

Brownfields Project #: 07018-03-60
Brownfields Property: Camden Road, 1600 Camden Road
Property Owner (In whole or part): HMV Camden, LLC



LAND USE RESTRICTIONS (“LUR”) UPDATE

LUR 1: The Brownfields Property may not be used other than for commercial purposes and for an asphalt parking lot. As used herein, a commercial purpose is an occupation, employment, or enterprise that is carried on for profit by the owner, lessee or licensee.

In compliance Out of compliance

Remarks: _____

LUR 2: Surface water and underground water at the Brownfields Property may not be used for any purpose without the approval of the Department of Environment and Natural Resources (“DENR”) or its successor in function.

In compliance Out of compliance

Remarks: _____

LUR 3: 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 or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. If such results disclose to DENR or its successor in function contamination in excess of North Carolina’s groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

In compliance 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 X Out of compliance _____

Remarks: _____

LUR 5: No basements may be constructed on the Brownfields Property unless they are, as determined by DENR or its successor in function, vented in conformance with applicable building codes.

In compliance X Out of compliance _____

Remarks: _____

LUR 6: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 7 of the Brownfields Agreement ("Agreement"), may be used or stored at the Brownfields Property without the prior approval of DENR or its successor in function, except in *de minimis* amounts for cleaning and other routine housekeeping activities, and as constituents of fuel in vehicles at the Brownfields Property.

In compliance X Out of compliance _____

Remarks: _____

LUR 7: The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the approval of DENR or its successor in function.

In compliance Out of compliance

Remarks: _____

LUR 8: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance Out of compliance

Remarks: _____

LUR 9: The Brownfields Property may not be used as a playground, or for child care centers or schools.

In compliance Out of compliance

Remarks: _____

LUR 10: The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

In compliance Out of compliance

Remarks: _____

LUR 11: Beginning in January following the year in which the Notice referenced in paragraph 20 of the Agreement, is recorded, and in every January thereafter for a minimum total of five (5) years, the owner(s) of the portion(s) of the Brownfields Property containing the monitoring wells denominated MW-1 and MW-2 on the plat component of this Notice, shall effect sampling of those wells in accordance with the most current version of the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section. The samples shall be analyzed by U.S. Environmental Protection Agency Method 8260 for Volatile Organic Compounds or by any comparable method approved in advance by DENR. A written report setting forth the procedures and results of the sampling shall be submitted with the Land Use Restrictions Update required by Land Use Restriction 12 below. Monitoring and reporting shall continue beyond five (5) years unless and until DENR determines in writing that contaminant levels are remaining steady or decreasing.

In compliance X Out of compliance _____

Remarks: Annual Sampling of the monitor wells was conducted in 2007, 2008 and 2009. In the 2009 monitoring report, a request was made to discontinue the annual sampling because no compounds were detected above North Carolina standards in either the 2008 or 2009 monitoring events. In August 2012 sampling was repeated and again a request was made to discontinue annual sampling. Received letter from NCDENR dated August 29, 2012 approving request to cease ground water sampling since contaminant levels have remained steady of decreased. (Letter attached with this document).

LUR 12: During January of each year after recordation of this Notice, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update ("LURU") to DENR or its successor in function certifying that the Notice of Brownfields Property containing these land use restrictions remains recorded at the Mecklenburg County Register of Deeds office, that the land use restrictions are being complied with, and that impervious surfaces at the Brownfields Property are being maintained such that they are continuing to function as caps. Affected landowners shall submit with each LURU the report required by Land Use Restriction 11 above unless and until DENR terminates the requirement.

In compliance X Out of compliance _____

Remarks: LURUs have been submitted annually to DENR

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

This Land Use Restrictions Update is certified by HmvCamden, LLC, 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: Steven G Harris
Name typed or printed: Steven G. Harris
Title: MGR

In the case of all owners:

Date: 1.21.2013

[use for LLCs]

[HMV Camden, LLC]

By: Steven G. Harris
Name typed or printed: Steven G. Harris
Member/Manager

NORTH CAROLINA
Mecklenburg COUNTY

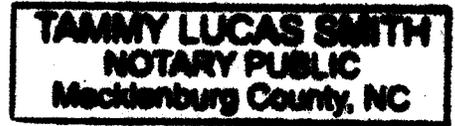
I, Tammy Lucas Smith, a Notary Public of the county and state aforesaid, certify that Steven G. Harris personally came before me this day and acknowledged that he/she is a Member of Hmv Camden, LLC, a NC (state) limited liability company, and its Manager, and that by authority duly given and as the act 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 21 day of
January, 2013.

Tammy Lucas Smith
Name typed or printed: Tammy Lucas Smith
Notary Public

My Commission expires: June 3, 2017

[Stamp/Seal]





copy

North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

August 29, 2012

SENT VIA EMAIL

Mr. Steve Harris
HMV Camden, LLC
1600 Camden Road
Charlotte, NC 28203

Subject: Groundwater Sampling Requirement
Camden Road Site
1600 Camden Road
Charlotte, Mecklenburg County
Brownfields Project Number 07018-03-060

Dear Mr. Harris:

On August 16, 2012, the North Carolina Department of Environmental and Natural Resources (DENR) received a letter titled, "Report of Groundwater Sampling" prepared by Hart & Hickman for the above referenced site. This report was submitted based on the email request sent by DENR on June 11, 2012 for compliance issues associated with Land Use Restriction (LUR) number 11 listed in the Notice of Brownfields Property (Notice). In December 2005, the Notice was recorded at Mecklenburg County Register of Deeds **Book 19816, Pages 723** and its associated plat recorded in **Plat Book 44 Page 986** pursuant to the Brownfields Property Reuse Act (the Act), N.C.G.S. 130A-310.30, et seq. In the Notice, LUR number 11 states the following:

11. Beginning in January following the year in which the Notice referenced in paragraph 20 of Exhibit A, is recorded, and in every January thereafter for a minimum total of five (5) years, the owner(s) of the portion(s) of the Brownfields Property containing the monitoring wells denominated MW-1 and MW-2 on the plat component of this Notice, shall effect sampling of those wells in accordance with the most current version of the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section. The samples shall be analyzed by U.S. Environmental Protection Agency Method 8260 for Volatile Organic Compounds or by any comparable method approved in advance by DENR. A written report setting forth the procedures and results of the sampling shall be submitted with the Land Use Restrictions Update required by Land Use Restriction 12 below. Monitoring and reporting shall continue beyond five (5) years unless and until DENR determines in writing that contaminant levels are remaining steady or decreasing.

Upon review of the letter report and analytical data, DENR hereby approves your request to cease groundwater sampling as contaminant levels have remain steady or decreased. Be advised that HMV Camden, LLC is still required to submit an annual LUR Update, but the sampling in LUR 11 is no longer required. Please refer to this correspondence in future LUR Updates.

If you have questions about this correspondence or require additional information, please feel free to contact me by phone at 704/661-0330, or by e-mail at carolyn.minnich@ncdenr.gov.

Sincerely,

Carolyn Minnich

Carolyn Minnich
Brownfields Project Manager
Division of Waste Management

cc: Project File
ec: Bruce Nicholson, DENR
David Peacock, DENR
Steve Hart, H&H