Brownfields Project #: 09036-05-45
Brownfields Property: Baxter Oil (Former), 619 Spartanburg Hwy
Property Owner (In whole or part): GARY C JONES

MAY 2015
Brownfields

LAND USE RESTRICTIONS ("LUR") UPDATE

LUR 1: No use may be made of the Brownfields Property other than for retail, office, other commercial uses if the Department of Environment and Natural Resources ("DENR") issues prior written approval, and associated parking. For purposes of this restriction, the following definitions apply:

a. "Retail" refers to the sale of goods directly to the consumer.

b. "Office" refers to the rendering of business or professional services.

c. "Commercial" refers to an enterprise carried on for profit by the owner, lessee or licensee.

d. "Parking" refers to the temporary accommodation of motor vehicles in a designated area designed for same.

In compliance __x__ Out of compliance ____

Remarks: _____

LUR 2: Unless compliance with this LUR is waived in writing by DENR in advance in regard to particular buildings, no existing building on the Brownfields Property may be used, nor any new building constructed, until a vapor intrusion control system has been approved in writing by DENR, as designed and as installed.

In compliance __x__ Out of compliance ____

Remarks: _____

LUR 3: Unless DENR makes an advance written exception in a particular instance, soil in the area designated "Area of Soil Contamination" on the plat component of the Notice of Brownfields Property ("Notice"), and soil underlying paved and other impervious surfaces and buildings at the Brownfields Property, may not be disturbed below a depth of three (3) feet unless and until DENR approves in writing a plan with a schedule, and implementation of said plan, that requires:

a. sampling each excavation to determine whether soil contaminated in excess of the most recent Protection of Groundwater Soil Remediation Goals of DENR's Inactive Hazardous Sites Branch, or Maximum Soil Contaminant Concentrations of DENR's Underground Storage Tank Section, is present; and, if the sampling reflects such contamination,

b. a risk assessment for the area subject to the plan, completed and certified by a North Carolina-licensed professional engineer whose work is principally environmental, that evaluates whether, without remediation or measures to manage the contamination, the area will be suitable for the uses specified in LUR 1 above and public health and the environment will be fully protected; and, if said assessment reaches a negative conclusion regarding that matter, or in lieu of the assessment,

c. remediation of the contamination or measures to manage it by means approved in writing by DENR in advance.

In compliance __x__ Out of compliance ____

Remarks: _____

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LUR 4: No use of the Brownfields Property may occur after the 30th day following recordation of this Notice, unless DENR receives by that date a written plan for groundwater monitoring at the Brownfields Property through sampling and analysis, and Brownfields Property use shall terminate unless any deficiencies DENR identifies in the plan are corrected to DENR's satisfaction within time periods established by DENR.

a. At a minimum, the groundwater monitoring plan shall require:

i. sampling pursuant to the plan of the wells designated "MW-1" and "MW-2" on the plat component of the Notice;

ii. sampling of the designated wells for volatile organic compounds and Massachusetts Department of Environmental Protection ("MDEP") volatile petroleum hydrocarbons ("VPH") and

extractable petroleum hydrocarbons ("EPH") at least once each year, during the same seven-day period;

iii. analysis of the samples by the most current version of U.S. Environmental Protection Agency Method 8260 and the most current MDEP protocols for VPH and EPH;

iv. provision of the sampling analyses to DENR in writing within 30 days after sampling; and

v. replacement of any of the designated wells if DENR determines it warranted due to redevelopment activities.

b. When the plan requires sampling, analysis, reporting or replacement of a well installed pursuant to the plan, the then owner of the affected portion(s) of the Brownfields Property shall be responsible for compliance. The plan shall be available from DENR and may be amended with DENR's prior written approval. Permission to cease required monitoring may be requested of DENR if sampling pursuant to the plan shows the concentrations of any and all detected volatile organic compounds, and MDEP VPH and EPH, declining for a minimum of two (2) consecutive years.

In compliance _x___ Out of compliance ____

Remarks: __Ground water monitoring was released on Wed, Jan. 28, 2015 by Tracy Wahl. "Based on DENR's review of the data the concentrations for all constituents have been below the 2L standard for the past 3 consecutive years, therefore you may cease monitoring at both MW-1 and MW-2., which completes your groundwater monitoring requirements for the site."

LUR 5: 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: _____
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LUR 6: 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: _____
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LUR 7: 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: _____
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LUR 8: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in Tables 1 and 2 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.

In compliance _X___ Out of compliance ____

Remarks: _____

LUR 9: 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 10: 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 11: The owner of any portion of the Brownfields Property where any existing or later 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 __X__ Out of compliance ____

Remarks: _____

LUR 12: 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 _X___ Out of compliance ____

Remarks: _____

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LUR 13: During January of each year after the year in which the Notice is recorded, the owner of any part of the Brownfields Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR certifying that, as of said January 1st, the Notice remains recorded at the Henderson 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.

   _____

   _____

   _____

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.

   _____

   _____

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c. whether any vapor barrier and/or mitigation systems installed pursuant to LUR 2 and 3 above are performing as designed, and whether the uses of the ground floors of any buildings containing such vapor barrier and/or mitigation systems have changed, and, if so, how.

   _____

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In compliance _X___ Out of compliance ____

Remarks: _____

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This Land Use Restrictions Update is certified by Gary C Jones, owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: GARY C. JONES

In the case of owners that are entities:

Signature of individual signing: Gary C. Jones
Name typed or printed: GARY C. JONES
Title: OWNER

In the case of all owners:

Date: 5-4-15

[Insert notary block from among the following that is pertinent to type of party submitting LURU: corporation, LLC, partnership or individual.]
[use for corporations]

[Insert Name of Corporation]

By:_____
Name typed or printed:
Title typed or printed:

ATTEST:

_____
Name typed or printed:
Secretary, _____ **(corporation name)**

NORTH CAROLINA
_____ COUNTY

I, _____, a Notary Public of the county and state aforesaid, certify that_____ personally came before me this day and acknowledged that he/she is the Secretary of _____ **(corporation name),** a _____ **(state)** corporation, and that by authority duly given and as the act of the corporation, the foregoing Land Use Restriction Update was signed in its name by its _____ and attested by him/her as its Secretary.

WITNESS my hand and official stamp or seal, this _____ day of _____, 20__.

_____
Name:
Notary Public

My Commission expires: _____

[Stamp/Seal]

[use for individuals]

[Insert Name of Owner]

By: GARY C. JONES
Name typed or printed:

NORTH CAROLINA
Henderson COUNTY

I, CECIL LEE PRYOR, a Notary Public of the county and state aforesaid, certify that Gary C. Jones 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 4 day of May, 2015

CECIL LEE PRYOR
Name typed or printed:
Notary Public

My Commission expires: Dec 19 2018

[Stamp/Seal]