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December 20, 2013

Mr. David Peacock  
Brownfields Program  
NC Division of Waste Management  
Mail Service Center 1646  
Raleigh, NC 27699-1646



**Re: Land Use Restrictions ("LUR") Update**

Dear Mr. Peacock:

Please find enclosed a fully executed original Land Use Restrictions ("LUR") Update for your review and files.

Please do not hesitate to contact us should you need anything further.

Best Regards,

A handwritten signature in black ink, appearing to read "Kathleen Schlupe". The signature is written in a cursive, flowing style.

Kathleen Schlupe  
Paralegal

Enclosure

**Brownfields Project #:** 07027-03-83

**Brownfields Property:** Abbott Laboratories, 16900 Hwy 401 Bypass

**Property Owner (In whole or part):** \_\_\_\_\_

**LAND USE RESTRICTIONS (“LUR”) UPDATE**

LUR 1: No use may be made of the Brownfields Property other than for Industrial use, including Heavy and Light Manufacturing use. Moreover, those uses may only occur in compliance with the other Land Use Restrictions below. For purposes of this restriction, the following definitions apply:

- a. “Industrial” refers to manufacturing, construction, transportation, utilities, wholesaling and warehousing.
- b. “Heavy Manufacturing” refers to the assembly, fabrication or processing of goods and materials using processes that, while legally compliant, ordinarily have greater than average impacts on the environment, or have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards, or that do not constitute light manufacturing; or any use where the area occupied by outdoor storage of goods and material used in the assembly, fabrication or processing exceeds 25 percent of the floor area of all buildings on the property.
- c. “Light Manufacturing” refers to a use which involves the 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 of the building or property where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building, and where the area occupied by the outdoor storage of goods and material used in such processes does not exceed twenty-five (25) percent of the floor area of all the buildings on the property. No process water or wastewater may be generated at a light manufacturing facility.

In compliance   X   Out of compliance       

Remarks: All industrial activities ceased on 8/26/2011.

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

In compliance  X  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 written 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 prior written approval of DENR on such conditions as DENR 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  X  Out of compliance      

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 4: Soil within fifty (50) feet of the sample locations listed in subparagraph 8.b. of the Brownfields Agreement (“Agreement”) and under the footprint of the main manufacturing building and designated “Areas of Possible Soil Contamination,” on the plat component of the Notice of Brownfields Property (“Notice”) referenced in paragraph 21 of the Agreement, may not be disturbed without a minimum of seven (7) business days advance written notice to DENR, unless DENR states otherwise in writing in advance. At the time such soil is exposed, DENR may inspect and sample, or require sampling of, the exposed soil for contaminants. If soil contamination is discovered that DENR determines would likely contaminate groundwater even if capped, or that may pose an imminent threat to public health or the environment if exposed, as much soil as DENR reasonably requires shall be removed and disposed of in accordance with applicable law, and any other actions that DENR reasonably requires to make the Brownfields Property suitable for the uses specified in the Agreement while fully protecting public health and the environment shall be taken. If soil contamination is

discovered that DENR determines would not likely contaminate groundwater if capped, or likely pose an imminent threat to public health or the environment if exposed, as much soil as DENR reasonably requires shall be removed and disposed of in accordance with applicable law or capped to the written satisfaction of DENR.

In compliance  X  Out of compliance  \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 5: No building may be constructed on the Brownfields Property until DENR has been consulted regarding the proximity of the planned building to the Brownfields Property's volatile contaminant plume. If DENR determines that the footprint of the building would fall within one hundred (100) feet of said plume, it may not be constructed without a vapor barrier system and/or mechanical or passive vapor barrier mitigation system, or other vapor mitigation system approved in writing in advance by DENR. Within thirty (30) days following installation of the vapor mitigation system, DENR shall be provided certification of proper installation under seal of a professional engineer licensed in North Carolina, as well as photographs illustrating the installation and a brief narrative describing it. With DENR's prior written approval, additional investigation activities including, without limitation, soil gas samples, performed to DENR's written satisfaction, may be conducted, and installation of a mitigation system possibly excused, so long as the proponent makes an advance written commitment to install a mitigation system if DENR so requires based on review of a report DENR deems adequate of the investigation activities.

In compliance  X  Out of compliance  \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 6: Landscaping and contours at the Brownfields Property may not be disturbed without the prior written approval of DENR, except for mowing and pruning of above-ground vegetation or replacement of plants at their previous locations.

In compliance  X  Out of compliance  \_\_\_\_\_

Remarks: \_\_\_\_\_

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LUR 7: 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 8: No basements may be constructed on the Brownfields Property unless they are, as determined in writing by DENR, vented in conformance with applicable building codes.

In compliance  X  Out of compliance \_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 9: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 8 of the Agreement, may be used or stored at the Brownfields Property without the prior written approval of DENR, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

In compliance  X  Out of compliance \_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 10: 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 prior written approval of DENR.

In compliance X Out of compliance \_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 11: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance X Out of compliance \_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 12: The Brownfields Property may not be used as a playground, or for child care centers or schools.

In compliance X Out of compliance \_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 13: The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

In compliance X Out of compliance \_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 14: If and when any DENR-approved monitoring well at the Property is damaged, the owner of the portion of the Brownfields Property containing the well shall be responsible for the well's repair to DENR's written satisfaction within a time period acceptable to DENR.

In compliance X Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 15: No party conducting environmental assessment or remediation at the Brownfields Property at the direction of, or pursuant to a permit or order issued by, DENR may be denied access to the Brownfields Property for purposes of conducting such assessment or remediation.

In compliance X Out of compliance \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LUR 16: During January of each year after the year in which the Notice referenced in paragraph 21 of the Agreement is recorded, the owner of any part of the Brownfields Property as of January 1<sup>st</sup> of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR certifying that, as of said January 1<sup>st</sup>, the Notice of Brownfields Property containing these land use restrictions remains recorded at the Scotland County Register of Deeds office and the land use restrictions are being complied with, and stating:

- a. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Brownfields Property during the previous calendar year.

Please see remarks below.

- b. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Brownfields Property during the previous calendar year.

Please see remarks below.

In compliance X Out of compliance \_\_\_\_\_

Remarks:

On 12/18/2013 Marketta, LLC transferred ownership of the property. The transferee is Connelly Springs Road, LLC, 4737 Old Vashti Road, Hiddenite, North Carolina 28636.

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

This Land Use Restrictions Update is certified by Marketta, 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: \_\_\_\_\_

Name typed or printed: \_\_\_\_\_

Title: \_\_\_\_\_

  
\_\_\_\_\_  
Louis Colella  
\_\_\_\_\_  
Treasurer

In the case of all owners:

Date: \_\_\_\_\_

Marketta, LLC

By: Louis V. Colella, Treasurer

State of Ohio  
Summit COUNTY

I, Rhonda M Beasley, a Notary Public of the county and state aforesaid, certify that Louis V. Colella personally came before me this day and acknowledged that he/she is a Member of Marketta, LLC, an Ohio 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 20 day of  
December, 2013

Rhonda M Beasley  
Name typed or printed:  
Notary Public

My Commission expires: 03/06/2018

[Stamp/Seal]