Covenant

Dear Ken Ellison:

Per your instructions, please find the enclosed Land Use Covenant for the Quality Foundry site, signed and notarized by Martin Howe, City Manager of Clarksburg. The city has had this Land Use Covenant filed and properly recorded.

If you have any questions or if I can be of any further assistance please don't hesitate to contact me at your convenience. I can be reached Monday through Friday from 8 a.m. to 4:30 p.m. at (304) 624-1681 or by email at [abellotte@cityofclarksburgwv.com](mailto:abellotte@cityofclarksburgwv.com).

Sincerely,

Anthony N. Bellotte  
Grant Writer/ Project Manager

Enclosure: "Quality Foundry" Land Use Covenant

**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 (comprised of approximately 0.4 acre – Attached Site Map – Exhibit A):

“All those certain lots or parcel of land situate on Stiles Street, in Montpelier Addition, in the City of Clarksburg, Coal District, Harrison County, West Virginia, being numbered, known and designated as Lots Nos. One Hundred (100), One Hundred One (101), One Hundred Two (102) and One Hundred Three (103), as shown on “Montpelier Plat No. 1 Jackson – Snider and Maxwell Addition to Clarksburg, W.Va.”, which plat is of record in the Office of the Clerk of the County Commission of Harrison County, West Virginia, in Deed Book No. 265 at pages 272-275, said Lot No. 100 having a frontage of 40 feet on the northwesterly side of Stiles Street and extending back therefrom in a northwesterly direction 112.4 feet on its southerly side and 110.6 feet on its northerly side to the southeasterly side of Snider Street, formerly Wholesale Street, on which it has a width of 40.1 feet; said Lot No. 101 having a frontage of 40 feet on the northwesterly side of Stiles Street and extending back therefrom in a northwesterly direction 110.6 feet on its southerly side and 108.9 feet on its northerly side to the southeasterly side of Snider Street, on which it has a width of 40.1 feet; said Lot No. 102 having a frontage of 40 feet on said Stiles Street and extending back therefrom in a northwesterly direction 108.9 feet on its southerly side and 107.1 feet on its northerly side to the southeasterly side of said Snider Street, on which it has a width of 40.1 feet; said Lot No. 103 having a frontage of 40 feet on said northwesterly side of Stiles Street and extending back therefrom in a northwesterly direction 107.1 feet on its southerly side and 105.3 feet on its northerly side to the southeasterly side of Snider Street, formerly Wholesale Street, on which it has a width of 40.1 feet.”

Activities on and uses of the above described 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 Owner shall restrict the uses of the property to commercial/industrial (nonresidential) uses.
- The withdrawal and/or any use of groundwater at the site is prohibited, except for monitoring purposes.

YOUNG MORGAN AND CANN, PLLC  
363 LEE AVENUE  
CLARKSBURG, WV 26301-3757

Susan J Thomas  
HARRISON County 03:09:56 PM  
Instrument No 200900034614  
Date Recorded 10/21/2009  
Document Type CVR  
Book-Page 1438-114  
Recording Fee \$5.00  
Additional \$6.00

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

The City of Clarksburg  
222 West Main Street  
Clarksburg, West Virginia 26301  
Contact Name: Mr. Martin Howe, City Manager  
Telephone: 304/624-1677  
Fax Transmission: 304/624-1662

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 Clarksburg

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

- Due to the City's interest in the site, the "Quality Foundry" property became the subject of two (2) grants that were awarded to the City by the USEPA. These were a Brownfields Demonstration Pilot Assessment grant, awarded to the City by the US EPA in 2001, and a Fiscal year (FY) 2006 Brownfields Cleanup grant, awarded to the City in October 2006.
- Non-residential exposure assumptions were used to comply with a De Minimis remediation standard.
- Metals (predominantly arsenic and lead) in soils and friable asbestos in former foundry process and building construction materials were identified at concentrations above their human-health Risk Based Concentrations (RBCs) / other applicable action levels during site investigation activities in 2003 and initial remediation activities in 2007. Asbestos containing materials were properly abated, the foundry building was demolished, and contaminated soils were removed (approximately 624 tons) and properly disposed of offsite during the 2007 remediation activities at the site. Residual concentrations of metals (predominantly arsenic and lead) remain in soils in some areas of the site, but at levels below the human-health based De Minimis RBCs for these chemical parameters in non-residential / industrial soils. Potential pathways of exposure could include dermal contact and ingestion or inhalation of fugitive dust, which would primarily be expected to affect non-residential / site workers during periods of construction and/or installation, repair, or maintenance of underground utilities.

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 (1) 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 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 Harrison 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 57<sup>th</sup> Street, Charleston, WV 25304, 304-926-0455, and is entitled "Quality Foundry, VRP Project# 08535".

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: *[Signature]*

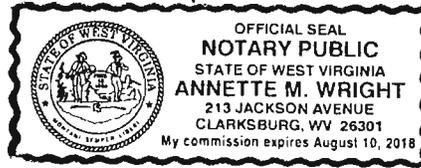
Date: 9/21/09

CITY OF CLARKSBURG

I, Annette M. Wright, a Notary Public in and for the County of Harrison, State of West Virginia, do hereby certify that the holder whose name is 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.

Given under my hand this the 21<sup>st</sup> day of September, 2009.

Notary Public



*[Signature]*  
SIGNED: *[Signature]*

Date: 10/8/09

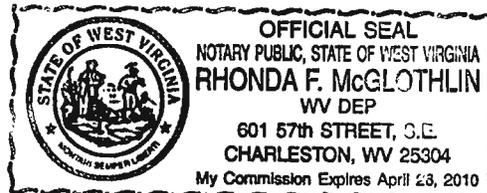
WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

I, Rhonda F. McGlothlin, a Notary Public in and for the County of Kanawha, State of West Virginia, do hereby certify that the holder whose name is 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.

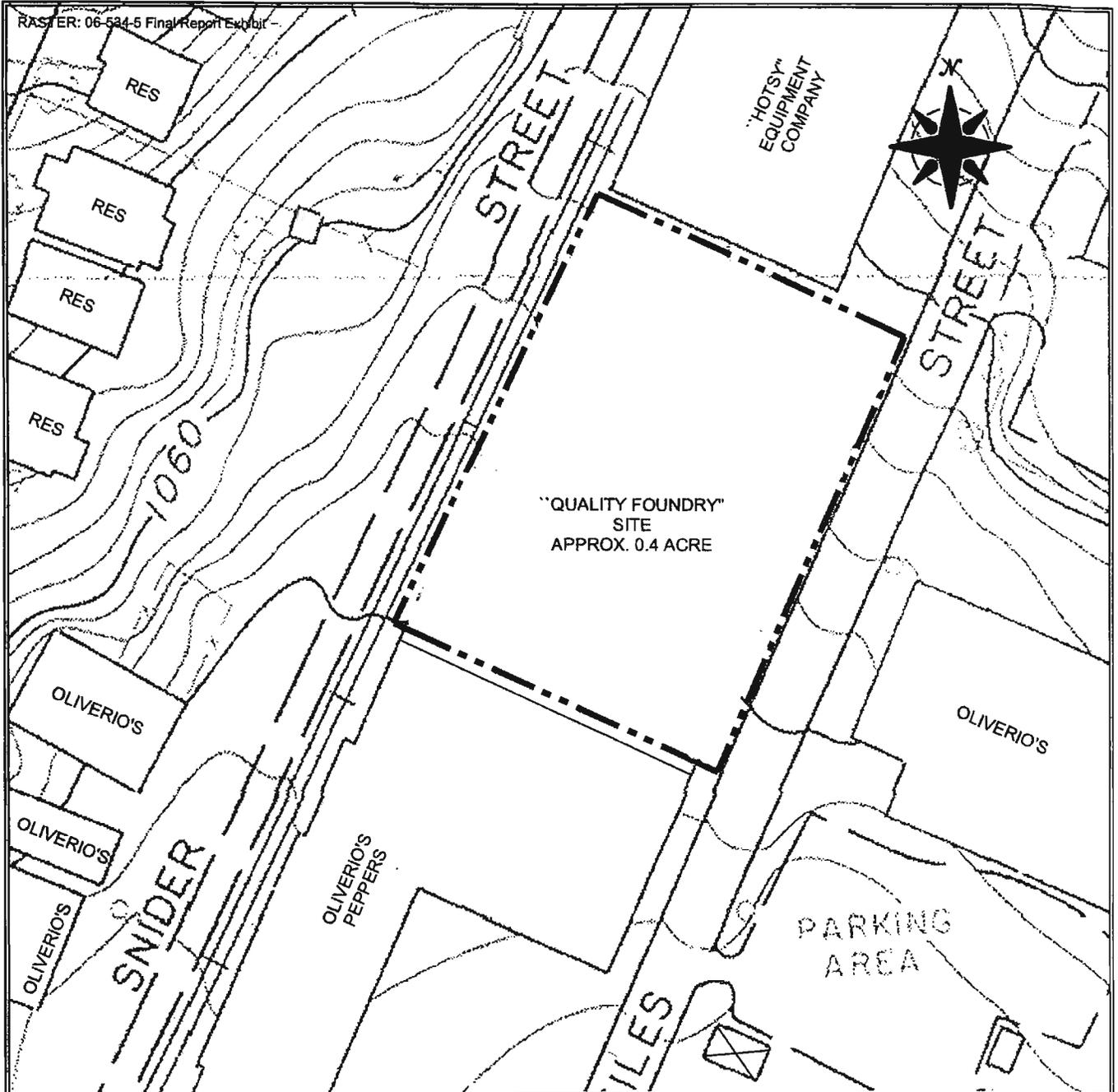
Given under my hand this the 8<sup>th</sup> day of October, 2009.

Notary Public

*[Signature]*  
My Commission Expires  
April 26, 2010



RASTER: 06-534-5 Final Report Exhibit



**LEGEND**

- APPROX. PROPERTY LIMITS
- RES RESIDENCE

**REFERENCE**

AERIAL SURVEY BY  
 ABRAMS AERIAL SURVEY CORPORATION  
 DATED MARCH 1974.

**CITY OF CLARKSBURG**

**"QUALITY FOUNDRY" SITE  
 LAND USE COVENANT  
 SITE MAP**

Drawn by	RLR	8/31/09
Engineer	CRM	8/31/09
Checked by	CRM	8/31/09
		Date

Scale: NO SCALE

Dwg. No.

**EXHIBIT  
 A**

Prepared by **MSES consultants, inc.**