

Jerry Deakle & Associates, Inc.
3434 Edwards Mill Rd., Suite 112-264
Raleigh, NC 27612
Phone 919-782-1703

MEMORANDUM

January 7, 2013

To: David Peacock
From: Jerry Deakle
Subject: Statesville partnership, LLC – Former VF Site
Reland Development – Former Austin Foods



David:

Attached are all of the annual LURU's for the subject sites.

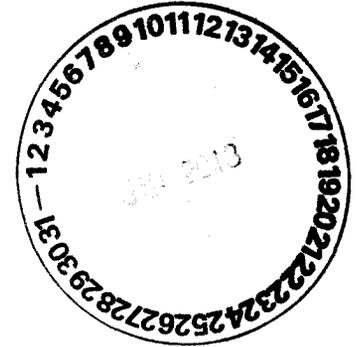
Please do not hesitate to contact me if you have any questions or if I may provide you with any additional information.

Regards,

A handwritten signature in black ink, appearing to be 'J. Deakle', written in a cursive style.

Jerry Deakle

Brownfields Project #: 08006-04-49
Brownfields Property: V.F. Site, 224 Wilson Park Road
Property Owner (In whole or part): Statesville Partnership, LLC



LAND USE RESTRICTIONS ("LUR") UPDATE

LUR 1: No use may be made of the Brownfields Property other than for light manufacturing and for the following commercial uses: warehousing, distribution, retail and office use. For purposes of this restriction, the following definitions apply:

- a. "Light manufacturing" means 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 lot where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building, or where the area occupied by the outdoor storage of goods and material used in such processes does not exceed 25 percent of the floor area of all the buildings on the Brownfields wastewater.
- b. "Commercial" refers to an occupation, employment or enterprise carried on for profit by the owner, lessee, or licensee.
- c. "Retail" refers to an activity, the principal use or purpose of which is the sale of goods, products or merchandise directly to the consumer.
- d. "Office" refers to a use or structure where business or professional services are conducted or rendered.

In compliance **YES** 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").

In compliance **YES** Out of compliance _____

Remarks: _____

LUR 3: Other than the monitoring required by Land Use Restriction 14 below, 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 compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

In compliance **YES** Out of compliance _____

Remarks: _____

LUR 4: Soil within the area denominated "Area of Potential Soil Contamination" on the plat component of this Notice, a reduced copy of which is attached to the Notice of Brownfields Property ("Notice") as Exhibit B, may not be exposed without a minimum of seven (7) business days advance written notice to DENR, unless DENR states otherwise in writing. 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 satisfaction of DENR.

In compliance **YES** Out of compliance _____

Remarks: _____

LUR 5: Unless compliance with this Land Use Restriction is waived in writing by DENR in advance in regard to particular buildings, no indoor space on the Brownfields Property may be occupied until mechanical ventilation with outdoor air is provided in compliance with the most current version of the Mechanical Ventilation section of the Ventilation chapter of the North Carolina State Building Code ("Code"), or another standard approved in writing in advance by DENR. If the choice is made to comply with the Code, then a. or b. below, as applicable, also applies:

- a. This paragraph and its subparagraphs apply to buildings that are on the Brownfields Property when this Notice is recorded and are depicted on the plat component of this Notice, a reduced copy of which is attached as Exhibit B.
 - i. A professional engineer registered in North Carolina shall inspect the mechanical ventilation system, shall document any measures required to bring the system into compliance with the Code and shall prepare construction documents for permitting.
 - ii. A North Carolina heating, ventilation and air-conditioning contractor shall obtain required construction permits and drawings and shall implement any measures documented by the professional engineer.
 - iii. An independent third party certified by the American Association of Balancing Contractors or the National Environmental Balancing Bureau shall perform testing, adjusting and balancing of the system when any work by the contractor is complete. Within seven (7) days after its issuance, a copy of the Certified Test and Balance Report shall be submitted to DENR.
 - iv. Within thirty (30) days of occupancy, the professional engineer shall provide DENR certification under seal that possible entrances for vapors, including without limitation foundation cracks, holes in concrete floors, gaps around pipes and utility lines, major cracks in walls, sumps and floor drains, have been sealed.
 - v. Within thirty (30) days of occupancy, the professional engineer shall provide DENR certification under seal that the ventilation system was installed per the design specifications.

- b. For new buildings constructed on the Brownfields Property after recordation of this Notice, within thirty (30) days following installation of mechanical ventilation a professional engineer shall provide DENR certification that the ventilation system was installed in accordance with design specifications and complies with the Code.

In compliance **YES** Out of compliance _____

Remarks: **The property is vacant and will comply with this LUR prior to occupancy.**

LUR 6: 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, at DENR's discretion, installed in accordance with a plan approved in writing in advance by DENR. Unperforated sheeting at least six (6) mils thick, a spray membrane liner system consisting of a material resistant to the contaminants listed in paragraph 7 of Exhibit A hereto, or another vapor barrier system may be proposed. No vapor barrier shall be approved that is not to be installed under the entire slab-on-grade foundation of the building, and sealed around any vertical pilings and other support structures underneath the slab, overlapped, and taped, glued or otherwise stabilized, so as to minimize air migration pathways. Within thirty (30) days following installation of the vapor barrier system and/or vapor mitigation system, DENR shall be provided certification of proper installation under seal of a professional engineer registered in North Carolina, as well as photographs illustrating the installation and a brief narrative describing it.

In compliance **YES** Out of compliance _____

Remarks: _____

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 **YES** Out of compliance _____

Remarks: _____

LUR 8: No basements may be constructed on the Brownfields Property without the written approval of DENR.

In compliance **YES** 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 7 of the Brownfields Agreement (“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 **YES** 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 approval of DENR

In compliance **YES** Out of compliance _____

Remarks: _____

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

In compliance **YES** 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 **YES** 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.

In compliance **YES** Out of compliance _____

Remarks: _____

LUR 14: During December in each of the first three (3) years after recordation of the Notice, the groundwater monitoring wells depicted as MW2, MW-3, MW-3D, MW-5, MW-5D, MW-8 and MW-8D on the plat component of the Notice, shall be sampled by the then current owner of the portions of the Brownfields Property containing those wells. Sampling shall be conducted in accordance with the most current version of the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section. The samples collected shall be analyzed for volatile organic compounds, pursuant to the most current version of U.S. Environmental Protection Agency Method 8260B, by a laboratory certified pursuant to Title 15A of the North Carolina Administrative Code, Subchapter 2H, Section .0800. Each affected owner shall submit a report detailing the procedures and results of the groundwater monitoring activities, and a summary of historic contaminant

concentrations for the sampled wells, with that owner's Land Use Restrictions Update submitted pursuant to Land Use Restriction 15 below. Following the initial three years of monitoring of the wells subject to this Land Use Restriction, DENR shall determine in writing what, if any, further monitoring of those wells is required.

In compliance **YES** Out of compliance _____

Remarks: _____

LUR 15: During January of each year after the Agreement becomes effective, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update to DENR certifying that the Notice remains recorded at the Iredell County Register of Deeds' office, that the Land Use Restrictions are being complied with, and that the heating, ventilation and air conditioning systems of buildings in use on the Brownfields Property are in compliance with the North Carolina State Building Code or another standard approved in writing in advance by DENR.

In compliance **YES** Out of compliance _____

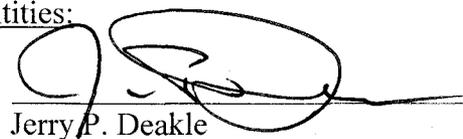
Remarks: _____

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

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

Name typed or printed of party making certification: Jerry P. Deakle

In the case of owners that are entities:

Signature of individual signing: 
Name typed or printed: Jerry P. Deakle
Title: Member Manager

In the case of all owners:

Date: 1-4-13

Statesville Partnership, LLC

By: [Signature]
Jerry P. Deakle
Member/Manager

NORTH CAROLINA
Wake COUNTY

I, Callie G Taylor, a Notary Public of the county and state aforesaid, certify that Jerry P. Deakle personally came before me this day and acknowledged that he/she is a Member of Statesville Partnership, LLC, a North Carolina 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 4 day of January, 2013.

[Signature]
Name typed or printed: Callie G Taylor
Notary Public

My Commission expires: June 3 2015

[Stamp/Seal]

