

**Brownfields Project #: 09028-05-36**

**Brownfields Property: MTE Hydraulics, Person's Turnpike & Chicksaw Road**

**Property Owner (In whole or part): Howard J. Collmar**

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

LUR 1: No use may be made of the Brownfields Property other than for industrial and commercial use. For purposes of this restriction, the following definitions apply:

- a. Commercial Use: An enterprise carried on for profit by the owner, lessee, or licensee.
  
- b. Industrial Use: Manufacturing, construction contracting (meaning activities relating to property maintenance, upkeep, expansion construction and/or reconstruction of buildings, structures or facilities), wholesaling and warehousing uses.

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 the Department of Environment and Natural Resources ("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 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 underlying the building denominated "Original Building" on the plat component of the Notice of Brownfields Property ("Notice") may not be exposed without a minimum of ten (10) business days advance written notice to DENR, which may choose to inspect, and may require screening or sampling for contaminants of the exposed soil. If screening or sampling results disclose contamination that may pose an unacceptable level of risk to human health and/or the environment as determined by DENR, the soil may not be exposed without the approval of DENR, or on such conditions as it imposes. Such conditions shall include, at a minimum, compliance with plans and procedures designed to protect public health and the environment during the activities that would expose such soil. If DENR determines the exposed soil contains contamination that may pose an unacceptable risk to human health or the environment, then as much soil as DENR requires shall be removed and disposed in accordance with applicable law, in addition to any other actions that DENR requires, to make the Brownfields Property suitable for the uses specified in Land Use Restriction 1 above. If DENR determines that such soil contamination would not pose an unacceptable risk to public health or the environment if capped, DENR may require the soil contamination to be capped, with perpetual maintenance of the cap, to the satisfaction of DENR.

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: \_\_\_\_\_

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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: \_\_\_\_\_

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LUR 7: 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  Out of compliance

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

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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: \_\_\_\_\_

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LUR 9: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

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.

In compliance  Out of compliance

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

LUR 11: Neither DENR nor any 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  Out of compliance

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

LUR 12: During January of each year after the year in which the Notice is recorded, 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 Gaston County Register of Deeds office and that these land use restrictions are being complied with.

In compliance  Out of compliance

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

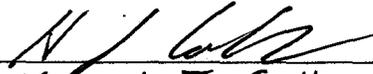
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Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice remains recorded at the Gaston County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by Howard Collmar, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: Howard Collmar

In the case of owners that are entities:

Signature of individual signing:   
Name typed or printed: Howard J Collmar  
Title: owner

In the case of all owners:

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

[use for individuals]

[Insert Name of Owner]

By: Howard J Collmar  
Name typed or printed:

NORTH CAROLINA  
Gaston COUNTY

I, Ashley Todd, a Notary Public of the county and state aforesaid, certify that Howard J Collmar Jr personally came before me this day, demonstrated her/his identity, and signed the foregoing Land Use Restriction Update.

WITNESS my hand and official stamp or seal, this 21 day of January, 2014.

Ashley Todd  
Name typed or printed: Ashley Todd  
Notary Public

My Commission expires: 10/2/18

