NCDENR
North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

September 16, 2014

Via Hand Delivery

Lisa J. Stith, Register of Deeds
Wilson County Register of Deeds
101 N. Goldsboro Street
Wilson, NC 27893

Subject: Amendment of Notice of Brownfields Property
6601 Ward Boulevard
Wilson, Wilson County
Brownfields Project No. 16029-12-098

Dear Ms. Stith:

On June 13, 2014, Sirius Metal Recycling, Inc. caused to be recorded at your office a Notice of Brownfields Property ("Notice") in connection with a Brownfields Agreement it had entered into with the North Carolina Department of Environment and Natural Resources ("DENR") regarding the above-referenced property. That action was taken pursuant to the Brownfields Property Reuse Act (the "Act"), N.C.G.S. 130A-310.30, *et seq*. The document shows Sirius Metal Recycling, Inc. as owner of the subject property and was recorded in **Book 2577, pages 298-333.**

On June 30, 2014 and August 15, 2014, DENR received written requests from the owner of the subject property, Sirius Metal Recycling, Inc., to amend certain Land Use Restrictions contained in the Notice. I have been delegated the powers granted to the Secretary under the Act, and concur with Sirius Metal Recycling, Inc.'s request. Thus, the Notice's Land Use Restrictions are hereby amended to include additional language in <u>underline</u> such that they now read as follows:

1. No use may be made of the Property other than for a small to medium-sized recycling center for the collection of ferrous scrap materials, nonferrous scrap materials, white goods, cars and certain waste vehicular fluids, automotive lead acid batteries, electric and electronic scrap materials, paper goods including cardboard, potentially plastic and glass, and/or with prior written DENR approval, other non-hazardous scrap materials<u>; and for retail sales and minor maintenance of farm equipment</u>. For purposes of this restriction, the following definitions apply:

a. "Recycling" refers to the derivation of useable materials, or materials

suitable for reuse from the collection, sorting, or processing of used or waste materials.

b. "Ferrous scrap materials" are defined as those that contain magnetic metals that are predominantly composed of iron, including steel and stainless steel;

c. "Nonferrous scrap materials" are defined as those that do not contain iron, but contain other metals such as aluminum, brass, copper, and lead;

d. "White goods" are defined as obsolete major appliances such as refrigerators, water heaters and stoves;

e. "Waste vehicular fluids" are defined as gasoline, diesel, and used motor oil;

f. "Electric and electronic scrap materials" are those derived from consumer electric products such as mercury switches, insulated wires, electric motors, and consumer electronic products such as audio and video recording equipment, digital cameras, computers, copiers, printers and cellular phones;

g. "Paper goods" are defined as scrap or waste paper, including stationery, photocopy paper, computer paper, newspaper, magazines, and paper board products;

h. "Glass" refers to primarily glass bottles; and

i. "Plastic" refers to plastic goods with plastic recycling codes No. 1 and No. 2.

<u>j. "Farm equipment" refers to tractors, loaders, backhoes, tillers, mowers, and tractor parts and accessories.</u>

2. Recycling operations that include the draining and collection of waste vehicular fluids, or the storage of scrap materials shall be performed only over asphalt or concrete cap materials and in a manner that prohibits the release of fluids to the ground.

3. Groundwater at the Property may not be used for any purpose without the prior written approval of DENR;

4. Exposure to surface soil shall be minimized by maintaining a protective cover or cap over the surface of the Property where recycling operations are conducted. The cap shall consist of building foundations, asphalt paving or concrete surface material, or other impervious hardscape material. Landscaped areas may be incorporated into the cover design, but shall be constructed with a minimum of one foot of compacted clean fill or topsoil over native soil, unless sampling demonstrates that the exposed soil is safe for the intended reuse.

5. The owner(s) of any portions of the Property containing the cap approved by

DENR pursuant to the preceding Land Use Restriction shall be responsible for inspecting on a periodic basis and maintaining such surfaces in good repair so that they retain their integrity and that the infiltration of surface water beneath the cap is minimized, whether or not another party has made a commitment to perform any part of said maintenance.

6. No activity that disturbs soil on the Property may occur unless and until DENR states in writing, in advance of the proposed activity, that said activity may occur if carried out along with any measures DENR deems necessary to ensure the Property will be suitable for the uses specified in Land Use Restriction No. 1 above while fully protecting public health and the environment, except: in connection with *de minimis* soil removals to depths not exceeding 18 inches, mowing and pruning of above-ground vegetation; and, for emergency repair of underground infrastructure, provided that DENR shall be given written notice (if only by email) of any such emergency repair no later than the next business day, and that any related assessment and remedial measures required by DENR shall be taken.

7. None of the contaminants known to be present in the environmental media at the Property, including those in paragraph 7 of Exhibit A, may be used or stored at the Property without the prior written approval of DENR, except in *de minimis* amounts for cleaning and other routine housekeeping activities, in small quantities properly stored in above ground containers with sufficient secondary containment to prevent release of fluids to the ground and are stored in areas that are separate and distinct from known contaminated areas at the site, and as constituents of automotive fluids present in vehicles in use or temporarily stored at the facility in a manner that prohibits the release of contaminants to the ground.

8. The Property may not be used as a park or for contact sports of any kind without the prior written approval of DENR.

9. The Property may not be used for agriculture or grazing of animals.

10. The Property may not be used as a playground, or for child care centers or schools.

11. The Property may not be used for kennels, private animal pens, or horse-riding.

12. The owner of any portion of the Property where any existing, or subsequently 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, unless compliance with this Land Use Restriction is waived in writing by DENR in advance.

13. Neither DENR, nor any party conducting environmental assessment or remediation at the Property at the direction of, or pursuant to a permit, order or agreement issued or entered into by DENR, may be denied access to the 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 Property.

14. During January of each year after the year in which the Notice referenced in paragraph 19 of Exhibit A is recorded, the owner of any part of the Property as of January 1st of that year shall submit a notarized Land Use Restrictions Update ("LURU") to DENR, and to the chief public health and environmental officials of Wilson County, certifying that, as of said January 1st, the Notice of Brownfields Property containing these land use restrictions remains recorded at the Wilson 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 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 Property during the previous calendar year; and

c. providing copies of records pertaining to the design, construction, inspection, and/or maintenance of the site cap specified in Land Use Restrictions 4 and 5 above during the reporting period.

(End of Notice's Land Use Restrictions)

The Land Use Restrictions contained in paragraph 14 of the Brownfields Agreement regarding the property, which constitutes Exhibit A to the Notice, are hereby analogously amended.

Please record this statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources." Also, if practicable please make a marginal entry on the Notice showing the date of cancellation and the book and page where this statement is recorded, and sign the entry.

We appreciate your assistance in this matter. If you have questions or require additional information, please contact DENR official Sharon Eckard at (919) 707-8379 or sharon.eckard@ncdenr.gov.

Sincerely,

Michael E. Scott
Deputy Director
Division of Waste Management

NORTH CAROLINA
Wake COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Michael E. Scott.

Date: September 16, 2014

KATHLEEN LANCE
NOTARY PUBLIC
WAKE COUNTY, N.C.

(Official Seal)

Official Signature of Notary

Kathleen Lance
Notary's printed or typed name, Notary Public
My commission expires: 1/26/19

cc: Central Files

ec: Bruce Nicholson, DENR Brownfields Program Manager
Sharon Eckard, DENR