

LAND USE COVENANT

BOOK

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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:

Building 102 at DNSC Point Pleasant Depot
Point Pleasant, WV 25550
United States of America, Deed Book 120, Page 465, Parcel No. 1

GIS coordinates for the Land Use Covenant:

<u>Corner</u>	<u>Easting X</u>	<u>Northing Y</u>
NE	401560.75936	4303441.20365
SE	401580.60861	4303338.86535
NW	401496.41676	4303428.65323
SW	401518.46105	4303325.92984

Coordinate system: NAD_1983_UTM_Zone_17N Meters. Attachment A provides a map of the proposed site location with GIS coordinates.

Activities on and uses of the above describe property that may result in excessive human exposure or in the release of a contaminant that remains following the remedial action related to this covenant are prohibited. Those activities and uses are:

- Uses of the property for any purpose other than nonresidential use as defined by the Voluntary Remediation Act (West Virginia Code §22-22-2, et seq.)

The current owner of record of the property, and its contact information, is:

United States of America acting by and through the Administrator of General Services
c/o Rob Hewell
Regional Commissioner
Public Buildings Service (3P)
General Services Administration
20 N. 8th Street
Philadelphia, PA 19107

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. KEN ELLISON DIRECTOR WVDPEP, DLR
601 57TH STREET
CHARLESTON, WV 25304-2345

United States of America acting by and through the Administrator of General Services
c/o General Services Administration
20 N. 8th Street
Philadelphia, PA 19107

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

During Remedial Investigation activities in 2008, the following impacts were determined:

- Building 102 exterior outfalls and beneath the interior concrete slab were impacted by elemental mercury.

The Remedial Action Objective (RAO) for Building 102 remediation was to reduce risk from surface and subsurface soils to levels that are protective of human health and the environment.

Based on confirmatory sampling results, the Building 102 interior, exterior loading docks, and exterior loading dock outfalls were excavated to a horizontal and vertical extent so that mercury concentrations remaining in the excavation sidewalls and floor were significantly below the target cleanup goal. In addition, supplemental sampling conducted on soil, groundwater, sewerline and sump sediment, and sump water in the vicinity of Building 102 indicated that mercury contamination has not migrated beyond the boundaries of the excavation area. With the removal of elemental mercury and mercury-contaminated soils from Building 102, there will be no future offsite migration concerns.

Nonresidential exposure assumptions were used to meet the remediation standard. Concentrations from soil confirmation samples meet the industrial De Minimis standard of 610 mg/kg for mercury and the concentrations from mercury vapor survey samples meet the published USEPA industrial air screening level of 1,300 ng/m³.

Groundwater immediately adjacent to and downgradient from Building 102 and the VRA project site boundary, based on limited data, does not indicate concern or exceedances of WVDEP de minimis criteria.

The owner(s) of the property, United States of America acting by and through the Administrator of General Services (GSA), 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 property owner(s) and its grantees or assigns shall conduct, or cause to be conducted, inspections of the property to monitor compliance with this Land Use Covenant at least 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 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 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 of Environmental Protection, 601 57th Street, Charleston, WV 25304 and is entitled DNSC Point Pleasant Depot.

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.

[Signature] _____ Date: 9-1-2011
Regional Commissioner, General Services Administration

I, Gail Gallagher, a Notary Public in and for the County of Philadelphia State of Pennsylvania, 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 1st day of September, 2011.

My commission expires May 13, 2014.

Gail Gallagher
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
GAIL GALLAGHER, Notary Public
City of Philadelphia, Phila. County
My Commission Expires May 13, 2014



Ken Ellison

9/6/11

Secretary, WV Department of Environmental Protection

Date

I, Jessica A. Henson, a Notary Public in and for the County of Kanawha, State of West Virginia, do hereby certify that Ken Ellison, whose name is signed to the writing above as the representative of the agency, has 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 6th day of September, 20 11.

My commission expires April 7, 2020.

Jessica A. Henson
Notary Public

The Clerk will return the recorded document to:
Mr. Ken Ellison, Director
WVDEP, DLR
601 57th Street
Charleston, West Virginia 25304



[The document must contain the notarized signature(s) of the agency, every holder and, unless waived by the agency, every owner of the fee simple of the real property subject to the covenant.]

[Repeat the Signature and Notary materials as many times as needed. If several holders sign before the same Notary, their signatures may be listed together and only one Notarization, referring to all such holders, will be needed for those signatures.]

[This covenant, and any amendment or termination of this covenant, must be recorded in every county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder shall be treated as a grantee.]

