

Tax Map Nos: 40-9B, 40-9C, 40-9E
Prepared by: Draper Aden Associates, Richmond, Virginia (DAA)
Prepared for: Thomas J. Liesfeld
Program Site ID#: CERCLIS ID: VAD089028963

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UNIFORM ENVIRONMENTAL COVENANT (UECA)

This environmental covenant is made and entered into as of the 3RD day of APRIL 2019 by and between Thomas J. Liesfeld, whose address is 859 Ben Hatcher Road Waynesboro, Georgia 30830 (hereinafter referred to the "Grantor" or "Owner"), and Thomas J. Liesfeld, (hereinafter referred to as the "Grantee" or "Holder") whose address is 859 Ben Hatcher Road Waynesboro, Georgia 30830.

Virginia Department of Environmental Quality, whose address is 1111 East Main Street, Suite 1400, Richmond, Virginia 23219 (hereinafter referred to as the "Agency") also joins in this environmental covenant.

This environmental covenant is executed pursuant to the Virginia Uniform Environmental Covenants Act, § 10.1-1238 et seq. of the Code of Virginia (UECA). This environmental covenant subjects the Property identified in Paragraph 1 to the activity and use limitations in this document.

1. PROPERTY AFFECTED

The property affected (Property) by this environmental covenant is located at 4101 South Mountcastle Road, Providence Forge Virginia 23140, The Property is located in a rural area of Providence Forge, New Kent County, Virginia approximately 1,500 feet south of the intersection of U.S. Route 60 and Route 615. The property consists of three parcels, Tax Map #40-9B, 40-9C and 40-9E, with a total area of 15.427 acres and is further described as follows:

Tract 1: (Tax Map Parcel # 40-9B):

Beginning at a point on the east line of State Route 615, S Mountcastle Road, thence S 75°24'18" E a distance of 675.06'; thence S 14°35'42" W a distance of 510.00'; thence N 75°24'18" W a distance of 577.30'; thence N 14°31'32" E a distance of 50.00'; thence N 75°24'18" W a distance of 86.85' to the east line of S Mountcastle Road; thence along S Mountcastle Road, N 16°27'56" E a distance of 235.86'; thence N 09°52'01" E a distance of 225.03'; which is the true point of beginning, having an area of 7.664 acres.

This conveyance is made subject to utility easements and recorded restrictions affecting the property hereby conveyed.

Tract 2: (Tax Map Parcel # 40-9C)

Beginning at a point on the east line of State Route 615, S Mountcastle Road, thence S 75°24'18° E a distance of 675.06' to the True Point of Beginning; S 75°24'18° E a distance of 597.89'; thence S 14°35'42° W a distance of 510.00'; thence N 75°24'18° W a distance of 597.89'; thence N 14°35'42° E a distance of 510.00'; which is the true point of beginning, having an area of 7.000 acres.

This conveyance is made subject to utility easements and recorded restrictions affecting the property hereby conveyed.

Tract 3: (Tax Map Parcel # 40-9E)

Beginning at a point on the east line of State Route 615, S Mountcastle Road, thence S 75°24'18° E a distance of 350.00' to the True Point of Beginning; thence N 14°35'42° E a distance of 36.00'; thence S 75°24'18° E a distance of 922.95'; thence S 14°35'42° W a distance of 36.00'; thence N 75°24'18° W a distance of 922.95'; which is the true point of beginning, having an area of 0.763 acres.

2. DESCRIPTION OF CONTAMINATION AND REMEDY

- a. The Administrative records for the environmental response project (CERCLIS ID: VAD089028963) as reflected in the subject UECA Environmental Covenant can be found at:

Virginia Department of Environmental Quality
1111 East Main Street, Suite 1400
Richmond, Virginia 23219

- b. Several wood preserving facilities operated at the Property from about 1978 to 1996. Site activities included the production of treated lumber using a pressure vacuum system, whereby wood is saturated with a compound consisting of chromium, copper, and arsenic (CCA). The production process involved placing untreated lumber in a cylinder with pre-mixed CCA and water. Treated wood was then removed from the cylinder and placed on the drip pad for drying. Around 1988, the Owner acquired the property from a bankruptcy estate and operated a wood preservation facility under the name "L-Wood, Inc. Southern Pine Specialists" (L-Wood) until 1996.

The Agency and the United States Environmental Protection Agency (USEPA) conducted inspections and sampling at the Property from 1985 to 1996. On September 30, 2015, the USEPA issued an Administrative Order for Removal Response Action Docket # CERC-03-2015-0262DC ("Order") requiring the removal of contaminated soil from the surface of the Property and within the drainage channels. The Order identifies two metals listed as constituents-of-concern and established site removal Response Action Levels for each. The Response Action Levels listed in the Order for arsenic and total chromium are 30 milligrams/kilogram (mg/kg), and 63 mg/kg, respectively. Remedy construction

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consisted of excavation of soil and gravel from the former operational areas, and along pathways connecting those areas, to a maximum depth of twenty-four inches (24") below grade, and offsite disposal of excavated materials at permitted facilities. Excavated areas are backfilled to original grade with clean imported material and the site restored to pre-excavation conditions. Following remediation, the USEPA issued a letter stating that "no further response action" is required under the Order #CERC-03-2015-0262DC.

Prior to backfill in two areas of the site identified in Exhibit B as "Limits of Orange Safety Fence", a warning barrier was placed at the bottom of the excavation area. Chemical lab testing of several soil samples collected at the base and side walls of the excavation showed concentrations of arsenic and/or chromium above the Action Levels. The warning barrier (orange safety fencing) placed at the bottom of the excavation indicates that post-excavation testing results for arsenic and/or chromium showed concentrations above the Action Levels. The intent of the warning barrier is to indicate a potential for human exposure to hazardous substances. It is recommended for persons exposed to subsurface soils of the Property, to wear, at a minimum, Level D PPE in order to reduce potential exposure to the higher concentrations of these constituents that are contained in the soil matrix. General Level D PPE includes safety-toe footwear, gloves, and eye protection.

Permanent erosion and sediment control measures were installed in the areas surrounding the former process area, including vegetative cover and new gravel driving surfaces. Three new Dry Swales were installed at the downstream end of the stormwater drainage channels. Dry swales are a permanent Stormwater Best Management Practice (BMP). The Owner signed a maintenance and preservation agreement with the County of New Kent, VA as required for the BMPs.

The Agency and the Property Owner agree in order to be protective of human health and the environment, activity and use limitations are needed. Therefore, The Owner has agreed to utilize this Uniform Environmental Covenant as the mechanism to implement the activity and use limitations. A copy of the DEQ letter demonstrating the need for restrictions is attached as Exhibit A.

3. ACTIVITY AND USE LIMITATIONS

- a. The Property is subject to the following activity and use limitations, which shall run with the land and become binding on Grantor(s) and any successors, assigns, tenants, agents, employees, and other persons under its (their) control, until such time as this covenant may terminate as provided by law:
 1. The Property shall not be used for any purpose other than industrial use unless it is demonstrated to the Agency that such use will not pose a threat to human health the environment, and the Agency provides written approval for such use. Any change in use will require an amendment to this environmental covenant.
 2. Groundwater at the Property shall not be used for any purpose, except for the purpose of environmental sampling, testing or cleanup activities required by the

Agency, unless it is demonstrated to the Agency that such use will not pose a threat to human health or the environment or adversely affect or interfere with the selected remedy and the Agency provides written approval for such use. Any such change to use will require an amendment to this environmental covenant.

3. Disturbance of subsurface soil or groundwater including all earth moving activities, such as excavation, drilling or construction activities on the Property at a depth of 24" below the existing grade shall be conducted in accordance with a site-specific soil management plan for the Constituents of Concern, which shall be developed by a qualified professional and in accordance with applicable federal, state, and local laws.
4. Disturbance of any subsurface soils on the Property shall require a site-specific and project-specific Health and Safety Plan (HASP) that shall be developed by a qualified health and safety professional and in accordance with applicable federal, state, and local regulations.

b. Boundary vertices for the Property for the closed Plat that are subject to the activity and use restrictions identified above are provided below and are also shown in Exhibit B.

Tax Map # 40-9B		
Vertex Point	Latitude	Longitude
A	37.45385	-77.09400
B	37.45447	-77.09376
C	37.45508	-77.09362
D	37.45458	-77.09138
E	37.45323	-77.09184
F	37.45366	-77.09376
G	37.45379	-77.09371
Tax Map # 40-9C		
Vertex Point	Latitude	Longitude
E	37.45323	-77.09184
D	37.45458	-77.09138
H	37.45415	-77.08939
I	37.45280	-77.08986
Tax Map # 40-9E		
Vertex Point	Latitude	Longitude
J	37.45482	-77.09245
K	37.45492	-77.09242
L	37.45424	-77.08936
H	37.45415	-77.08939

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4. NOTICE OF LIMITATIONS IN FUTURE CONVEYANCES

Each instrument hereafter conveying any interest in the Property subject to this environmental covenant shall contain a notice of the activity and use limitations set forth in this environmental covenant and shall provide the recorded location of this environmental covenant.

5. COMPLIANCE AND USE REPORTING

- a. By April 1 of every fifth year following the Agency's approval of this environmental covenant, and whenever else requested in writing by the Agency, the then current owner of the Property shall submit, to the Agency and any Holder listed in the Acknowledgments below, written documentation stating whether or not the activity and use limitations in this environmental covenant are being observed. This documentation shall be signed by a qualified and certified professional engineer who has inspected and investigated compliance with this environmental covenant.

- b. In addition, within one (1) month after any of the following events, the then current owner of the Property shall submit, to the Agency and any Holder listed in the Acknowledgments below, written documentation describing the following: noncompliance with the activity and use limitations in this environmental covenant; transfer of the Property; changes in use of the Property; or filing of applications for building permits for the Property and any proposals for any site work, if such building or proposed site work will affect the contamination on the Property subject to this environmental covenant.

6. 6. ACCESS BY THE HOLDER(S) AND THE AGENCY

In addition to any rights already possessed by the Holder(s) and the Agency, this environmental covenant grants to the Holder(s) and the Agency a right of reasonable access to the Property in connection with implementation, inspection, or enforcement of this environmental covenant.

7. RECORDING AND PROOF AND NOTIFICATION

- a. Within 90 days after the date of the Agency's approval of this UECA environmental covenant, the Grantor shall record, or cause to be recorded, this environmental covenant with the Clerk of the Circuit Court for each locality wherein the Property is located. The Grantor shall likewise record, or cause to be recorded, any amendment, assignment, or termination of this UECA environmental covenant with the applicable Clerk(s) of the Circuit Court within 90 days of their execution. Any UECA environmental covenant,

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amendment, assignment, or termination recorded outside of these periods shall be invalid and of no force and effect.

b. The Grantor shall send a file-stamped of this environmental covenant, and of any amendment, assignment, or termination, to the Holder(s) and the Agency within 60 days of recording. Within that time period, the Grantor also shall send a file-stamped copy to the chief administrative officer of each locality in which the Property is located, any persons who are in possession of the Property who are not the Grantors, any signatories to this covenant not previously mentioned, and any other parties to whom notice is required pursuant to the Uniform Environmental Covenants Act.

8. TERMINATION OR AMENDMENT

This environmental covenant is perpetual and runs with the land unless terminated or amended (including assignment) in accordance with UECA.

9. ENFORCEMENT OF ENVIRONMENTAL COVENANT

This environmental covenant shall be enforced in accordance with § 10.1-1247 of the Code of Virginia.

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ACKNOWLEDGMENTS:

GRANTOR(S) (All Fee Simple Owners)

Thomas J. Liesfeld {Name of Owner, Grantor}

Date APRIL 15, 2019

By (signature): TLJ

Name (printed): THOMAS J LIESFELD

Title: OWNER

COMMONWEALTH OF ~~VIRGINIA~~ GEORGIA {other state, if executed outside Virginia}

CITY/COUNTY OF BURKE

On this 15th day of APRIL 2019, before me, the undersigned officer, personally appeared Thomas J. Liesfeld {Holder, Grantor} who acknowledged himself to be the person whose name is subscribed to this environmental covenant, and acknowledged that he freely executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

My commission expires: Notary Public, Burke Co., Georgia
My Commission Expires Sept. 14, 2019

Registration # _____

Notary Public Marianne Smith

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HOLDER(S):

Thomas J. Liesfeld {Name of Owner, Grantee}

Date 4/3/19

By (signature): [Handwritten Signature]

Name (printed): THOMAS J LIESFELD

Title: OWNER

COMMONWEALTH OF ~~VIRGINIA~~ GEORGIA {other state, if executed outside Virginia}

CITY/COUNTY OF WAYNESBORO / BURKE CO

On this 3 day of April 2019, before me, the undersigned officer, personally appeared Thomas J. Liesfeld {Owner, Grantor} who acknowledged himself to be the person whose name is subscribed to this environmental covenant, and acknowledged that he freely executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

My commission expires: Notary Public, Burke Co., Georgia
My Commission Expires Sept. 14, 2019

Registration # _____

Notary Public Marianne Smith

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AGENCY:

APPROVED by the {*Department of Environmental Quality and/or other Agency*} as required by § 10.1-1238 et seq. of the Code of Virginia.

Date 4-22-19

By (signature): 

Name (printed): Justin Williams

Title: Director, Land Protection and Revitalization

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EXHIBIT A
DEQ DECISION DOCUMENT

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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

March 4, 2019

Mr. Thomas Liesfeld
L-Wood, Inc. Southern Pine Specialist
859 Ben Hatcher Road
Waynesboro, GA 30830-4832

Re: New Kent Wood Preservatives, Inc. Site
4101 South Mountcastle Road, Providence Forge Virginia
EPA Order Docket No. CERCL-03-2015-0262DC, VAD089028963

Dear Mr. Liesfeld,

The Agency and the United States Environmental Protection Agency (USEPA) conducted inspections and sampling at the Property identified above from 1985 to 1996. On September 30, 2015, the USEPA issued an Administrative Order for Removal Response Action Docket # CERC-03-2015-0262DC ("Order") requiring the removal of contaminated soil from the surface of the Property and within the drainage channels. Remedy construction consisted of excavation of soil and gravel from the former operational areas, and along pathways connecting those areas. Following remediation, the USEPA issued a letter stating "no further response action" is required under the Order #CERC-03-2015-0262DC.

As a result of the above referenced activities, the Department of Environmental Quality and the Property Owner discussed the need for activity and use limitations in order to protect the implemented remedy and to protect human health and the environment. These limitations include but are not limited to: groundwater use restriction; soil management; commercial use of the Property. The Owner has agreed to utilize Virginia's Uniform Environmental Covenant Act as the mechanism to implement the activity and use limitations.

Should you have any questions, please contact Devlin Harris at 804-698-4226.

Sincerely,

A handwritten signature in blue ink that reads "Devlin Harris".

Devlin Harris
Site Assessment Program Coordinator

Cc: Ruth Scharr, EPA On-Scene Coordinator
Chris Evans, Director, Office of Remediation Programs, DEQ

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EXHIBIT B
UECA BOUNDARY SURVEY MAP

INSTRUMENT 190001297
RECORDED IN THE CLERK'S OFFICE OF
NEW KENT COUNTY CIRCUIT COURT ON
MAY 20, 2019 AT 12:27 PM
AMY P. CRUMP, CLERK
RECORDED BY: KSM