

O. V. P. HOLDINGS, LLC
25 Bradley Branch Rd.
Arden, N.C.



January 8, 2014

NC Division of Waste Management
Brownsfields Program
1646 Mail Service Center
Raleigh, NC 27699-1646

Re: Land Use Restriction Update
Brownsfields Project #05013-01-11
Brownfields Property: Fishburne Equipment
25 Bradley Branch Rd.
Arden, N.C.

Property Owner (In whole or Part): OVP Holdings, LLC

To Whom It May Concern:

In reference to your letter of August 13, 2013 requesting an
Update For: "Land Use Restriction".

Attached Please find completed, executed document notarized on
January 8, 2014 for the property located at 25 Bradley Branch Rd.,
Arden, N.C.

Very truly yours



Pamela Van Praag,
Member, Manager

Attachments (5)

Brownfields Project #: 05013-01-11
Brownfields Property: Fishburne Equipment, 25 Bradley Branch Road
Property Owner (In whole or part): OVP Holdings, LLC



LAND USE RESTRICTIONS (“LUR”) UPDATE

LUR 1: No use may be made of the Brownfields Property other than for light manufacturing, warehousing, public storage and other commercial/retail use. For purposes of the foregoing land uses, the following definitions apply:

- a. **Light Manufacturing:** Industrial uses that involve assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside the building or lot where such assembly, fabrication, or processing takes place, and where such processes are housed entirely within a building; light manufacturing also includes uses in which no process water is used and no process wastewater is generated.
- b. **Commercial Use:** An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.
- c. **Retail Use:** An activity, the principle use or purpose of which is the sale of goods, products or merchandise directly to the consumer.

In compliance PVP Out of compliance _____

Remarks: _____

LUR 2: No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of DENR in any areas proposed for such activities, and submittal of the analytical results to DENR. If such results disclose to DENR contamination in excess of North Carolina’s groundwater quality standards, the proposed activities may not occur without the approval of DENR on such conditions as DENR imposes, including at a minimum legal approval of plans and procedures to protect public health and the environment during the proposed activities.

In compliance PVP Out of compliance _____

Remarks: _____

LUR 3: Within the area of the Brownfields Property denoted as "RESTRICTED" on the plat component of the Notice of Brownfields Property ("Notice"), no one may undertake or authorize an activity intended to disturb or permanently expose more than nine (9) square feet of soil underlying paved surfaces and buildings at the Brownfields Property without first screening such soils with a Photoionization Detector or functionally similar device. The screening must be conducted by a qualified DENR-approved environmental consultant, and must include the screening of soil obtained from a background location acceptable to DENR. If such soil screening detects the presence of volatile organic compounds in the soil at a level greater than ten times the level detected in soil at the background location above expected background levels, the screening results must be submitted to DENR and, if DENR so directs, the soil may not be disturbed or exposed without prior sampling and analysis of such soil to DENR's reasonable satisfaction, and submittal of the analytical results to DENR. If such analytical results disclose the presence of constituents in the soil in excess of the then current Preliminary Remediation Goals for Industrial Soil promulgated by Region 9 of the U.S. Environmental Protection Agency, the soil may not be disturbed or exposed without the approval of DENR on such conditions as DENR reasonably imposes with respect to plans and procedures (i) to protect public health and the environment during the activities that would disturb or expose such soil, which plans and procedures shall be submitted by the owner to DENR prior to disturbance or exposure of soil and subject to DENR approval, and (ii) in regard to soil DENR has approved for permanent exposure, to ensure that the Property remains suitable for the uses specified in the Brownfields Agreement ("Agreement") while fully protecting public health and the environment.

In compliance PVP Out of compliance _____

Remarks: _____

LUR 4: No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

In compliance PVP Out of compliance _____

Remarks: _____

LUR 5: No basements may be constructed on the Property without the prior written approval of DENR.

In compliance PNP Out of compliance _____

Remarks: _____

LUR 6: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance PNP Out of compliance _____

Remarks: _____

LUR 7: During January of each year after this Agreement becomes effective, commencing in 2006, the then current owner of the Brownfields Property shall submit a notarized LURU to DENR certifying that the Notice of Brownfields Property remains recorded at the Buncombe County Register of Deeds office, and that the land use restrictions are being complied with. In the event the Brownfields Property has more than one owner during any week when a land use restriction update ("LURU") is required to be submitted, one LURU may be submitted if the submitting party satisfies DENR that it represents all owners. If this LUR is violated and there are no other concurrent LUR violations, DENR shall provide the violator(s) a reasonable additional period, as determined by DENR, to comply, unless DENR determines that exigencies preclude it or DENR has issued an order to comply.

In compliance PNP Out of compliance _____

Remarks: _____

Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice remains recorded at the Buncombe 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: PAMELA VAN PRAAG

In the case of owners that are entities:

Signature of individual signing: _____
Name typed or printed: PAMELA VAN PRAAG
Title: MEMBER MANAGER

In the case of all owners:

Date: 01/08/17

[use for LLCs]

[Insert Name of LLC]

By: _____

Name typed or printed:

Member/Manager

NORTH CAROLINA

Buncombe COUNTY

I, Rebecca G. Pressley, a Notary Public of the county and state aforesaid, certify that Pamela Van Praeg personally came before me this day and acknowledged that he/she is a Member of OVP Holdings, 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 8 day of January, 2014.

Rebecca G. Pressley
Name typed or printed: Rebecca G. Pressley
Notary Public

My Commission expires: 11-16-16

