

**Brownfields Project #:** 08002-04-84

**Brownfields Property:** Allison Manufacturing, 930 Old Charlotte Road

**Property Owner (In whole or part):** NCSC Properties, LLC



**LAND USE RESTRICTIONS ("LUR") UPDATE**

LUR 1: No use may be made of the Brownfields Property other than for light manufacturing, office and, with the Department of Environment and Natural Resources' ("DENR") prior written approval, other commercial purposes, as limited by these Land Use Restrictions and the following definitions:

- a. "Office" refers to the rendering of business or professional services.
- b. "Light Manufacturing" refers to the assembly, fabrication, storage, transportation or processing of goods and materials using processes that 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 occur indoors, 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.
- c. "Commercial" refers to an enterprise 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 prior written approval of DENR.

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 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 reasonably 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: Soil within the area denominated "Area of Possible Soil Contamination" on the plat component of the Notice of Brownfields Property ("Notice") may not be exposed 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 this 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. Provided, that emergency repair of underground infrastructure shall not be deemed to violate this Land Use Restriction, if DENR is given written notice (if only by email) of any such repair no later than the next business day and any related assessment and remedial measures required by DENR are taken.

In compliance  Out of compliance

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

LUR 5: 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  Out of compliance

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

LUR 6: 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  Out of compliance

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

LUR 7: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in Tables A and B of the Notice, 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, and in paints and paint thinners used in the areas of the Brownfields Property designated "PAINT/PAINT THINNERS ALLOWED" on the plat component of the Notice.

In compliance  Out of compliance

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

LUR 8: 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  Out of compliance

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

LUR 9: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production, without the prior written approval of DENR.

In compliance  Out of compliance

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

LUR 10: The Brownfields Property may not be used as a playground, or for child care centers or schools, without the prior written approval of DENR.

In compliance  Out of compliance

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

LUR 11: The Brownfields Property may not be used for kennels, private animal pens or horse-riding, without the prior written approval of DENR.

In compliance  Out of compliance

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

LUR 12: No building may be constructed on the Brownfields Property unless and until DENR determines in writing whether it would lie within one hundred (100) feet of the Brownfields Property's volatile contaminant plume as reflected in the most recent sampling results reasonably available to DENR. If DENR determines that the building

would lie within one hundred (100) feet of said plume, the building may not be constructed until:

- a. an assessment of the risk posed by volatile contaminant vapor intrusion to potential users of the proposed building that demonstrates to DENR's written satisfaction that neither a vapor barrier nor mitigation system is required; or
- b. passive and/or active measures for mitigating the intrusion of volatile contaminant vapors into the new building (e.g., a vapor barrier system and/or mechanical or passive vapor barrier mitigation system) are planned and implemented to DENR's written satisfaction.

In compliance  Out of compliance

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

LUR 13: 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, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Brownfields Property.

In compliance  Out of compliance

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

LUR 14: The owner of any portion of the Brownfields Property where any existing, or later-installed, DENR-approved monitoring well is damaged shall be responsible for repair of any such wells to DENR's written satisfaction and within a time period acceptable to DENR.

In compliance  Out of compliance

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

LUR 15: During January of each year after the year in which the Notice referenced in paragraph 19 of the Brownfields 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, and to the head of the Stanly County Department of Environmental Health (currently at 1000 N. First Street, Suite 13-A, Albemarle, NC, 28001), certifying that the Notice remains recorded at the Stanly County Register of Deeds office and that 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. Insert information:

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- 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. Insert information:

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- c. whether any vapor mitigation measures implemented pursuant to Land Use Restriction 12 above are performing as designed, and whether the uses of the ground floors of any buildings where such measures have been implemented have changed, and, if so, how.

Yes \_\_\_\_ (attach documentation) No \_\_\_\_

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

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

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

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

Name typed or printed of party making certification: NESC Properties LLC

In the case of owners that are entities:

Signature of individual signing: Theodore J Siebers  
Name typed or printed: Theodore J Siebers  
Title: member

In the case of all owners:

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

NCSC Properties LLC

By: Theodore J Siebers  
Name  
Member/Manager

ILLINOIS  
ADAMS COUNTY

I, MARY L. EFFREIN, a Notary Public of the county and state aforesaid, certify that Theodore J Siebers personally came before me this day and acknowledged that he/she is a Member of NCSC Properties, LLC, a North Carolina limited liability company, and its Member/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 <sup>6</sup>~~12~~th day of <sup>February</sup>~~January~~, 2014.

Mary L. Effrein  
Name typed or printed  
Notary Public

My Commission expires: 11/4/15

[Stamp/Seal]

