

RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING NOTICE OF DEED RESTRICTION FOR A PORTION OF THE PREMISES KNOWN AS BLOCK 601, LOT 1.01 ON THE CURRENT TAX MAP OF THE BOROUGH OF MADISON

WHEREAS, the Borough Engineer has recommended that the Borough Council authorize a Notice of Deed Restriction on a portion of the property commonly know as the Madison Recreation Center, Block 1401, Lot 5.02 on the current tax map of the Borough of Madison, to facilitate the disbursement of New Jersey Department of Environmental Protection, Green Acres Program funding; and

WHEREAS, the New Jersey DEP, Green Acres Program will provide funding to the Borough of Madison for costs associated with the acquisition of property known as the Madison Recreation Center in the amount in excess of \$1.2 million dollars; and

WHEREAS, the Borough Council has determined to authorize the execution of a Notice of Deed Restriction to a portion of the deed for the Madison Recreation Center site.

NOW, THEREFORE, BE IT RESOLVED; by the Council of the Borough of Madison, County of Morris, and State of New Jersey, that the Mayor and Borough Clerk are hereby authorized to execute on behalf of the Borough of Madison a Notice of Deed Restriction in a form approved by the Acting Borough Attorney.

ADOPTED AND APPROVED
December 10, 2012



ROBERT H. CONLEY, Mayor

Attest:



ELIZABETH OSBORNE, Borough Clerk



New Jersey Department of Environmental Protection
Site Remediation Program

REMEDIAL ACTION PERMIT APPLICATION – SOIL

Date Stamp
(For Department use only)

SECTION A. SITE NAME AND LOCATION

Site Name: Madison Recreation Center
List All AKAs: _____
Street Address: 184 Ridgedale Avenue
Municipality: Madison Borough (Township, Borough, or City)
County: Morris Zip Code: 07940
Program Interest (PI) Number(s): 564497 Case Tracking Number(s): 11-07-12-1448-01

SECTION B. PERMIT APPLICATION, MODIFICATION, AND TERMINATION FEES

Select One

- Remedial Action Permit Application.....\$600.00
- Remedial Action Permit Modification\$400.00
- Remedial Action Permit Termination\$600.00

SECTION C. FEE BILLING CONTACT PERSON

Business Name: Madison Borough Phone: (973) 593-3038
Contact: Raymon Codey Title: Borough Administrator
Mailing Address: 50 Kings Road
City/Town: Madison State: New Jersey Zip Code: 07940
Email Address: codeyr@rosenet.org

SECTION D. PERSON RESPONSIBLE FOR CONDUCTING THE REMEDIATION – CO-PERMITTEE

Affiliation/Name of Organization: Madison Borough
First Name of Contact: Raymond Last Name of Contact: Codey
Title: Borough Administrator
Phone Number: (973) 593-3038 Ext: _____ Fax: _____
Mailing Address: 50 Kings Road
City/Town: Madison State: NJ Zip Code: 07940
Email Address: codeyr@rosenet.org
 Primary Responsibility for Permit Compliance

SECTION E. CURRENT OWNER OF THE SITE – CO-PERMITTEE

Affiliation/Name of Organization: Madison Borough
First Name of Contact: Raymond Last Name of Contact: Codey
Title: Borough Administrator
Phone Number: (973) 593-3038 Ext: _____ Fax: _____
Mailing Address: 50 Kings Road
City/Town: Madison State: NJ Zip Code: 07940
Email Address: codeyr@rosenet.org
 Primary Responsibility for Permit Compliance

SECTION F. DEED NOTICE INFORMATION

1. Attach the following:
 Copy of Filed Deed Notice with Book & Page Numbers (both in paper and electronically in Adobe PDF format)
 OR
 Deed Notice Termination Document (both in paper and electronically in Adobe PDF format)
 Remedial Action Report (RAR) (electronically only - in Adobe PDF format)
2. Was a GIS compatible map of the Deed Notice sent to srpgis_dn@dep.state.nj.us? Yes No
3. Deed Notice filing date: 01/15/2012
4. Name of County Office the Deed Notice was filed in: Morris County Clerk's Office
5. Book Number the Deed Notice is filed in: _____ Page Number(s): First: _____ to Last: _____
6. Total Number of Pages filed: _____
7. Block(s) and Lot(s): Block 601 Lot 1.01
8. Is the entire site restricted? Yes No
 If "No," what percent of the site is restricted? 4 _____ %
9. Is this Deed Notice for Historic Fill material at the site? Yes No
 If "Yes," is the Historic Fill material impacting the ground water at the site? Yes No
 If "Yes," has the CEA/WRA Permit Fact Sheet Form been submitted to the NJDEP? Yes No
 If "No," please attach a completed CEA/WRA Permit Fact Sheet Form to this application.

SECTION G. FINANCIAL ASSURANCE

1. Did the Deed Notice include an engineering control? Yes No
 If "Yes," complete this section, otherwise proceed to the next section (Section I. Receptor Evaluation Summary).
2. Are any of the entities identified in Section D or E exempt from establishing financial assurance pursuant to N.J.A.C. 7:26C-7.10(c)? Yes No
 Check the exemption that applies:
- | Person Responsible
for Conducting the
Remediation –
Co-Permittee | Current
Owner of
the Site –
Co-Permittee | |
|---|---|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Government entity |
| <input type="checkbox"/> | <input type="checkbox"/> | A person not liable pursuant to the Spill Act that purchased contaminated property before May 7, 2009 |
| <input type="checkbox"/> | <input type="checkbox"/> | A person that conducted remediation at their primary or secondary residence |
| <input type="checkbox"/> | <input type="checkbox"/> | Owner or operator of a child care center |
| <input type="checkbox"/> | <input type="checkbox"/> | Public school or private school |
| <input type="checkbox"/> | <input type="checkbox"/> | Owner or operator of a small business responsible for conducting remediation at the location of the business |
3. Is the current owner of the site either a homeowner association or a condominium association pursuant to the New Jersey Common Interest Association Act, N.J.S.A. 46:8A-1 et seq.? Yes No
 If "Yes," and the association is identified in Section D and E of this Permit Application, attach a copy of the association's annual budget that includes funds for the operation, maintenance, and monitoring of the engineering control(s) at the site.
4. Identify the estimated cost of operation, maintenance, and monitoring of the engineering control(s) at the site: \$ 1,000.00
5. Is the estimate attached? Yes No
6. What is the Financial Assurance Mechanism? (check all that apply)
- | | | |
|---|---|--|
| <input type="checkbox"/> Remediation Trust Fund | <input type="checkbox"/> Line of Credit | <input type="checkbox"/> Loan or Grant |
| <input type="checkbox"/> Environmental Insurance Policy | <input type="checkbox"/> Letter of Credit | |

7. Identify the full amount established as a financial assurance: \$ _____
8. Contact information at the financial institution for the financial assurance:
- Financial Institution: _____
- First Name of Contact: _____ Last Name of Contact: _____
- Mailing Address: _____
- City/Town: _____ State: _____ Zip Code: _____
- Email Address: _____
- Phone Number: _____ Ext: _____ Fax: _____
9. Attach a copy of the original financial assurance instrument.

SECTION H. ENGINEERING CONTROL

1. Current Use for the Engineering Controlled Area (check all that apply)
- | | | |
|--|--|--|
| <input type="checkbox"/> Industrial | <input checked="" type="checkbox"/> Park or Recreational Use | <input type="checkbox"/> Child Care Center |
| <input type="checkbox"/> Residential | <input type="checkbox"/> Agricultural | <input type="checkbox"/> Hospital |
| <input type="checkbox"/> Commercial | <input type="checkbox"/> Road/Right of Way | <input type="checkbox"/> Vacant |
| <input type="checkbox"/> Government Facility | <input type="checkbox"/> School | <input type="checkbox"/> Other _____ |
2. If School or childcare was checked above, is a presumptive remedy being employed (see http://www.nj.gov/dep/srp/guidance/srra/presumptive_remedy_guidance_DRAFT.pdf)?..... Yes No
- If "No," when was the remedy approved by the NJDEP? _____
3. Date Engineering Control was installed: 12/28/2012
4. Identify below the materials used for the engineering control.

Area	Engineering Control Description	Thickness	Units
North and South AOCs	Fence		Feet
			Inches

*Other, describe:

5-foot fencing with signage will prevent access to the North and South AOCs

SECTION J. OTHER REMEDIATION PERMITS

Are other Remediation Permits also being applied for or already obtained? Yes No
If "Yes," please list the Permit Type, Permit Number and Effective Date for other remediation permits.

SECTION K. PERSON RESPONSIBLE FOR CONDUCTING THE REMEDIATION INFORMATION AND CERTIFICATION

Full Legal Name of the Person Responsible for Conducting the Remediation: Borough of Madison
Representative First Name: Raymond Representative Last Name: Codey
Title: Borough Administrator
Phone Number: (973) 593-3038 Ext: _____ Fax: _____
Mailing Address: 50 Kings Road
City/Town: Madison State: NJ Zip Code: 07940
Email Address: codeyr@rosenet.com

This certification shall be signed by the person responsible for conducting the remediation who is submitting this notification in accordance with Administrative Requirements for the Remediation of Contaminated Sites rule at N.J.A.C. 7:26C-1.5(a).

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, including all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, to the best of my knowledge, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for the penalties.

Signature: _____ Date: _____
Name/Title: Raymond Codey/Borough Administrator **No Changes Since Last Submittal**

SECTION L. CURRENT OWNER OF THE SITE – CO-PERMITTEE

Full Legal Name of the Person who owns the site: Borough of Madison
Representative First Name: Raymond Representative Last Name: Codey
Title: Borough Adminstrator
Phone Number: (973) 593-3038 Ext: _____ Fax: _____
Mailing Address: 50 Kings Road
City/Town: Madison State: NJ Zip Code: 07940
Email Address: codeyr@rosenet.com

This certification shall be signed by the person who owns the site and is submitting this notification in accordance with Administrative Requirements for the Remediation of Contaminated Sites rule at N.J.A.C. 7:26C-1.5(a).

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, including all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, to the best of my knowledge, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for the penalties.

Signature: _____ Date: _____
Name/Title: Raymond Codey/Borough Administrator **No Changes Since Last Submittal**

SECTION M. LICENSED SITE REMEDIATION PROFESSIONAL INFORMATION AND STATEMENT

LSRP ID Number: 573787

First Name: Joseph Last Name: Norton

Phone Number: (908) 852-6046 Ext: _____ Fax: _____

Mailing Address: PO Box 185

City/Town: Allamuchy State: NJ Zip Code: 07820

Email Address: joe@norconenviron.com

This statement shall be signed by the LSRP who is submitting this notification in accordance with SRRA Section 16 d. and Section 30 b.2.

I certify that I am a Licensed Site Remediation Professional authorized pursuant to N.J.S.A. 58:10C to conduct business in New Jersey. As the Licensed Site Remediation Professional of record for this remediation, I:

[SELECT ONE OR BOTH OF THE FOLLOWING AS APPLICABLE]:

- directly oversaw and supervised all of the referenced remediation, and/or*
- personally reviewed and accepted all of the referenced remediation presented herein.*

I believe that the information contained herein, and including all attached documents, is true, accurate and complete.

It is my independent professional judgment and opinion that the remediation conducted at this site, as reflected in this submission to the Department, conforms to, and is consistent with, the remediation requirements in N.J.S.A. 58:10C-14.

My conduct and decisions in this matter were made upon the exercise of reasonable care and diligence, and by applying the knowledge and skill ordinarily exercised by licensed site remediation professionals practicing in good standing, in accordance with N.J.S.A. 58:10C-16, in the State of New Jersey at the time I performed these professional services.

I am aware pursuant to N.J.S.A. 58:10C-17 that for purposely, knowingly or recklessly submitting false statement, representation or certification in any document or information submitted to the board or Department, etc., that there are significant civil, administrative and criminal penalties, including license revocation or suspension, fines and being punished by imprisonment for conviction of a crime of the third degree.

LSRP Signature: _____ Date: _____

LSRP Name/Title: Joseph Norton/LSRP **No Changes Since Last Submittal**

Company Name: Norcon Environmental

Completed forms should be sent to:

Bureau of Case Assignment & Initial Notice
Site Remediation Program
NJ Department of Environmental Protection
401-05H
PO Box 420
Trenton, NJ 08625-0420

ADDENDUM
Additional Persons Responsible For Conducting Remediation

ADDENDUM TO SECTION D. PERSON RESPONSIBLE FOR CONDUCTING THE REMEDIATION – CO-PERMITTEE

Affiliation/Name of Organization: _____

First Name of Contact: _____ Last Name of Contact: _____

Phone Number: _____ Ext: _____ Fax: _____

Title: _____

City/Town: _____ State: _____ Zip Code: _____

Email Address: _____

Primary Responsibility for Permit Compliance

ADDENDUM TO SECTION G. FINANCIAL ASSURANCE

1. Did the Deed Notice include an engineering control? Yes No
 If "Yes," complete this section.

2. Are you exempt from establishing financial assurance pursuant to N.J.A.C. 7:26C-7.10(c)? Yes No
 Check the exemption that applies:

Government entity
 A person not liable pursuant to the Spill Act that purchased contaminated property before May 7, 2009
 A person that conducted remediation at their primary or secondary residence
 Owner or operator of a child care center
 Public school or private school
 Owner or operator of a small business responsible for conducting remediation at the location of the business

3. Do you represent a homeowner association or a condominium association pursuant to the New Jersey Common Interest Association Act, N.J.S.A. 46:8A-1 et seq.? Yes No
 If "Yes," and the association is identified in Section D and E of this Permit Application, attach a copy of the association's annual budget that includes funds for the operation, maintenance, and monitoring of the engineering control(s) at the site.

ADDENDUM TO SECTION K. PERSON RESPONSIBLE FOR CONDUCTING THE REMEDIATION INFORMATION AND CERTIFICATION

Full Legal Name of the Person Responsible for Conducting the Remediation: _____

Representative First Name: _____ Representative Last Name: _____

Title: _____

Phone Number: _____ Ext: _____ Fax: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

Email Address: _____

This certification shall be signed by the person responsible for conducting the remediation who is submitting this notification in accordance with Administrative Requirements for the Remediation of Contaminated Sites rule at N.J.A.C. 7:26C-1.5(a).

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, including all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, to the best of my knowledge, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for the penalties.

Signature: _____ Date: _____

Name/Title: _____ No Changes Since Last Submittal

Prepared by: _____
[Signature]

[Print name below signature]

DEED NOTICE

This Deed Notice is made as of the ____ day of ____, 2012, by the Borough of Madison, 50 Kings Road, Madison, NJ 07940 (together with their successors and assigns, collectively "Owner").

1. THE PROPERTY. The Borough of Madison, 50 Kings Road, Madison, NJ 07940, is the owner in fee simple of certain real property designated as Block 601 Lot 1.01, on the tax map of the Borough of Madison, Morris County, New Jersey. The New Jersey Department of Environmental Protection Program Interest Number for the contaminated site which includes this property is 564497; and the property is more particularly described in Exhibit A, which is attached hereto and made a part hereof (the "Property").

2. REMEDIATION.

i. Joseph Norton, LSRP #573787 has approved this Deed Notice as an institutional control for the Property, which is part of the remediation of the Property.

ii. N.J.A.C. 7:26C-7 requires the Owner, among other persons, to obtain a soil remedial action permit for the soil remedial action at the Property. That permit will contain the monitoring, maintenance and biennial certification requirements that apply to the Property.

3. SOIL CONTAMINATION. The Borough of Madison has remediated contaminated soil at the Property, such that soil contamination remains in certain areas of the Property that contains contaminants 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 (5-foot fencing) in accordance with N.J.S.A. 58:10B-13.

4. CONSIDERATION. In accordance with the remedial action for the site which included the Property, and in consideration of the terms and conditions of that remedial action, and other good and valuable consideration, Owner has agreed to subject a portion of the Property to certain statutory and regulatory requirements that 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 contamination remaining at concentrations that do not allow for unrestricted use, 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 is 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 officials.

5B. RESTRICTED LAND USES. The following statutory land use restrictions apply to the Restricted Areas:

i. The Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-12.g(10), prohibits the conversion of a contaminated site, remediated to non-residential soil remediation standards that require the maintenance of engineering or institutional controls, to a child care facility, or public, private, or charter school without the Department's prior written approval, unless a presumptive remedy is implemented; and

ii. The Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-12.g(12), prohibits the conversion of a landfill, with gas venting systems and or leachate collection systems, to a single family residence or a child care facility without the Department's prior written approval.

5C. 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 a portion of the Property; a narrative description of these engineering controls is provided in Exhibit C.

6A. CHANGE IN OWNERSHIP AND REZONING.

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. The Owner and the subsequent owners shall provide written notice to the Department of Environmental Protection on a form provided by the Department and available at www.nj.gov/srp/forms within thirty (30) calendar days after 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.

iii. The Owner and the subsequent owners shall provide written notice to the Department, on a form available from the Department at www.nj.gov/srp/forms, within thirty (30) calendar days after the owner's petition for or filing of any document initiating a rezoning of the Property to residential.

6B. 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.

7A. ALTERATIONS, IMPROVEMENTS, AND DISTURBANCES.

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

ii. Except as provided in Paragraph 7B, 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 a soil remedial action permit modification pursuant to N.J.A.C. 7:26C-7. 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.

iii. Notwithstanding subparagraph 7Aii., above, a soil remedial action permit modification 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 human exposure to contamination in excess of the remediation standards does not occur; and

(E) Describes, in the next biennial certification 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.

7B. 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, or immediate

environmental concern, see N.J.S.A. 58:10C-2, any person may temporarily breach an 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. Hires a Licensed Site Remediation Professional (unless the Restricted Areas includes an unregulated heating oil tank) to respond to the emergency;
- iii. Limits both the actual disturbance and the time needed for the disturbance to the minimum reasonably necessary to adequately respond to the emergency;
- iv. Implements all measures necessary to limit actual or potential, present or future risk of exposure to humans or the environment to the contamination;
- v. Notifies the Department of Environmental Protection when the emergency or immediate environmental concern has ended by calling the DEP Hotline at 1-877-WARNDEP or 1-877-927-6337; and
- vi. Restores the engineering control to the pre-emergency conditions as soon as possible, and provides notification to the Department of Environmental Protection within sixty (60) calendar days after completion of the restoration of the engineering control, including: (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.

8. TERMINATION OF DEED NOTICE.

- i. This Deed Notice may be terminated only upon filing of a Termination of Deed Notice, available at N.J.A.C. 7:26C Appendix C, with the office of the County Clerk of Morris County, New Jersey, expressly terminating this Deed Notice.
- ii. Within thirty (30) calendar days after the filing of a Termination of Deed Notice, the owner of the property shall apply to the Department for termination of the soil remedial action permit pursuant to N.J.A.C. 7:26C-7.

9. 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 the subsequent owners, lessees and operators, during their ownership, tenancy, or operation, and the Owner 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.

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. 58:10-23.11, and N.J.S.A. 58:10C, and require additional remediation and assess damages pursuant to N.J.S.A. 58:10-23.11, and N.J.S.A. 58:10C.

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.

12A. EXHIBIT A. Exhibit A includes the following maps of the Property and the vicinity:

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

ii. Exhibit A-2: Metes and Bounds Description - A tax map of lots and blocks as wells as 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. The Property Map includes diagrams of major surface topographical features such as buildings, roads, and parking lots.

12B. 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 the engineering control; and

(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.

ii. Exhibit B-2: Restricted Area Data Table - A separate table for the restricted area that includes (A) through (E):

(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.

12C. EXHIBIT C. Exhibit C includes narrative descriptions of the institutional controls and fencing - 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 described above, as follows:

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

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

(C) The objective of the restrictions.

ii. Exhibit C-2: Fencing and signage - engineering control: Exhibit C-2 includes a narrative description of fencing as follows: RESTRICTED AREA – DO NOT ENTER

(A) Description of the engineering control; 5-foot high chain-link fencing surrounding the arsenic contaminated area

(B) The objective of the engineering control; The fencing will prevent public access to the surface soils that are contaminated with arsenic.

(C) How the engineering control is intended to function. One thousand, seven hundred (1,700) linear feet of fencing will prevent public access to the surface soils that are contaminated with arsenic.

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

ATTEST:

Borough of Madison

Elizabeth Osborne, Borough Clerk

By _____
Robert H. Conley, Mayor

STATE OF NEW JERSEY SS.:
COUNTY OF MORRIS

I certify that on _____, 2012, Elizabeth Osborne personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) this person is the Madison Borough Clerk of the municipal corporation named in this document;

(b) this person is the attesting witness to the signing of this document by the proper corporate officer who is Mayor Robert H. Conley;

(c) this document was signed and delivered by the corporation as its voluntary act and was duly authorized;

(d) this person knows the proper seal of the corporation which was affixed to this document;
and

(e) this person signed this proof to attest to the truth of these facts.

Elizabeth Osborne, Borough Clerk

Signed and sworn before me on _____, 2012

Raymond M. Codey
An Attorney at Law of N.J.

RECORD & RETURN:

Raymond M. Codey, Esq.
50 Kings Road

Madison, N.J. 07940