

Brownfields Project #: 04018-00-65
Brownfields Property: Flemington Landfill, Sutton Steam Plant Road
Property Owner (In part or in whole): Cape Fear Soccerplex, LLC



LAND USE RESTRICTIONS ("LUR") UPDATE

LUR 1: No water supply wells may be installed or used at the Brownfields Property.

In compliance Out of compliance

Remarks: _____

LUR 2: No mining activities may be conducted on the Brownfields Property.

In compliance Out of compliance

Remarks: _____

LUR 3: Except as provided in paragraph 10.i. of the Brownfields Agreement ("Agreement"), no disturbance, displacement or removal of soil in areas of the Brownfields Property denominated "PROHIBITED" on the plat recorded as Exhibit B with the Notice of Brownfields Property ("Notice") is permitted without prior notification to and approval of the Department of Environment and Natural Resources ("DENR") or its successor in function, any sampling of such waste material required by DENR, and submittal to DENR or its successor in function of analyses of such sampling along with plans and procedures to protect human health and the environment during the proposed activities. In the event such activities are approved by DENR or its successor in function, the activities shall be conducted in strict accordance with all local, state and federal legal provisions concerning sampling, characterization, handling, transportation and disposal of waste material, and anyone conducting such activities shall provide to DENR a report of such activities as required in said subparagraph 10.i. If any existing landfill waste material at the Brownfields Property is disturbed other than pursuant to this restriction number 3, the owner of any affected portion of the Brownfields Property shall effect sampling, characterization, handling, transportation and disposal of such waste material in strict accordance with local, State, and federal legal provisions, except that such waste material may not be disposed of on the Brownfields Property even if to do so would

otherwise be in compliance with law, and shall, no later than seven (7) days following discovery of the disturbance, report the disturbance to DENR in writing. Thereafter, the owner of any affected portion of the Brownfields Property shall report when and as required by DENR regarding the disturbance, which reporting shall include, at a minimum, a written report that describes the nature and extent of the disturbance, the sampling, characterization, and handling of the waste material, and its transportation and disposal.

In compliance Out of compliance

Remarks: _____

LUR 4: No activities which result in direct exposure to or removal of groundwater (for example, construction or excavation activities which encounter or expose groundwater) may be conducted on the Brownfields Property without prior sampling and analysis of groundwater in the area where such activities are to be conducted, submittal of the analytical results to DENR or its successor in function along with plans and procedures to protect human health and the environment during those activities, and approval of those activities by DENR or its successor in function.

In compliance Out of compliance

Remarks: _____

LUR 5: No basements and no fountains, ponds, lakes, swimming pools or other items which are supplied, in whole or in part, by groundwater under the Brownfields Property may be constructed on the Brownfields Property. Reservoirs and ponds used exclusively for irrigation purposes and supplied by groundwater originating other than on the Brownfields Property (e.g., groundwater from adjoining properties and water from the City of Wilmington) may be constructed in areas of the Brownfields Property not denominated "PROHIBITED" on the plat constituting Exhibit B of the Notice if: (A) any such reservoir or pond's base is at least two (2) feet above the top of the shallowest groundwater at the location of such reservoir or pond; and (B) the testing and use requirements set forth in subparagraph 10.f of the Agreement recorded as Exhibit A of the Notice are complied with in connection with any such reservoir or pond.

In compliance Out of compliance

Remarks: _____

LUR 6: No groundwater derived from adjoining properties may be used at the Brownfields Property unless, prior to its initial use and no less frequently than once every six months thereafter, the owner of any portion of the Brownfields Property where such groundwater is proposed to be used satisfies DENR that such groundwater does not exceed the groundwater standards contained in the North Carolina Administrative Code, Title 15A, Subchapter 2L, Rule .0202

In compliance Out of compliance _____

Remarks: _____

LUR 7: Within seven (7) days of each anniversary of the effective date of the Brownfields Agreement recorded as Exhibit A of the Notice, the owner(s) of the Brownfields Property shall each submit a notarized Land Use Restrictions Update to DENR certifying that (A) this Notice containing these seven (7) Land Use Restrictions remains recorded at the New Hanover County Register of Deeds office; (B) the New Hanover County Ordinance referenced in Paragraph 4.h. of said Brownfields Agreement remains in effect; (C) if the Brownfields Property is in use, the air, groundwater quality, infiltration and pond water monitoring activities required, respectively, pursuant to subparagraphs 10.c., 10.d., 10.e. and 10.f. of said Brownfields Agreement are being conducted; (D) these Land Use Restrictions are being complied with; and (E) if the Brownfields Property is in use, the cap has been enhanced in accordance with paragraph 10.b. of said Brownfields Agreement and is functioning as required by that subparagraph. Each Land Use Restrictions Update shall also include a complete record of any erosion, erosion repairs or other activities affecting the Land Use Restrictions or, if the Brownfields Property is in use, affecting the integrity of the cap. The Land Use Restrictions Update shall be addressed to the DENR official referenced in paragraph 29.a. of the Agreement.

Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice remains recorded at the New Hanover County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by _____,
owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: _____

In the case of owners that are entities:

Signature of individual signing: 
Name typed or printed: Kenny Bundy
Title: Executive Director

In the case of all owners:

Date: 4/22/14

[use for LLCs]

[Insert Name of LLC]

By: Kenny Bundy
Name typed or printed:
Member/Manager

NORTH CAROLINA
New Hanover COUNTY

I, Melinda S. Allen, a Notary Public of the county and state aforesaid, certify that Kenny Bundy personally came before me this day and acknowledged that he/she is a Member of Cap Fear Soccer Club, LLC, a NC (state) limited liability company, and its Manager, and that by authority duly given and as the act of the company, the foregoing Land Use Restriction Update was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this 22th day of April, 2014.

Melinda S. Allen
Name typed or printed: Melinda S. Allen
Notary Public

My Commission expires: Nov 3, 2015

[Stamp/Seal]

MELINDA S. ALLEN
NOTARY PUBLIC
PENDER COUNTY, NC