



State of New Jersey

CHRIS CHRISTIE
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

Site Remediation and Waste Management Program
Remediation Oversight Element
Bureau of Remedial Action Permitting
401 E. State Street
P.O. Box 420
Mail Code 401-055
Trenton, NJ 08625-0420
Phone: (609) 984-2990

February 10, 2017

Gwendolyn Hooten
U.S. Dept. of Energy
11025 Dover Street, Suite 1000
Westminster, CO 80021

Robert Paulus, Owner
WICK COMPANIES LLC
100 Woodbridge Center Drive, Suite 301
Woodbridge, NJ 07095

RE: Soil Remedial Action Permit
Site: ERDA New Brunswick Laboratory
A/K/A: New Brunswick, New Jersey Site
Address: 986 Jersey Ave (aka Hwy 91)
City: New Brunswick City
County: Middlesex
SRP Program Interest #: G000000080
Soil Remedial Action Permit #: RAP160001

Dear Mr. Paulus and Ms. Hooten:

Enclosed is a Soil Remedial Action Permit issued pursuant to the Site Remediation Reform Act, 58:10C-1 et seq. and the Administrative Requirements for the Remediation of Contaminated Sites at N.J.A.C. 7:26C-1 et seq. This permit becomes effective on February 15, 2017. Please note the referenced permit and program interest numbers and refer to them when corresponding with the Department.

The enclosed permit requires the permittee to conduct monitoring, maintenance and evaluation for compliance and effectiveness of the remedial action and its associated institutional control. The permit establishes all requirements necessary for demonstrating that the remedial action and control continue to be protective of public health, safety and the environment.

The Technical Requirements for Site Remediation (Technical Requirements) at N.J.A.C. 7:26E-1.8 define remediation to include a remedial action. The Technical Requirements further define remedial action such that "... A remedial action continues as long as an engineering control or an institutional control is needed to protect the public health and safety and the environment, and until all unrestricted use remediation standards are met." Therefore, a person who is implementing a remedial action that includes an engineering or institutional control is conducting remediation, and that person is required to hire a licensed site remediation professional (LSRP)

pursuant to the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS; see N.J.A.C. 7:26C-2.3(a) and (b)).

At all times, an LSRP is required to be retained for a case that has a Deed Notice, Classification Exception Area, Soil Remedial Action Permit, and/or Ground Water Remedial Action Permit until the remedial action(s) is no longer needed to protect the public health and safety and the environment, and until all unrestricted use remediation standards are met. The LSRP must be retained to operate, maintain, and monitor the institutional and/or engineering controls at the site, to ensure that the remedial action(s) remains protective of public health and safety and the environment, and to ensure compliance with the requirements of the Deed Notice, Classification Exception Area, Soil Remedial Action Permit, and/or the Ground Water Remedial Action Permit. This includes but is not limited to site inspections, ground water sampling, biennial submission of a Soil and/or Ground Water Remedial Action Protectiveness/Biennial Certification Form and Report, responding to any activities involving the institutional and/or engineering controls at the site, and responding to any public inquiries regarding the current status of the site. It is the responsibility of the LSRP certifying the Remedial Action Permit application to inform the Responsible Entity of the requirement regarding LSRP retention for a case that has a Soil and/or Ground Water Remedial Action Permit.

An LSRP may be retained or dismissed for a case that has an approved Soil and/or Ground Water Remedial Action Permit through the New Jersey Department of Environmental Protection online portal (www.nj.gov/dep/online/) by choosing the "LSRP Retention" or "LSRP Release" submission type selection option within the "LSRP Notification of Retention or Dismissal" service, and choosing the "Remedial Action Permit" activity in the case selection page. Please note that the Bureau of Remedial Action Permitting records the LSRP Retention for pending Remedial Action Permit Applications so there is no need to perform this function online. Also note that the LSRP Comprehensive Report (datamine2.state.nj.us/DEP_OPRA/OpraMain/categories?category=SRRA) now includes information pertaining to approved Soil and Ground Water Remedial Action Permits to which the LSRP is assigned.

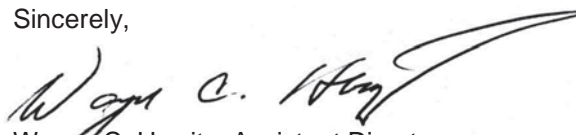
Please be aware that there are annual fees associated with this permit in accordance with N.J.A.C. 7:26C-4.6. These annual permit fees will be handled by invoicing the fee billing contact we have on record:

Robert Paulus, Owner
Wick Companies, LLC
100 Woodbridge Center Drive, Suite 301
Woodbridge, NJ 07095
Phone: (732) 758-0129
Email: bpaulus@wickcompanies.com

Any changes to this contact should be brought to the Department's attention. Changes to fee billing contacts are updates and are not considered modifications to the permit.

The Department looks forward to future continued cooperation in working together to provide a healthy environment for the citizens of New Jersey and to protect its resources. Going forward, questions or comments regarding this permit should be addressed to the Bureau of Remedial Action Permitting at 609-984-2990, attention Robert Soboleski, Bureau Chief.

Sincerely,



Wayne C. Howitz, Assistant Director
Remediation Oversight Element

Enclosure

c: New Brunswick Clerk
cityclerk@cityofnewbrunswick.org

Middlesex County Clerk
countyclerk@co.middlesex.nj.us

Middlesex County Public Health Department
pat.kukulski@co.middlesex.nj.us

Devang Patel
dpatel@envocarenj.com

<h2 style="text-align: center;">SOIL REMEDIAL ACTION PERMIT</h2> <h3 style="text-align: center;">Deed Notice with Engineering Control</h3>
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The New Jersey Department of Environmental Protection hereby grants you a Remedial Action Permit pursuant to N.J.S.A. 58:10C-1 et seq. and N.J.A.C. 7:26C-1 et seq. for the facility/activity named in this document. This permit is the regulatory mechanism used by the Department to help ensure your remedial action will be protective of human health and the environment.

This permit establishes the monitoring, maintenance, and evaluation requirements for determining the effectiveness of the deed notice's engineering control.

Site: ERDA New Brunswick Laboratory
A/K/A: New Brunswick, New Jersey Site

<u>Facility Address:</u> 986 Jersey Ave (aka Hwy 91) New Brunswick City, NJ 08901 Middlesex County Block: 598 Lot: 6	<u>Program Interest#:</u> G000000080 <u>Permit#:</u> RAP160001
<u>Person Responsible for Conducting the Remediation - Co-Permittee:</u> Gwendolyn Hooten U.S. Dept. of Energy 11025 Dover Street, Suite 1000 Westminster, CO 80021 Phone: (720) 880-4349 Email: gwen.hooten@IM.doe.gov	
<u>Property Owner - Co-Permittee:</u> Robert Paulus, Owner WICK COMPANIES LLC 100 Woodbridge Center Drive, Suite 301 Woodbridge, NJ 07095 Phone: (732) 758-0129 Email: bpaulus@wickcompanies.com <input checked="" type="checkbox"/> Primary Responsibility for Permit Compliance	

Issuance Date:
02/10/2017

Effective Date:
02/17/2017

I. Authority

The Department is issuing this permit in accordance with N.J.S.A. 58:10C-1 et seq. and N.J.A.C. 7:26C-1et seq.

II. Permit Requirements

A. MONITORING REQUIREMENTS

1. The permittee shall conduct monitoring and maintenance pursuant to Exhibit C of the attached Deed Notice. [N.J.A.C. 7:26C- 7.8(a)2]
2. The permittee shall conduct periodic inspections of each engineering control to determine its integrity, operability, and effectiveness. [N.J.A.C. 7:26C- 7.8(b)2]
3. The permittee shall conduct periodic inspections of any excavations or disturbances that have resulted in unacceptable exposure to the soil contamination. The permittee shall maintain a detailed maintenance and evaluation log. [N.J.A.C. 7:26C- 7.8(b)]

B. REMEDIAL ACTION PROTECTIVENESS/BIENNIAL CERTIFICATION FORM

1. Reporting Requirements

- a. The permittee shall prepare and submit to the Department a Remedial Action Protectiveness/Biennial Certification Form every two years following the anniversary of the date of the effective date of this permit. The certification shall be submitted on the required form provided by the Department. Submit a Remedial Action Protectiveness/Biennial Certification Form biennially from the effective date of this permit. [N.J.A.C. 7:26C- 7.7(a)1]

2. Evaluation Requirements

- a. The permittee shall hire a Licensed Site Remediation Professional to prepare and certify that the remedial action continues to be protective of the public health and safety and the environment. [N.J.A.C. 7:26C- 1.5(a)2]
- b. The permittee shall conduct the remediation in accordance with all applicable statutes, rules, and guidance. [N.J.A.C. 7:26C- 1.2(a)]
- c. The permittee shall provide the results of the periodic inspections required under the monitoring requirements of this permit. [N.J.A.C. 7:26C- 7.8(c)]
- d. The Remedial Action Protectiveness/Biennial Certification Form shall include an evaluation of any actual or pending zoning or land use changes to determine if these changes are consistent with the use restrictions contained in the attached deed notice/declaration of environmental restriction. If the evaluation finds that the engineering/institutional controls are no longer protective of the public health and safety and the environment, the permittee shall im-

plement appropriate remedial action to ensure that the engineering/institutional controls are protective of the public health and safety and the environment. [N.J.A.C. 7:26C- 7.8(b)1]

e. The Remedial Action Protectiveness/Biennial Certification Form shall include a comparison of the laws, Remediation Standards, and other regulations applicable at the time the engineering or institutional control was established with any relevant subsequently promulgated or modified laws or regulations to determine whether the engineering or institutional control remains protective. The results shall be provided in table format, comparing of applicable laws, regulations, and standards. [N.J.A.C. 7:26C- 7.8(b)3]

C. FINANCIAL ASSURANCE REQUIREMENTS

1. Small Business

a. The the property owner certified that the permittees are owners or operators of a small business who is responsible for performing a remediation at his or her business property and therefore exempted from establishing financial assurance pursuant to N.J.S.A. 58:10C19.c(2). [N.J.A.C. 7:26C- 7.10(c)6]

2. Government Entity

a. The person responsible for the remediation certified that the permittees are a government entity exempted from establishing financial assurance pursuant to N.J.S.A. 58:10C19.c(2). [N.J.A.C. 7:26C- 7.10(c)1]

D. FEES

1. For each year hereafter on the anniversary of the effective date of this permit, the Department shall invoice the permittees the amount of the annual Remedial Action Permit Fee. [N.J.A.C. 7:26C- 4.6]

E. PERMIT TRANSFERS

1. The permittee shall, at least 60 days prior to the sale or transfer of the property, or transfer of the operation of the property, or termination of a lease, submit a Remedial Action Permit Transfer/Change of Ownership Application and pay the permit transfer fee to the Department. [N.J.A.C. 7:26C- 7.11(b)]

F. PERMIT MODIFICATIONS

1. Soil Permit Modifications

a. The permittee shall apply to have the Department modify a Remedial Action Permit within 30 days after a statement that the permittee has completed a protectiveness evaluation required in its permit and has determined that the remedial action is not adequately protective of the public health and safety and of the environment, and stating the reasons for coming to this conclusion. [N.J.A.C. 7:26C- 7.12(b)1]

b. The permittee shall apply to have the Department modify a Remedial Action Permit within 30 days after any person proposes to change the engineering controls applicable to the site, as described in the deed notice filed for the property. [N.J.A.C. 7:26C- 7.12(b)3]

c. The permittee shall apply to have the Department modify a Remedial Action Permit within 30 days after the person responsible for conducting the remediation modifies the remedial action. [N.J.A.C. 7:26C- 7.12(b)4]

d. The permittee shall apply to have the Department modify a Remedial Action Permit within 30 days after the permittee changes its address. [N.J.A.C. 7:26C- 7.12(b)6]

G. PERMIT TERMINATIONS

1. A request for a permit termination can be filed by submitting a Remedial Action Permit Application to terminate the permit to the Department when the remedial action meets all applicable remediation standards without the need for the Remedial Action Permit and the remedial action is protective of the public health and safety and of the environment without the presence of the Remedial Action Permit. [N.J.A.C. 7:26C- 7.13]

H. FORM SUBMITTAL

1. Any forms, applications or documents required by this chapter that can be submitted in an electronic format shall be submitted electronically 90 days after the date that the Department informs the public in the New Jersey Register that the relevant electronic application is functional. [N.J.A.C. 7:26C- 1.6(c)]
2. All submissions required pursuant to this permit shall be made on forms approved and available from the Department. These forms and instructions for completing these forms can be found at <http://www.nj.gov/dep/srp/srra/forms>. [N.J.A.C. 7:26C- 1.6]

I. RESTRICTED LAND USES

1. Contaminated sites remediated to non-residential soil remediation standards that require the maintenance of engineering and/or institutional controls cannot be converted to a child care facility, public, private or charter school without the Department's prior approval, unless a presumptive remedy is implemented pursuant to the Department's Presumptive and Alternative Remedy Technical Presumptive Remedies for Soil Contamination at Schools, Child Care Centers, and Residences. [N.J.A.C. 7:26E-5.3]

III. Permit Schedule

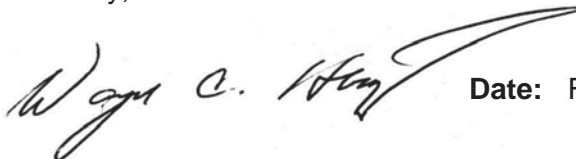
Permit Effective Date: 02/17/2017	
Submission Requirement	Due Date
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2019
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2021
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2023
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2025
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2027
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2029
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2031
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2033
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2035
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2037
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2039

Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2041
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2043
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2045
Submit a Remedial Action Protectiveness/Biennial Certification Form	02/17/2047

Note: Remedial Action Protectiveness/Biennial Certification Forms are required to be submitted according to the schedule, and shall continue to be submitted until the Permit is terminated or modified.

Your Soil Remedial Action Permit under Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C-1 et seq. has been approved by the New Jersey Department of Environmental Protection.

Sincerely,



Date: February 10, 2017

Wayne C. Howitz, Assistant Director
Remediation Oversight Element

IV. Attachments:

A. Deed Notice

Deed Notice ID: DER167755
Filed Deed Notice in the Middlesex County Clerk's Office
Book Number the Deed Notice is filed in: 5871
Page Numbers: 866-895
Date Filed: 09/20/2007
Block: 598 Lot: 6

MIDDLESEX COUNTY CLERK

Return To:

STEVEN R. SCHIESSWOHL
US DEPT OF ENERGY
11025 DOVER STREET - SUITE 1000
WESTMINSTER, CO 80021-5573

United States of America
~~U.S. DEPARTMENT OF ENERGY, OFF~~
~~ICE OF LEGACY MANAGE MENT~~

Index DEED BOOK

Book 05871 Page 0866

No. Pages 0030

Instrument DEED W/O ABSTRA

Date : 9/20/2007

Time : 1:16:50

Control # 200709200435

INST# DE 2007 014781

Employee ID THOMPL

RECORDING	\$	165.00
DARM	\$	87.00
NJPRPA	\$	58.00
- - - -	\$.00
- - - -	\$.00
- - - -	\$.00
- - - -	\$.00
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- - - -	\$.00
- - - -	\$.00
Total:	\$	310.00

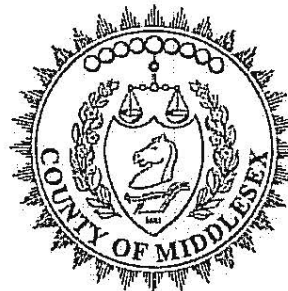
STATE OF NEW JERSEY
MIDDLESEX COUNTY CLERK

ELAINE FLYNN
COUNTY CLERK



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Not part of the original submitted document

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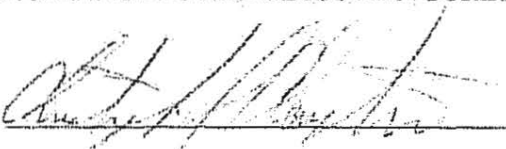
N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

WHEN RECORDED RETURN TO
Steven R. Schiesswohl, Realty Officer
US Department of Energy, Office of Legacy Management
11025 Dover Street, Suite 1000
Westminster, CO 80021-5573

Date:
Fee:
Recorder:
Filed by:
For:

Deed Notice
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

IN ACCORDANCE WITH N.J.S.A. 58:10B-13, THIS DOCUMENT IS TO BE
RECORDED IN THE SAME MANNER AS ARE DEEDS AND OTHER INTERESTS IN
REAL PROPERTY.

Prepared by: 
[Signature]

Christopher Clayton
[Print name below signature]

Recorded by:

[Signature, Officer of County Recording Office]

[Print name below signature]

DEED NOTICE

This Deed Notice is made as of the 14th day of September, 2007, by the United States of America, c/o U.S. Department of Energy, Office of Legacy Management, 1000 Independence Avenue SW, Washington, DC, 20585 (together with his/her/its/their successors and assigns, collectively "Owner").

1. THE PROPERTY, The United States of America, c/o U.S. Department of Energy (DOE) Office of Legacy Management, is the owner in fee simple of certain real property designated as Block(s) 598 Lot(s) 6, on the tax map of the City of New Brunswick, Middlesex County; the New Jersey Department of Environmental Protection Program Interest Number (Preferred ID) for the contaminated site which includes this property is G000000080; and the property is more particularly described in Exhibit A, which is attached hereto and made a part hereof (the "Property").

N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

The United States obtained the Property by virtue of the following deeds recorded in the Office of the Clerk/Register of Middlesex County, New Jersey:

- 1) Deed from The McBee Company to United States of America dated August 27, 1948, and recorded August 31, 1948 at Book 1406 Page 476 and
- 2) Deed from Manor Real Estate to United States of America dated March 18, 1949 and recorded August 22, 1949 at Book 1456 Page 312.

2. DEPARTMENT'S ASSIGNED BUREAU. The Bureau of Case Management was the New Jersey Department of Environmental Protection program that was responsible for the oversight of the remediation of the Property. The matter was Case No. G000000080.

3. SOIL CONTAMINATION. The DOE and the U. S. Army Corps of Engineers have remediated contaminated soil at the Property. The New Jersey Department of Environmental Protection approved a Remedial Investigation Technical Memorandum on _____, establishing that soil contamination remains in certain areas of the Property consisting of arsenic contamination in concentrations that do not allow for the unrestricted use of the Property; this soil contamination is described, including the type, concentration and specific location of such contaminants, in Exhibit B, which is attached hereto and made a part hereof. As a result, there is a statutory requirement for this Deed Notice and engineering controls in accordance with N.J.S.A. 58:10B-13.

4. CONSIDERATION. In accordance with the New Jersey Department of Environmental Protection's approval of the remedial action work plan for the remediation of the site which included the Property, and in consideration of the terms and conditions of that approval, and other good and valuable consideration, Owner has agreed to subject the Property to certain statutory and regulatory requirements which impose restrictions upon the use of the Property, to restrict certain uses of the Property, and to provide notice to subsequent owners, lessees and operators of the restrictions and the monitoring, maintenance, and biennial certification requirements outlined in this Deed Notice and required by law, as set forth herein.

5A. RESTRICTED AREAS. Due to the presence of these contaminants, the Owner has agreed, as part of the remedial action for the Property, to restrict the use of certain parts of the Property (the "Restricted Areas"); a narrative description of these restrictions, along with the associated monitoring and maintenance activities and the biennial certification requirements are provided in Exhibit C, which is attached hereto and made a part hereof. The Owner has also agreed to maintain a list of these restrictions on site for inspection by governmental enforcement officials.

5B. ENGINEERING CONTROLS. Due to the presence and concentration of these contaminants, the Owner has also agreed, as part of the remedial action for the Property, to the placement of certain engineering controls on the Property; a narrative description of these

N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

engineering controls, along with the associated monitoring and maintenance activities and the biennial certification requirements are provided in Exhibit C.

6A. ALTERATIONS, IMPROVEMENTS, AND DISTURBANCES.

i. Except as provided in Paragraph 6B, below, no person shall make, or allow to be made, any alteration, improvement, or disturbance in, to, or about the Property which disturbs any engineering control at the Property without first obtaining the express written consent of the Department of Environmental Protection. Nothing herein shall constitute a waiver of the obligation of any person to comply with all applicable laws and regulations including, without limitation, the applicable rules of the Occupational Safety and Health Administration. To request the consent of the Department of Environmental Protection, contact:

Department of Environmental Protection
Division of Remediation Management and Response
Bureau of Operation, Maintenance, and Monitoring
Deed Notice Inspection Program
P.O. Box 413
401 E. State Street
Trenton, NJ 08625-0413

ii. Notwithstanding subparagraph 6A.i., above, the Department of Environmental Protection's express written consent is not required for any alteration, improvement, or disturbance provided that the owner, lessee or operator:

(A) Notifies the Department of Environmental Protection of the activity by calling the DEP Hotline, at 1-877-WARN-DEP or 1-877-927-6337, within twenty-four (24) hours after the beginning of each alteration, improvement, or disturbance;

(B) Restores any disturbance of an engineering control to pre-disturbance conditions within sixty (60) calendar days after the initiation of the alteration, improvement or disturbance;

(C) Ensures that all applicable worker health and safety laws and regulations are followed during the alteration, improvement, or disturbance, and during the restoration;

(D) Ensures that exposure to contamination in excess of the applicable remediation standards does not occur;

(E) Submits a written report, describing the alteration, improvement, or disturbance, to the Department of Environmental Protection within sixty (60) calendar days after the end of each alteration, improvement, or disturbance. The owner, lessee or operator shall include in the report the nature of the alteration, improvement, or disturbance, the dates

and duration of the alteration, improvement, or disturbance, the name of key individuals and their affiliations conducting the alteration, improvement, or disturbance, a description of the notice the Owner gave to those persons prior to the disturbance, the amounts of soil generated for disposal, if any, the final disposition and any precautions taken to prevent exposure. The owner, lessee, or operator shall submit the report to:

Department of Environmental Protection
Division of Remediation Management and Response
Bureau of Operation, Maintenance, and Monitoring
Deed Notice Inspection Program
P.O. Box 413
401 E. State Street
Trenton, NJ 08625-0413

6B. EMERGENCIES. In the event of an emergency which presents, or may present, an unacceptable risk to the public health and safety, or to the environment, any person may temporarily breach any engineering control provided that that person complies with each of the following:

- i. Immediately notifies the Department of Environmental Protection of the emergency, by calling the DEP Hotline at 1-877-WARNDEP or 1-877-927-6337;
- ii. Limits both the actual disturbance and the time needed for the disturbance to the minimum reasonably necessary to adequately respond to the emergency;
- iii. Implements all measures necessary to limit actual or potential, present or future risk of exposure to humans or the environment to the contamination;
- iv. Notifies the Department of Environmental Protection when the emergency has ended by calling the DEP Hotline at 1-877-WARNDEP or 1-877-927-6337;
- v. Restores the engineering control to the pre-emergency conditions as soon as possible, and provides a written report to the Department of Environmental Protection of such emergency and restoration efforts within sixty (60) calendar days after completion of the restoration of the engineering control. The report must include all information pertinent to the emergency, potential discharges of contaminants, and restoration measures that were implemented, which, at a minimum, should specify: (a) the nature and likely cause of the emergency, (b) the potential discharges of or exposures to contaminants, if any, that may have occurred, (c) the measures that have been taken to mitigate the effects of the emergency on human health and the environment, (d) the measures completed or implemented to restore the engineering control, and (e) the changes to the engineering control or site operation and maintenance plan to prevent reoccurrence of such conditions in the future. The owner, lessee, or operator shall submit the report to:

N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

Department of Environmental Protection
Division of Remediation Management and Response
Bureau of Operation, Maintenance, and Monitoring
Deed Notice Inspection Program
P.O. Box 413
401 E. State Street
Trenton, NJ 08625-0413

7A. MONITORING AND MAINTENANCE OF DEED NOTICE, AND PROTECTIVENESS CERTIFICATION. The persons in any way responsible, pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq., for the hazardous substances that remain at the Property, the persons responsible for conducting the remediation, the Owner, and the subsequent owners, lessees, and operators, shall monitor and maintain this Deed Notice, and certify to the Department on a biennial basis that the remedial action that includes this Deed Notice remains protective of the public health and safety and of the environment. The subsequent owners, lessees and operators have this obligation only during their ownership, tenancy, or operation. The specific obligations to monitor and maintain the deed notice shall include all of the following:

- i. Monitoring and maintaining this Deed Notice according to the requirements in Exhibit C, to ensure that the remedial action that includes the Deed Notice continues to be protective of the public health and safety and of the environment;
- ii. Conducting any additional remedial investigations and implement any additional remedial actions, that are necessary to correct, mitigate, or abate each problem related to the protectiveness of the remedial action for the site prior to the date that the certification is due to the Department pursuant to iii, below, in order to ensure that the remedial action that includes this Deed Notice remains protective of the public health and safety and of the environment.
- iii. Certify to the Department of Environmental Protection as to the continued protectiveness of the remedial action that includes this Deed Notice, on a form provided by the Department and consistent with N.J.A.C. 7:26C-1.2 (a)1, every two years on the anniversary of the date stamped on the deed notice that indicates when the deed notice was recorded;

7B. MONITORING AND MAINTENANCE OF ENGINEERING CONTROLS, AND PROTECTIVENESS CERTIFICATION. The persons in any way responsible, pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq., for the hazardous substances that remain at the Property, the person responsible for conducting the remediation, and, the Owner, and the subsequent owners, lessees, and operators, shall maintain all engineering controls at the Property and certify to the Department on a biennial basis that the remedial action of which each engineering control is a part remains protective of the public health and safety and of the environment. The subsequent owners, lessees and operators have this obligation only

during their ownership, tenancy, or operation. The specific obligations to monitor and maintain the engineering controls shall include the following:

i. Monitoring and maintaining each engineering control according to the requirements in Exhibit C. to ensure that the remedial action that includes the engineering control continues to be protective of the public health and safety and of the environment;

ii. Conducting any additional remedial investigations and implement any additional remedial actions, that are necessary to correct, mitigate, or abate each problem related to the protectiveness of the remedial action for the Property prior to the date that the certification is due to the Department pursuant to iii, below, in order to ensure that the remedial action that includes the engineering control remains protective of the public health and safety and of the environment.

iii. Certify to the Department of Environmental Protection as to the continued protectiveness of the remedial action that includes the engineering control, on a form provided by the Department and consistent with N.J.A.C. 7:26C-1.2 (a)1. every two years on the anniversary of the date stamped on the deed notice that indicates when the deed notice was recorded.

8. ACCESS. The Owner and the subsequent owners, lessees and operators agree to allow the Department, its agents and representatives access to the Property to inspect and evaluate the continued protectiveness of the remedial action that includes this Deed Notice and to conduct additional remediation to ensure the protection of the public health and safety and of the environment if persons responsible for monitoring the protectiveness of the remedial action, as described in Paragraph 7, above, fail to conduct such remediation pursuant to this Deed Notice as required by law. The Owner, and the subsequent owners and lessees, shall also cause all leases, subleases, grants, and other written transfers of an interest in the Restricted Areas to contain a provision expressly requiring that all holders thereof provide such access to the Department.

9. NOTICES.

i. The Owner and the subsequent owners and lessees, shall cause all leases, grants, and other written transfers of an interest in the Restricted Areas to contain a provision expressly requiring all holders thereof to take the Property subject to the restrictions contained herein and to comply with all, and not to violate any of the conditions of this Deed Notice. Nothing contained in this Paragraph shall be construed as limiting any obligation of any person to provide any notice required by any law, regulation, or order of any governmental authority.

ii. Owner and all subsequent owners and lessees shall notify any person intending to conduct invasive work or excavate within the Restricted Areas at the Property, including, without limitation, tenants, employees of tenants, and contractors of the nature and location of contamination in the Restricted Areas, and, of the precautions necessary to minimize potential human exposure to contaminants.

iii. The Owner and the subsequent owners shall provide written notice to the Department of Environmental Protection at least thirty (30) calendar days before the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of the owner's interest in the Restricted Area.

iv. The Owner and the subsequent owners shall provide written notice to the Department within thirty (30) calendar days following the owner's petition for or filing of any document initiating a rezoning of the Property. The Owner and the subsequent owners shall submit the written notice to:

Department of Environmental Protection
Division of Remediation Management and Response
Bureau of Operation, Maintenance, and Monitoring
Deed Notice Inspection Program
P.O. Box 413
401 E. State Street
Trenton, NJ 08625-0413.

10. ENFORCEMENT OF VIOLATIONS.

i. This Deed Notice itself is not intended to create any interest in real estate in favor of the Department of Environmental Protection, nor to create a lien against the Property, but merely is intended to provide notice of certain conditions and restrictions on the Property and to reflect the regulatory and statutory obligations imposed as a conditional remedial action for this site.

ii. The restrictions provided herein may be enforceable solely by the Department against any person who violates this Deed Notice. To enforce violations of this Deed Notice, the Department may initiate one or more enforcement actions pursuant to N.J.S.A. 58:10-23.11u and require additional remediation and assess damages pursuant to N.J.S.A. 58:10-23.11g.

11. SEVERABILITY. If any court of competent jurisdiction determines that any provision of this Deed Notice requires modification, such provision shall be deemed to have been modified automatically to conform to such requirements. If a court of competent jurisdiction determines that any provision of this Deed Notice is invalid or unenforceable and the provision is of such a nature that it cannot be modified, the provision shall be deemed deleted from this instrument as though the provision had never been included herein. In either case, the remaining provisions of this Deed Notice shall remain in full force and effect.

12. SUCCESSORS AND ASSIGNS. This Deed Notice shall be binding upon Owner and upon Owner's successors and assigns, and subsequent owners, lessees and operators while each is an owner, lessee, or operator of the Property.

13. MODIFICATION AND TERMINATION.

i. Any person may request in writing, at any time, that the Department modify this Deed Notice where performance of subsequent remedial actions, a change of conditions at the Property, or the adoption of revised remediation standards suggest that modification of the Deed Notice would be appropriate.

ii. Any person may request in writing, at any time, that the Department terminate this Deed Notice because the conditions which triggered the need for this Deed Notice are no longer applicable.

iii. This Deed Notice may be revised or terminated only upon filing of an instrument, executed by the Department, in the office of the County Clerk of Middlesex County, New Jersey, expressly modifying or terminating this Deed Notice.

14A. EXHIBIT A. Exhibit A includes the following maps of the Property and the vicinity:

i. Exhibit A-1: Vicinity Map - A map that identifies by name the roads, and other important geographical features in the vicinity of the Property (for example, Hagstrom County Maps);

ii. Exhibit A-2: Metes and Bounds Description - A metes and bounds description of the Property, including reference to tax lot and block numbers for the Property;

iii. Exhibit A-3: Property Map - A scaled map of the Property, scaled at one inch to 200 feet or less, and if more than one map is submitted, the maps shall be presented as overlays, keyed to a base map; and the Property Map shall include diagrams of major surface topographical features such as buildings, roads, and parking lots.

14B. EXHIBIT B. Exhibit B includes the following descriptions of the Restricted Areas:

i. Exhibit B-1: Restricted Area Map - A separate map for each restricted area that includes:

(A) As-built diagrams of each engineering control, including caps, fences, slurry walls, ground water monitoring wells, and ground water pumping system;

(B) As-built diagrams of any buildings, roads, parking lots and other structures that function as engineering controls; and

(C) Designation of all soil and sediment sample locations within the restricted areas that exceed any soil or sediment standard that are keyed into one of the tables described in the following paragraph.

N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

ii. Exhibit B-2: Restricted Area Data Table - A separate table for each restricted area that includes:

(A) Sample location designation from Restricted Area map (Exhibit B-1);

(B) Sample elevation based upon mean sea level;

(C) Name and chemical abstract service registry number of each contaminant with a concentration that exceeds the unrestricted use standard;

(D) The restricted and unrestricted use standards for each contaminant in the table;
and

(E) The remaining concentration of each contaminant at each sample location at each elevation (or if historic fill, include data from the Department's default concentrations at N.J.A.C. 7:26E-4.6, Table 4-2).

14C. EXHIBIT C: Exhibit C includes narrative descriptions of the institutional controls and engineering controls as follows:

i. Exhibit C-1: Deed Notice as Institutional Control: Exhibit C-1 includes a narrative description of the restriction and obligations of this Deed Notice that are in addition to those describe above, as follows:

(A) General Description of this Deed Notice:

(1) Description and estimated size of the Restricted Areas as described above;

(2) Description of the restrictions on the Property by operation of this Deed Notice; and

(3) The objective of the restrictions.

(B) Description of the monitoring necessary to determine whether:

(1) Any disturbances of the soil in the Restricted Areas did not result in the unacceptable exposure to the soil contamination;

(2) There have been any land use changes subsequent to the filing of this Deed Notice or the most recent biennial certification, whichever is more recent;

(3) The current land use on the Property is consistent with the restrictions in this Deed Notice;

(4) Any newly promulgated or modified requirements of applicable regulations or laws apply to the site; and

(5) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling.

(C) Description of the following items that will be included in the biennial certification:

(1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice;

(2) Land use at the Property is consistent with the restrictions in this Deed Notice; and

(3) The remedial action that includes this Deed Notice continues to be protective of the public health and safety and of the environment.

ii. Exhibit C-2, Soil Cap as Engineering Control. Exhibit C-2 includes a narrative description of the Soil Cap as follows:

(A) General Description of the engineering control:

(1) Description of the engineering control;

(2) The objective of the engineering control; and

(3) How the engineering control is intended to function.

(B) Description of the operation and maintenance necessary to ensure that:

(1) Periodic inspections of each engineering control are performed in order to determine its integrity, operability, and effectiveness;

(2) Each engineering control continues as designed and intended to protect the public health and safety and the environment;

(3) Each alteration, excavation or disturbance of any engineering control is timely and appropriately addressed to maintain the integrity of the engineering control;

(4) This engineering control is being inspected and maintained and its integrity remains so that the remedial action continues to be protective of the public health and safety and of the environment;

(5) A record of the self-inspection dates, name of the inspector, results of the inspection and condition(s) of this engineering control. Sampling, for example, may be necessary if it is not possible to visually evaluate the integrity/ performance of this engineering control; and

(6) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling.

(C) Description of the following items that will be included in the biennial certification:

(1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice;

(2) The engineering controls continue to operate as designed; and

(3) The remedial action that includes the engineering control continues to be protective of the public health and safety and of the environment.

15. SIGNATURES. IN WITNESS WHEREOF, Owner has executed this Deed Notice as of the date first written above.

WITNESS:

Sarah Lee Willson
[Signature]

Steven R. Schiesswohl
Steven R. Schiesswohl
Realty Officer

STATE OF Colorado
COUNTY OF Jefferson

SS.:

N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

I certify that on Sept 16, 2017, Steven R. Schiesswohl, U.S. Department of Energy Office of Legacy Management, personally came before me, and this person acknowledged under oath, to my satisfaction, that this person.

(a) is named in and personally signed this document; and

(b) signed, sealed and delivered this document as his or her act and deed.

Andrea Wilson

ANDREA WILSON
MANAGER LITIGATION SUPPORT, Notary Public

[Print Name and Title]

EXHIBIT A

Exhibit A includes the following maps of the Property and the vicinity:

i. Exhibit A-1: Vicinity Map

A map that identifies by name the roads, and other important geographical features in the vicinity of the Property (for example, Hagstrom County Maps).

See Figure A-1

ii. Exhibit A-2: Metes and Bounds Description

A metes and bounds description of the Property, including reference to tax lot and block numbers for the Property is included as Figure A-2.

The recorded property description is attached in the form of the sealed 2007 survey conducted by DOE to facilitate property disposition.

iii. Exhibit A-3: Property Map

A scaled map of the Property, scaled at one inch to 200 feet or less, and if more than one map is submitted, the maps shall be presented as overlays, keyed to a base map; and the Property Map shall include diagrams of major surface topographical features such as buildings, roads, and parking lots.

A land survey map is attached as Figure A-3. This map was generated in conjunction with the 2007 sealed land survey.

N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

ILLEGIBLE ORIGINAL
Middlesex County Clerk

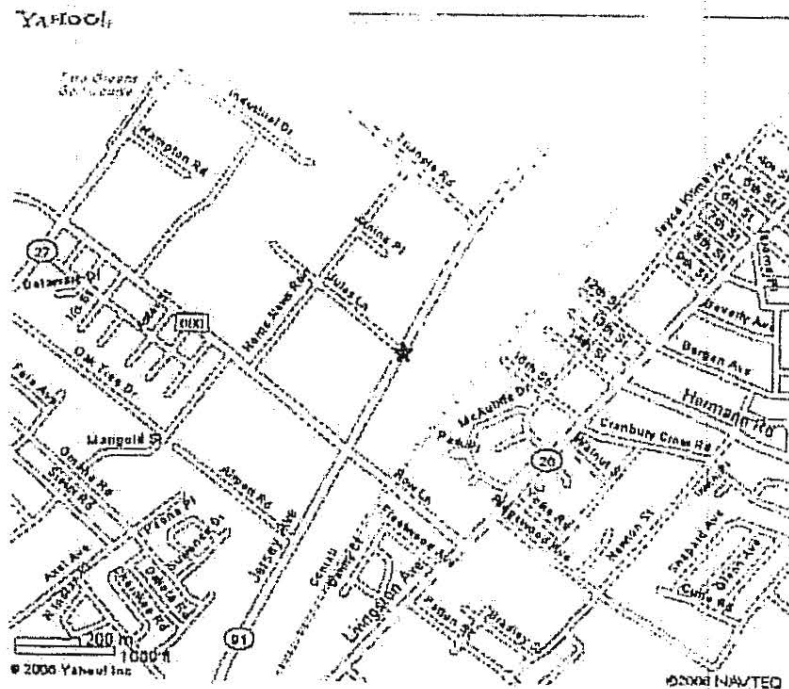


Figure A-1. Vicinity Map, 986 Jersey Avenue, New Brunswick, NJ



SCHOOR DEPALMA
Engineers and Consultants

DESCRIPTION OF PROPERTY
CITY OF NEW BRUNSWICK
MIDDLESEX COUNTY, NEW JERSEY

BLOCK 598 LOT 6
PROJECT NO. 060127301
MARCH 15, 2007

All that certain lot, tract or parcel of land situate, lying and being in the City of New Brunswick, in the County of Middlesex, and the State of New Jersey and being all of Existing Block 598 Lot 6, said lot as shown on a the Official Tax Map of the City of New Brunswick, sheet no. 80, said lots also as shown on a certain map entitled "Plan of Survey, S.M. Stoller Corporation, Block 598 Lot 6, The City of New Brunswick, Middlesex County, New Jersey", prepared by Schoor Depalma, Manalapan, N.J., dated May 5, 2006, and being further described as follows, to wit:

BEGINNING at a point marked by a re-bar with cap found in the existing southeasterly line of Jersey Avenue, (66' R.O.W.), said line being distant 33' measured southeasterly from and parallel with the centerline thereof, said point, being the point of intersection formed by the existing southwesterly line of Lot 2 Block 598, said adjoining lot as shown on the aforesaid map, where said line intersects the aforesaid existing southeasterly line of Jersey Avenue, and from said point of intersection running, thence;

- 1) South forty degrees thirty-three minutes zero seconds East (S 40°33'00" E), six hundred thirty and thirty-nine hundredths feet (630.39'), along the aforesaid existing southwesterly line of Lot 2 Block 598 and beyond, along the existing southwesterly line of Lot 3 Block 598, to a point in the existing northwesterly line of Lot 3.01 Block 598, said adjoining lots as shown on the aforesaid map, thence;
- 2) South fifty degrees zero minutes zero seconds West (S 50°00'00" W), three hundred sixty-five and fourteen hundredths feet (365.14'), along the aforesaid existing northwesterly line of Lot 3.01 Block 598, to a point in the same, thence;
- 3) North forty-nine degrees fifty-three minutes fifteen seconds West (N 49°53'15" W), five hundred fifty-nine and thirty-four hundredths feet (559.34'), along the existing northeasterly line of Lot 7 Block 598, said adjoining lot as shown on the aforesaid map, to a point in the aforesaid existing southeasterly line of Jersey Avenue, thence;
- 4) North forty degrees six minutes forty-five seconds East (N 40°06'45" E), four hundred sixty-two and zero hundredths feet (462.00'), along the aforesaid existing southeasterly line of Jersey Avenue, to a point in the same, the Point and Place of **BEGINNING**.

CONTAINING 244,295.18 square feet of land or 5.61 acres of land more or less.

QualityFirst

Justin Corporate Center, 200 State Highway Nine | PO Box 909 | Manalapan, NJ 07726-0909
tel 732.577.6000 | fax 732.577.9888 | www.schoordepalma.com

New Jersey Pennsylvania New York Florida Arizona Maryland Nevada

A national company, a division of Schoor Depalma & Associates, a division of Schoor Depalma & Associates, a division of Schoor Depalma & Associates

*Figure A-2. Metes and Bounds Description for
986 Jersey Avenue, New Brunswick, NJ*

The foregoing description was prepared by the undersigned surveyor for the firm of Schoor DePalma and is based upon a certain map entitled "Plan of Survey, S.M. Stoller Corporation, Block 598 Lot 6, The City of New Brunswick, Middlesex County, New Jersey", prepared by Schoor DePalma, Manalapan, N.J., dated May 5, 2006

Martin F. Tirella
New Jersey P.L.S.
License No. 27477

15/11/2019

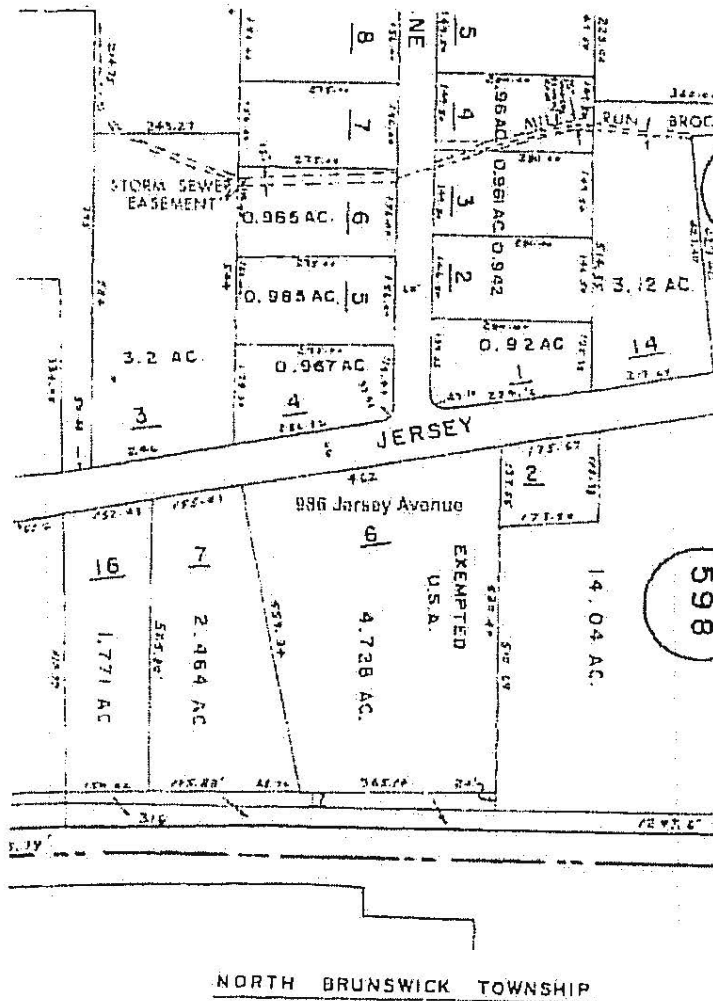
Supplement 2006-012730 LOC: 303 LOC file

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N.J.A.C. Section 7:26E - Deed Notice
 U.S. Department of Energy Office of Legacy Management
 986 Jersey Avenue, New Brunswick, Middlesex County, NJ

ILLEGIBLE ORIGINAL
 Middlesex County Clerk



NORTH BRUNSWICK TOWNSHIP	
DATE OF SURVEY	1944
BY	GEORGE S. YEGHTE
FOR	NEW BRUNSWICK
REVISIONS	REV. OCTOBER 1988 BY 372.01 1942
	REV. JANUARY 1988 BY 372.01 1942
	REV. 1984
	REV. 1982
TAX MAP NEW BRUNSWICK MIDDLESEX COUNTY NEW JERSEY SCALE 1" = 200 FT. 1944 CONDITIONS AS OF NOV. 1930	
OFFICE OF CITY ENGINEER GEORGE S. YEGHTE RE	

Figure A-2 (con't). Metes and Bounds Description for 986 Jersey Avenue, New Brunswick

B05871P0883

N.J.A.C. Section 7:26E - Deed Notice
U.S. Department of Energy Office of Legacy Management
986 Jersey Avenue, New Brunswick, Middlesex County, NJ

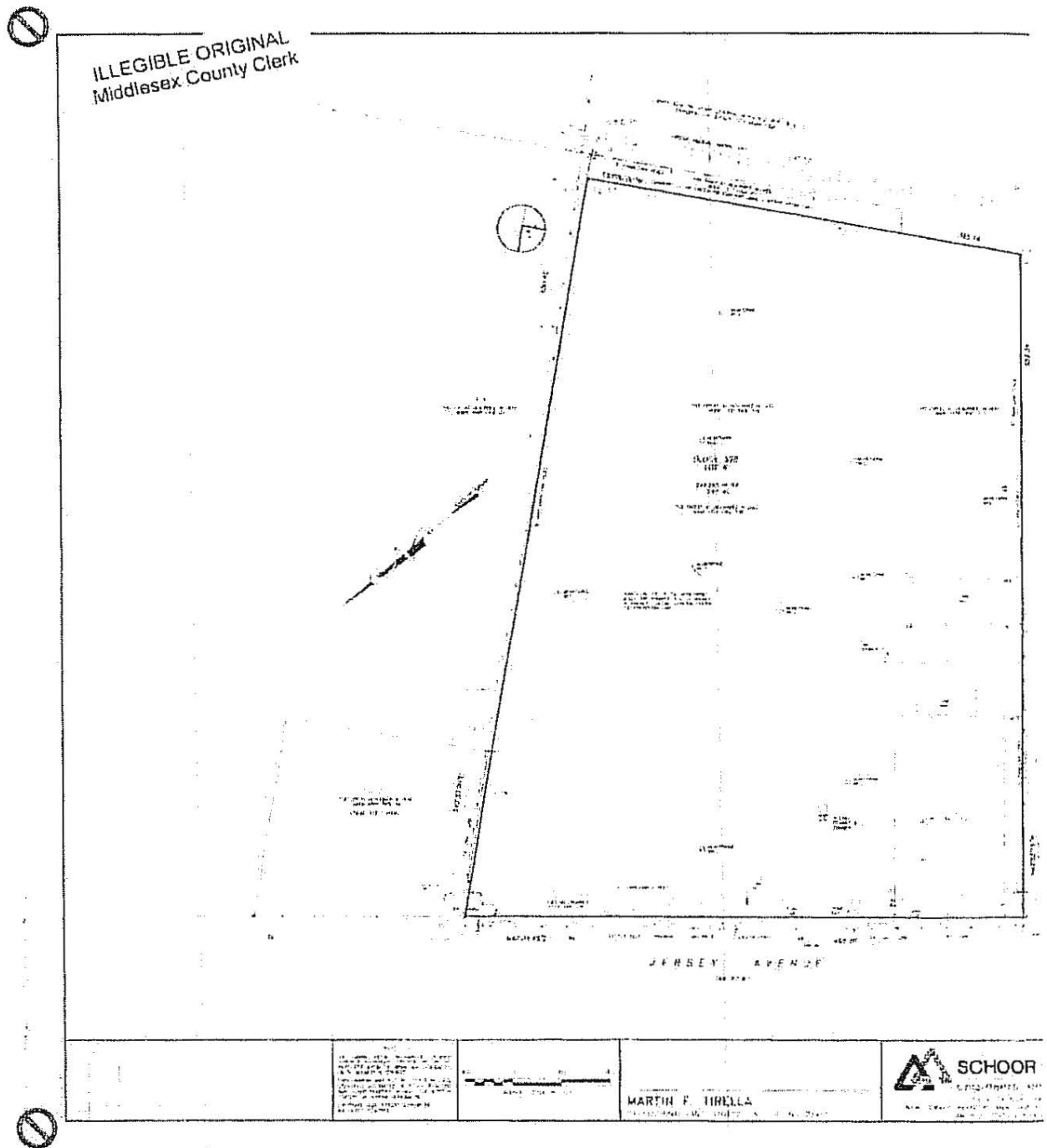


Figure A-3. Property Map for S

805871P0884

ALMA SULLIVAN 1000 1000 1000	PLAN OF SURVEY S.M. STOLLER CORPORATION 1000 1000 1000	1000 1000 1000
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of 28

805871 P0885

EXHIBIT B

EXHIBIT B. Exhibit B includes the following descriptions of the Restricted Areas:

Exhibit B-1: Restricted Area Map

A separate map for each restricted area that includes:

- (A) As-built diagrams of each engineering control, including caps, fences, slurry walls, ground water monitoring wells, and ground water pumping system;
- (B) As-built diagrams of any buildings, roads, parking lots and other structures that function as engineering controls; and
- (C) Designation of all soil and sediment sample locations within the restricted areas that exceed any soil or sediment standard that are keyed into one of the tables described in the following paragraph

See Figure B-1.

Exhibit B-2: Restricted Area Data Table

A separate table for each restricted area that includes:

- (A) Sample location designation from Restricted Area.
- (B) Sample elevation based upon mean sea level;
- (C) Name and chemical abstract service registry number of each contaminant with a concentration that exceeds the unrestricted use standard;
- (D) The restricted and unrestricted use standards for each contaminant in the table; and
- (E) The remaining concentration of each contaminant at each sample location at each elevation (or if historic fill, include data from the Department's default concentrations at N.J.A.C. 7:26E-4.6, Table 4-2).

The average arsenic concentration for the surveyed locations was 17.4 mg/Kg; the average thallium concentration was 5.6 mg/Kg; the average toxaphene concentration was 139 mg/Kg (FUSRAP Technical Memorandum, 15 December 1997 from Steve Wilkinson to Ben Wood, Re: Segmented Gate System and Post-Remedial Action Soil Sampling Activities at the New Brunswick Site in DOE 2001, *Certification Docket for the Remedial Action Performed at the New*

Brunswick Site in New Brunswick, New Jersey. Table B-1 summarizes available information for the property at 986 Jersey Avenue.

Table B-1. Restricted Area Data Table, 986 Jersey Avenue, New Brunswick, NJ

Sample Location Designation ^a	Sample Elevation (feet above msl) ^b	Contaminant Name	CAS Number	Standard ^c (mg/Kg)	Concentration (mg/Kg)
S-45		Arsenic	7440382	20	40.8
S-45		Thallium	7440280	2	20.3
S-55		Arsenic	7440382	20	27.5
S-55		Thallium	7440280	2	12.3
S-20		Arsenic	7440382	20	23.0
S-20		Thallium	7440280	2	3.4
S-35		Thallium	7440280	2	8.2
S-43		Thallium	7440280	2	12.4
East side ^d		Arsenic	7440382	20	51.6
East side ^d		Arsenic	7440382	20	55.4
East side ^d		Arsenic	7440382	20	50.3
East side ^d		Arsenic	7440382	20	36.6
Excavated Area ^e		Toxaphene		0.1/0.2	139 ^f

^a Sample locations are shown on Figure B-1.

^b Neither sample depth information nor final topography provided. Samples are assumed to have been collected from the top 6 inches of the excavation floor. Depths of excavation are shown on Figure B-1. Original topography is shown on Figure B-3.

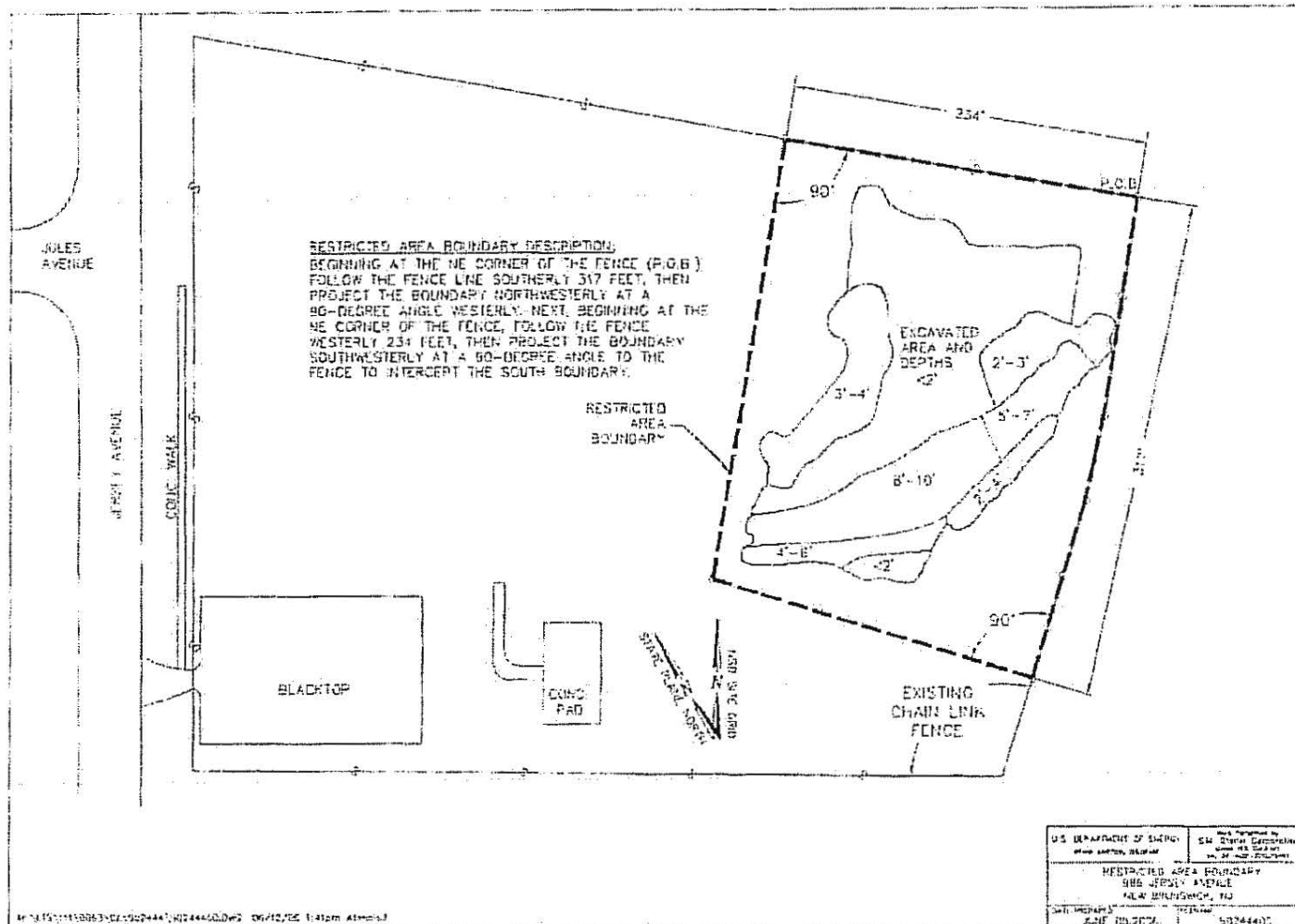
^c New Jersey Residential and Non-Residential Direct Contact Soil Cleanup Criteria.

^d It is assumed that chemical data for samples without grid numbers on summary table provided by USACE correspond to chemical sampling locations from the east side of the property shown on Figure B-2.

^e Toxaphene data were averaged across the excavated area. The New Jersey Residential Direct Contact Soil Cleanup Criteria are 100 mg/Kg for residential exposure and 200 mg/Kg for nonresidential exposure.

^f Toxaphene data were reported in FUSRAP Technical Memorandum No.144-970014. Because toxaphene standards in this report were incorrectly stated as 100 and 200 mg/Kg instead of 0.1 and 0.2 µg/Kg, it is assumed that toxaphene results are probably µg/Kg instead of mg/Kg. Subsequent soil sampling (USACE 2005) indicated toxaphene concentrations below 100 µg/Kg.

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Reference: USACE 2004. *New Brunswick FUSRAP Project Final Status Survey Report*, July.

Figure B-1. *Restricted Area Map (Soil Cap Extent and Thickness)*, 986 Jersey Avenue, New Brunswick, NJ

5871-888

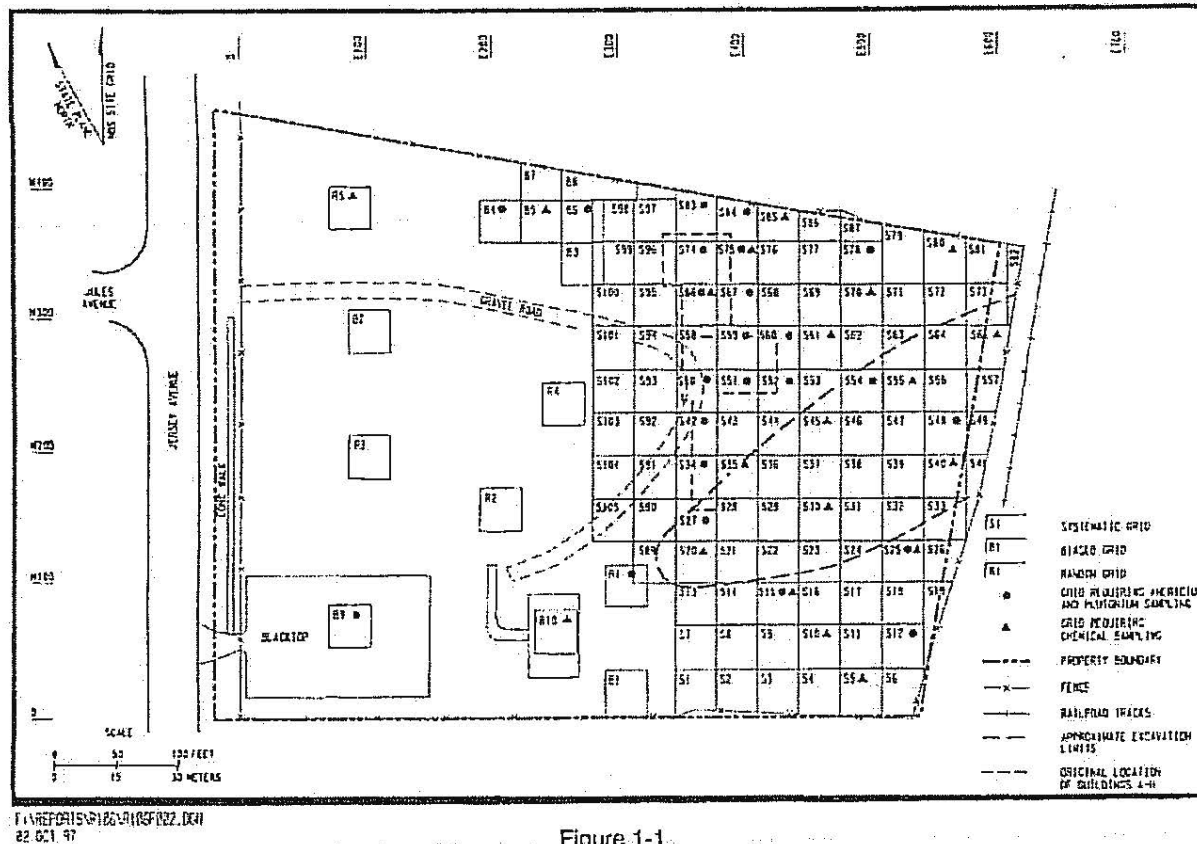


Figure 1-1
 New Brunswick Site
 Certification Grids

Reference: DOE 2001, *Certification Docket for the Remedial Action Performed at the New Brunswick Site in New Brunswick, New Jersey*, October.

Figure B-2. Soil sample locations, 986 Jersey Avenue, New Brunswick, NJ

SITE TOPOGRAPHY
 AS OF APRIL 1970



Ref: CATALYTIC, INC. PHILADELPHIA, Penn. DWG. NO. A-D-111

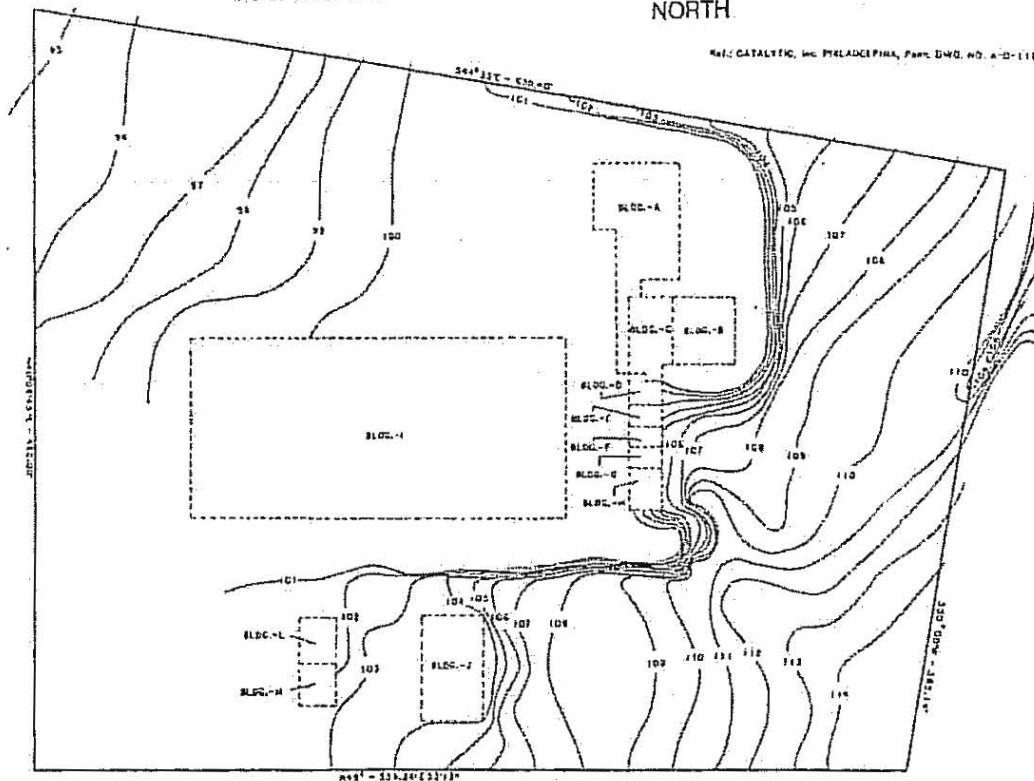


Figure A-4. Topography of NBL-NJ Site Prior to D&D

Reference: DOE 1984. *Phase II Decontamination And Decommissioning of the New Brunswick Laboratory - New Jersey Site, Interim Report*. Document Number ANL-OHS/HP-84-110. Argonne National Laboratory, November, contained in DOE 2001. *Certification Docket for the Remedial Action Performed at the New Brunswick Site in New Brunswick, New Jersey*, October.

Figure B-3. Original Grade Elevations, 986 Jersey Avenue, New Brunswick, NJ

B05871P0890

EXHIBIT C.

Exhibit C includes narrative descriptions of the institutional controls and engineering controls as follows:

Exhibit C-1: Deed Notice as Institutional Control:

Exhibit C-1 includes a narrative description of the restriction and obligations of this Deed Notice that are in addition to those describe above, as follows:

(A) General Description of this Deed Notice:

(1) Description and estimated size of the Restricted Areas as described above:

The restricted area consists of the area of soil excavated and treated to remove radiological contamination. The restricted area is approximately 37,000 ft² (3483 m²) in size (see Figure B-1). Treated site soil meeting radiological criteria for depths of greater than 6 inches was used as backfill. These soils were covered to grade with additional fill that meets radiological criteria for surface soils. Sampling indicated that soils below the backfill contain elevated concentrations of arsenic and thallium that exceed New Jersey Residential Direct Contact Soil Cleanup Criteria (Table B-1).

(2) Description of the restrictions on the Property by operation of this Deed Notice:

The owner shall not perform excavation or earth-moving activities in the restricted area without first obtaining approval from the U.S. Department of Energy, Office of Legacy Management (DOE) ([970] 248-6070). Written approval must also be obtained from the New Jersey Department of Environmental Protection (NJDEP) at (877) 927-6337 (the NJDEP hotline number) if there is a disturbance to the engineering controls for greater than 60 calendar days or if other conditions of the conditions in Section 6A cannot be met.

(3) The objective of the restrictions.

This restriction is intended to control exposure to the deeper soils containing arsenic and thallium, and to prevent the spread of the soil to other parts of the property or to off-property locations.

(B) Description of the monitoring necessary to determine whether:

(1) Any disturbances associated with the soil in the Restricted Areas did not result in the unacceptable exposure to the soil contamination:

DOE or an agent of DOE will physically inspect the site once every two years to determine if soil in the restricted area has been subjected to any excavation or earth-moving activities. Results of the inspection will be reported to NJDEP as a biennial certification in accordance with N.J.A.C. 7:26E-8.5.

- (2) There have been any land use changes subsequent to the filing of this Deed Notice or the most recent biennial certification, whichever is more recent:

In conjunction with the biennial inspection, DOE or an agent of DOE will contact the City of New Brunswick, NJ, Department of Planning, Community and Economic Development and the Middlesex County, NJ, Planning Board to determine if zoning restrictions have been modified since the last inspection. DOE also will contact the New Jersey Department of Environmental Protection Division of Water Supply, Bureau of Water Systems and Well Permitting, to confirm that no well permits have been issued for the restricted area within the subject property. Note that well drilling is not restricted except as it may result in disturbance of soil in the restricted area.

- (3) The current land use on the Property is consistent with the restrictions in this Deed Notice:

The Property is currently zoned I-2 Industrial—General Industrial District by the City of New Brunswick, NJ, Department of Planning, Community, and Economic Development. During the biennial inspection, DOE or an agent of DOE will ascertain if land use changes have occurred within the restricted area that have not been approved by DOE and NJDEP. This information will be included in the biennial certification. If land use has changed and does not comply with the conditions of this Deed Notice, and DOE determines that the new land use may pose a risk to human health or the environment, DOE will notify the New Jersey Department of Environmental Protection at (877) 927-6337 (the NJDEP hotline number) within 48 hours.

- (4) Any newly promulgated or modified requirements of applicable regulations or laws apply to the site:

In conjunction with the biennial inspection, DOE or an agent of DOE will contact the City of New Brunswick, NJ, Department of Planning, Community and Economic Development; the Middlesex County, NJ, Planning Board; and the New Jersey Department of Environmental Protection to determine if any newly promulgated or modified requirements of applicable regulations or laws apply to the site.

- (5) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling:

If any newly promulgated or modified requirements of applicable regulations or laws apply to the site, DOE will determine if additional sampling is required and report conclusions in the biennial certification.

(C) Description of the following items that will be included in the biennial certification:

DOE will include the following information in the biennial certification report:

- (1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice:
- (2) Land use at the Property is consistent with the restrictions in this Deed Notice:
- (3) The remedial action that includes this Deed Notice continues to be protective of the public health and safety and of the environment.

Exhibit C-2: Soil Cap as Engineering Control:

Exhibit C-2 includes a narrative description of soil cap as follows:

(A) General Description of the engineering control:

- (1) Description of the engineering control:

The engineering control consists of a soil cap varying in thickness from less than 2 feet to as much as 10 feet in thickness (see Figure B-1).

- (2) The objective of the engineering control; and

The control is intended to prevent direct exposures to contaminated soils located at depth.

- (3) How the engineering control is intended to function.

The control functions as a physical barrier between receptors and contaminated soils.

(B) Description of the operation and maintenance necessary to ensure that:

- (1) Periodic inspections of each engineering control are performed in order to determine its integrity, operability, and effectiveness;
- (2) Each engineering control continues as designed and intended to protect the public health and safety and the environment;
- (3) Each alteration, excavation or disturbance of any engineering control is timely and appropriately addressed to maintain the integrity of the engineering control;
- (4) This engineering control is being inspected and maintained and its integrity remains so that the remedial action continues to be protective of the public health and safety and of the environment;
- (5) A record of the self-inspection dates, name of the inspector, results of the inspection and condition(s) of this engineering control. Sampling, for example, may be necessary if it is not possible to visually evaluate the integrity/performance of this engineering control; and

To comply with items (B)(1) through (B)(5) above, DOE or an agent of DOE will physically inspect the site once every two years to determine if soil in the restricted area has been subjected to any excavation or earth-moving activities. Results of the inspection will be reported to the New Jersey Department of Environmental Protection as a biennial certification in accordance with N.J.A.C. 7:26E-8.5.

If evidence is encountered indicating disturbance in the restricted area, DOE or an agent of DOE will restore the soil cap to its final remediation depth and will regrade the restricted area to the final contours.

- (6) Any new standards, regulations, or laws apply to the site that might necessitate additional sampling in order to evaluate the protectiveness of the remedial action which includes this Deed Notice, and conduct the necessary sampling.

In conjunction with the biennial inspection, DOE or an agent of DOE will contact the City of New Brunswick, NJ, Department of Planning, Community and Economic Development; the Middlesex County, NJ, Department of Planning, Middlesex County Planning Board; and the New Jersey Department of Environmental Protection to determine if any newly promulgated or modified requirements of applicable regulations or laws apply to the site.

- (C) Description of the following items that will be included in the biennial certification:

DOE will include the following information in the biennial certification report:

- (1) A monitoring report that describes the specific activities, pursuant to (A) and (B), above, conducted in support of the biennial certification of the protectiveness of the remedial action that includes this Deed Notice;
- (2) The engineering controls continue to operate as designed; and
- (3) The remedial action that includes the engineering control continues to be protective of the public health and safety and of the environment.

EXHIBIT B

No Further Action Letter



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

Bureau of Case Management
401 East State Street
P.O. Box 028
Trenton, NJ 08625-0028
Phone #: 609-633-1455
Fax #: 609-633-1439

Allen D. Roos, Project Manager
United States Army Corps of Engineers
100 W Hunter Ave
Maywood, NJ 07607

October 14, 2008

**Re: Conditional No Further Action Letter and Covenant Not to Sue with
Requirements for Biennial Certifications**

Remedial Action Type: Restricted Use for the Area of Concern (Block 598, Lot 6)
ERDA New Brunswick Laboratory
986 Jersey Avenue (aka Highway 91)
New Brunswick City, NJ
Program Interest #: G000000080
Activity Number: RPC000001
Document Title: ERDA-NBS NFA-R AOC Sept 2008

Dear Mr. Roos:

Pursuant to N.J.S.A. 58:10B-13.1 and N.J.A.C. 7:26C, the New Jersey Department of Environmental Protection (Department) issues this Conditional No Further Action Letter and Covenant Not to Sue for the remediation of the area of concern known as Block 598, Lot 6, so long as the United States Army Corps of Engineers did not withhold any information from the Department. This action is based upon information in the Department's case file and the United States Army Corps of Engineers' certified report titled Final Remedial Investigation Technical Memorandum for Soils and Groundwater dated August 17, 2006. In issuing this Conditional No Further Action Letter and Covenant Not to Sue, the Department has relied upon the certified representations and information provided to the Department. To remain in compliance with the terms of this Conditional No Further Action Letter and to maintain the benefits of the Covenant Not to Sue, the United States Army Corps of Engineers as well as each subsequent owner, lessee and operator must comply with the conditions noted below.

By issuance of this Conditional No Further Action Letter, the Department acknowledges the completion of a Remedial Investigation and Remedial Action pursuant to the Technical Requirements for Site Remediation (N.J.A.C. 7:26E) for the area of concern known as Block 598, Lot 6 and no other areas. The area of concern known as Manhole 26 is specifically not included in this Conditional No Further Action Letter. The

Department reserves its rights to require any person responsible for the contamination at the site to address Natural Resource Injuries.

CONDITIONS

Pursuant to N.J.S.A. 58:10B-12o, the United States Army Corps of Engineers and any other person who was liable for the cleanup and removal costs, and remains liable pursuant to the Spill Act, shall inform the Department in writing within 14 calendar days whenever its name or address changes. Any notices submitted pursuant to this paragraph shall reference the above case numbers and shall be sent to: Bureau of Case Assignment and Initial Notice -Case Assignment Section, P.O. Box 434, Trenton, N.J. 08625-0434,

The United States Army Corps of Engineers as well as each subsequent owner, lessee and operator (collectively Successors) shall comply with each of the following:

Monitoring of Compliance for Institutional and Engineering Controls and Biennial Certifications

Pursuant to N.J.S.A. 58:10B-13.1 and N.J.A.C. 7:26E-8, the United States Army Corps of Engineers and the Successors shall conduct monitoring for compliance and effectiveness of the institutional and engineering controls specified in this document and submit written biennial certifications to the Department that the institutional and engineering controls are being properly maintained and continue to be protective of public health and safety and the environment. The biennial certifications are due every two (2) years on the date the institutional control was established. The first biennial certification following the issuance of this Conditional No Further Action Letter is due September 20, 2009. Any such certification shall include the information relied upon to determine that no changes have occurred.

Deed Notice (Institutional and Engineering Control)

Pursuant to N.J.S.A. 58:10B-13a, the United States Army Corps of Engineers and the Successors shall ensure that the Deed Notice filed on September 20, 2007 with Middlesex County Clerk is complied with including maintenance of applicable engineering controls. The deed notice can be found at Deed Book 05871, page 0866 located at the Middlesex County Clerk's office.

COVENANT NOT TO SUE

The Department issues this Covenant Not to Sue (Covenant) pursuant to N.J.S.A. 58:10B-13.1. That statute requires a Covenant not to sue with each conditional no further action letter. However, in accordance with N.J.S.A. 58:10B-13.1, nothing in this Covenant shall benefit any person who is liable, pursuant to the Spill Compensation and Control Act (Spill Act), N.J.S.A. 58:10-23.11, for cleanup and removal costs and the Department makes no representation by the issuance of this Covenant, either express or implied, as to the Spill Act liability of any person.

The Department covenants, except as provided in the preceding paragraph, that it will not bring any civil action against:

- (a) the person who undertook the remediation;
- (b) subsequent owners of the subject property;
- (c) subsequent lessees of the subject property; and
- (d) subsequent operators at the subject property;

for the purposes of requiring remediation to address contamination which existed prior to the date of the certified report titled Final Remedial Investigation Technical Memorandum for Soils and Groundwater dated August 17, 2006 for the real property at areas of concern identified above, payment of compensation for damages to, or loss of, natural resources, for the restoration of natural resources in connection with the discharge on the property, or payment of cleanup and removal costs for such additional remediation.

The person who undertook the remedial action, and each subsequent owner, lessee and operator, during that person's ownership, tenancy or operation, shall maintain all applicable engineering and institutional controls and conduct periodic compliance monitoring in the manner the Department requires.

Any person who benefits from this Covenant may be barred from making a claim against the Spill Compensation Fund, N.J.S.A. 58:10-23.11i, and the Sanitary Landfill Facility Contingency Fund, N.J.S.A. 13:1E-105, for any costs or damages relating to the remediation covered by this Covenant. All other claims against these funds will be controlled by the corresponding statutes and their implementing regulations.

Pursuant to N.J.S.A. 58:10B-13.1d, this Covenant does not relieve any person from the obligation to comply in the future with laws and regulations. The Department reserves its right to take all appropriate enforcement for any failure to do so.

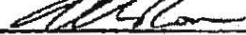
The Department may revoke this Covenant at any time after providing notice upon its determination that:

- (a) any person with the legal obligation to comply with any condition in this Conditional No Further Action Letter has failed to do so;
- (b) any person with the legal obligation to maintain or monitor any engineering or institutional control has failed to do so; or
- (c) any person with the legal obligation to submit, on a biennial basis, a certification that the engineering and institutional controls are being properly maintained and continue to be protective of the public health and safety and of the environment has failed to do so.

This Covenant, which the Department has executed in duplicate, shall take effect immediately once the person who undertook the remediation has signed and dated the Covenant in the lines supplied below and the Department has received one copy of this

document bearing original signatures of the Department and the person who undertook the remediation.

By: Allen D. Roos

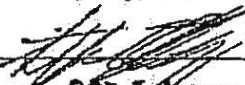
Signature: 

Title: Project Manager

Dated: 10-30-08

**NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION**


By: Stephen E. Maybury, Bureau Chief

Signature: 

Dated: OCT 14 2008

Thank you for your attention to these matters. If you have any questions, please contact Donna L. Gaffigan of my staff at (609) 633-1494.

Sincerely,


Stephen E. Maybury, Bureau Chief
Bureau of Case Management

Enclosures: Deed Notice - with site and deed notice location maps

- c: Donna L. Gaffigan, Case Manager
Patricia Gardner, NJDEP/BER
Christopher Clayton, USDOE
New Brunswick Department of Social Services, Div of Health
Middlesex County Health Department
Municipal Clerk, New Brunswick City
NJDEP-BOMM - Rob Hoch
NJDEP- BISPS - Sandra Norton

EXHIBIT C

Hazardous Substance Activity

Hazardous Substance Activity Certification

Property Name: Former New Brunswick Laboratory, 986 Jersey Avenue, New Brunswick,
New Jersey

Hazardous Substance Activity includes: (1) the known release of hazardous substances in quantities equal to or greater than the reportable quantity found in 40 CFR 302.4; (2) the disposal of a hazardous substance at the subject facility; or (3) the storage for one year or more of a hazardous substance in quantities of 1000 kilograms or more, or the reportable quantity found in 40 CFR 302.4, whichever is greater. Hazardous substance activity includes storage in quantities greater than or equal to one kilogram if the substances are listed under 40 CFR 261.30 as acutely hazardous substances.

Check either statement A or B below:

A. _____ The reporting agency has determined, based upon a complete search of agency files, that there is no evidence to indicate that hazardous substance activity took place on the property during or prior to federal ownership. Therefore, all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken prior to the report of excess.

B. X Hazardous substance activity occurred on the property. Based upon a complete search of agency files, the attached documents provide the following information:

1. the type and quantity in kilograms and pounds;

Mixed radiological waste resulting from general radiological laboratory operations; residual radioactive contamination resulting from disposal of uranium ore mixed with soil in the abandoned railroad spur, and arsenic in soil in the backfill used to fill the excavation resulting from removal of the residual radioactive contamination. Exact quantities are unknown.

2. the dates that such storage, release or disposal took place;

- 1948 to 1977: DOE and predecessor agencies used property as a radiological chemistry and assay laboratory
- 1960: Soil containing residual radioactive contamination (uranium ore) was disposed of in abandoned railroad spur
- 1978: Remedial Action, Phase I: DOE removed contaminated portions of buildings
- 1983: Remedial Action, Phase II: DOE removed buildings, infrastructure, and contaminated soil
- 1990: DOE designated the site for final remediation under the Formerly Utilized Sites Remedial Action Program (FUSRAP)
- 1996: DOE remediated residual radioactive contamination from railroad spur
- 2006: US Army Corps of Engineers certified that groundwater was not contaminated
- 2006: DOE submitted Deed Notice to impose institutional controls in northeast portion of site where buried soil exceeds New Jersey Department of Environmental Quality standards
- 2007: Deed Notice recorded in Records of Middlesex County, NJ, on September 20
- 2008: NJDEP issued determination of conditional No Further Action for DOE-owned property on October 14
- 2009: DOE conducted investigation of sanitary sewer and found no radiological contamination

(and the following information if applicable)

3. the Chemical Abstracts Services Registry Number (CASRN);

Arsenic; 7440382

4. the regulatory synonym; and

None

5. the RCRA hazardous waste number (40 CFR 261.30).

D004

If B was checked above, you must check either C or D below:

- C. ☒ All remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken prior to the report of excess. Provide copies of all reports on the cleanup.¹ (Please note: this requirement is met if EPA has concurred in writing that an installed remedial design is "operating properly and successfully". Please provide a copy of EPA's concurrence.)

The NJDEP conditional No Further Action determination, issued October 14, 2008, documents that the property is protective of human health and the environment as long as the soil cap covering the arsenic-contaminated soil is not disturbed. The Deed Notice has been recorded in the Records of the County of Middlesex (see reference below) and is made a part of the real property record that will be disclosed to all future owners.

Documentation of hazardous substances activity:

DOE (U.S. Department of Energy), 2009. *New Brunswick, New Jersey, Site Sanitary Sewer Investigation (Manhole 26) Report*, Document Number LMS/NBL/S05387, Grand Junction, Colorado, June.

DOE (U.S. Department of Energy), 2007. Deed Notice, 986 Jersey Avenue, New Brunswick, Middlesex County, NJ, recorded on September 20, 2007, in Book 05871, Pages 0866 to 0895, Records of the County of Middlesex, State of New Jersey.

DOE (U.S. Department of Energy), 2001. *Certification Docket for the Remedial Action Performed at the New Brunswick Site in New Brunswick, New Jersey*, Oak Ridge Operations, Oak Ridge, Tennessee, October, available at http://www.hn.doe.gov/New_Brunswick/Documents.aspx.

NJDEP (New Jersey Department of Environmental Protection) 2008. "Conditional No Further Action Letter and Covenant Not to Sue with Requirements for Biennial Certifications," letter from D. Gaffigan, NJDEP, to A. Roos, U.S. Army Corps of Engineers, October 14.

USACE (U.S. Army Corps of Engineers) 2006. *Final Remedial Investigation Technical Memorandum for Soils and Groundwater at the New Brunswick ERDA Site*.

- D. _____ Remedial action has not yet been taken or completed, but remediation will be completed by _____ (date). Remedial action has not been completed because _____. Attach additional pages if necessary to describe why remedial action has not yet occurred.

Circle the correct response:

The property or a portion thereof ~~is~~ is not proposed for or listed on the National Priorities List of Superfund sites.

¹ Please note that holding agencies are obligated to return to the site and complete any additional remedial action found to be necessary by the applicable regulatory authority with regard to hazardous substance activity that took place on the property prior to the transfer.

NOTE: Please provide copies of all environmental reports, correspondence with regulators and other documents related to the environmental condition of the property. In the event that the reporting agency conducts environmental investigations as part of the excessing process, GSA requests use of the ASTM standards for Phase I and Phase II environmental site assessments.


Signature

Raymond Plieness, Director, Office of Site Operations
Title

U.S. Department of Energy Office of Legacy Management
Agency

9/2/2009
Date