

Chapter 3746 and OAC Chapter 3745-300, that the Property is eligible to receive a
Covenant Not to Sue under the Voluntary Action Program, and that the voluntary action
was conducted in compliance with all applicable federal, state and local laws.

5. Kemron Environmental Services, Inc. (Certified Laboratory No. CL0012) and Quanterra, Incorporated (Certified Laboratory No. CL0021) are certified laboratories as defined in ORC Section 3746.01(D) and OAC Rule 3745-300-01(A)(7), whose services were used in support of the NFA for the Property.
6. According to information provided in the NFA, Kemron Environmental Services, Inc. and Quanterra, Incorporated performed analysis for which they are certified and qualified, pursuant to ORC Chapter 3746 and OAC Chapter 3745-300, that formed the basis for the issuance of the NFA as determined by the Certified Professional.
7. A land use restriction must be placed on the Property in accordance with OAC Rule 3745-300-13(E)(13). As described in the NFA, and, based on the information contained in the NFA and upon placement of the land use restriction on the Property, the Property meets the applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for commercial and industrial land use. A copy of the land use restriction is attached hereto as Attachment 2.
8. Based upon the information contained in the NFA, the following investigation and/or remedial activities were undertaken at the Property:
 - a) Completion of a Phase I Property Assessment, in accordance with OAC Rule 3745-300-06;
 - b) Completion of a Phase II Property Assessment, in accordance with OAC Rule 3745-300-07;
 - c) The placement of a land use restriction on the Property that restricts the Property to commercial and industrial land uses, and also prohibits the use of the uppermost Class B groundwater except for purposes of investigation or remediation.
9. Based on the information contained in the NFA, and upon the placement of the land use restrictions described herein, the Director has determined that the issuance of a Covenant Not to Sue for the Property is protective of human health, safety and the environment.

ENTERED DIRECTOR'S JOURNAL
JAN - 6 99
OHIO E.P.A.

Orders

1. Upon filing of the land use restriction contained in Attachment 2 of these Orders, as set forth in the Condition of and Limitation on the Covenant No. 2, and subject to the conditions outlined below, Ohio EPA hereby releases and covenants not to sue Dow Chemical Company, and its agents, employees, shareholders, officers, directors, successors or assigns, from all civil liability to the State to perform additional investigation and/or remedial activities to address the releases of hazardous substances or petroleum addressed through the Phase I and Phase II Property Assessments completed in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.
2. The NFA and the Covenant provided in these Findings and Orders may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.
3. A summary of the NFA and a copy of these Findings and Orders, including Attachments 1 and 2 hereto, shall be filed in the Franklin County Recorder's Office, in the same manner as a deed to the Property.

Conditions of and Limitations on the Covenant

1. This Covenant shall only apply to the approximately 7.259 acre Property described in the NFA, upon which the investigation and/or remedial activities specified in the NFA were conducted.
2. Not later than thirty (30) days from receipt of these Orders, the land use restriction contained in Attachment 2 to the Orders, along with the legal description of the Property, shall be filed in the Franklin County Recorder's Office, in the same manner as a deed to the Property.
3. Failure to record the land use restriction contained in Attachment 2 of these Orders in accordance with the Condition of and Limitation on the Covenant No. 2, shall render these Findings and Orders void.
4. Pursuant to ORC Section 3746.12(B), this Covenant shall remain in effect for as long as the Property to which this Covenant pertains continues to comply with the applicable standards upon which this Covenant is based, as outlined in Finding Nos. 1 through 9 above.
5. This Covenant shall not apply to releases of hazardous substances or petroleum:
 - (a) that occur after the submittal of the NFA to Ohio EPA, or

- (b) on or emanating from the Property, which are not described in the NFA, or
 - (c) for which investigational and/or remedial activities were conducted that were not in compliance with ORC Chapter 3746 or OAC Chapter 3745-300.
6. This Covenant shall not apply to:
- (a) claims for natural resource damages the State may have pursuant to Sections 107 or 113 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Sections 9607 and 9613, as amended; or
 - (b) claims the State may have pursuant to Section 107 of CERCLA, 42 U.S.C. Section 9607, as amended, for costs other than those for damages to natural resources, provided that the State incurs those other costs as a result of an action by the United States Environmental Protection Agency; or
 - (c) as otherwise specifically provided in ORC Chapter 3746.
7. Nothing in ORC Chapter 3746 limits the authority of the Director to act under ORC Sections 3734.13 and 3734.20 to 3734.23, or to request that a civil action be brought pursuant to the ORC or common law of the State to recover the costs incurred by Ohio EPA for investigating or remediating a release or threatened release of hazardous substances or petroleum at or from a property where a voluntary action is being or has been conducted under ORC Chapter 3746 and the rules adopted thereunder, when the Director determines that the release or threatened release poses an imminent and substantial threat to public health or safety or the environment.
8. Nothing in this Covenant shall be construed to limit and/or waive the Director's authority to revoke this Covenant pursuant to any of the circumstances for revocation of a Covenant, as provided in ORC Chapter 3746 and OAC Chapter 3745-300.

IT IS SO ORDERED:


Donald R. Schregardus, Director
Ohio Environmental Protection Agency

JAN 06 1999
Date

Attachment 1

The property is located on tax parcel No. 570-180800 (see Attachment A, Volume I, Figure 2) and consists of one building, a paved storage area, paved and unpaved parking areas, grassy areas, and general landscaping. It occupies 7.259 acres. A legal description of the property is:

Situated in the State of Ohio, in the County of Franklin and in the City of Columbus:

Beginning at a point in the easterly right-of-way line of Norton Road (as conveyed to City of Columbus, by deed of record in Deed Book 3397, page 59), said point being located South 0 degrees 00' 07" East, 12.00 feet from the southwesterly corner of the 5.500-acre tract conveyed to Industrial Building Co., by deed of record in Deed Book 3680, page 71;

Thence parallel to the southerly line of said 5.500-acre tract, North 89 degrees 59' 53" East, 702.53 feet to a point;

Thence South 1 degree 13' 00" West, 461.88 feet to a point in the northerly right-of-way line of Crosswind Drive (as dedicated by plat of record in Plat Book 49, page 34, and being 80.0 feet in width);

Thence along said right-of-way line of Crosswind Drive, North 88 degrees 36' 20" West, 673.39 feet to a point of curvature of a curve to the right that connects said right-of-way line with the easterly right-of-way line of Norton Road;

Thence along the arc of said curve (Delta = 88 degrees 36' 13", Radius - 20.0 feet), a chord bearing and distance of North 44 degrees 18' 13" West, 27.94 feet to a point;

Thence along the easterly right-of-way line of Norton Road, North 0 degrees 00' 07" West, 425.37 feet to the place of beginning, containing 7.259 acres, more or less.

TOGETHER WITH those certain easements for ingress/egress and right-of-way purposes as contained in Deed Book 3766, page 60, Deed Book 3766, page 65 and Deed Book 3766, page 67, Recorder's Office, Franklin County, Ohio.

ADDRESS: 1400 Norton Road, Columbus, OH.

OHIO E.P.A.
JAN -6 99
ENTERED DIRECTOR'S JOURNAL

Attachment 2

ENTERED DIRECTOR'S JOURNAL

JAN-6 99

OHIO E.P.A.

Land Use Restriction. As a portion of the remedy under the Ohio Environmental Protection Agency ("Ohio EPA") Voluntary Action Program ("VAP") to protect against exposure to hazardous substances on the property described herein, this property shall be made subject to the following covenants and restrictions (collectively, the "Restrictions") (a) the uppermost Class B groundwater underlying the Property shall not be used except for the purposes of investigation or remediation; and (b) the property shall be restricted to commercial or industrial uses, as set forth in Ohio Administrative Code ("OAC") rule 3745-300-08(B)(2)(c)(ii) and (iii), as effective on December 16, 1996.

Restriction to be Binding and Run with the Land. These Restrictions shall run with the land and shall be binding upon all current owners, and all successors and assigns, of the property described herein, or any portion thereof, including any leasehold interests thereon.

Miscellaneous: If any one or more provisions of these Restrictions shall be found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. This use restriction shall be governed by and interpreted in accordance with the laws of the State of Ohio, and, specifically, Ohio Revised Code Chapter 3746 and the OAC rules adopted thereunder. All headings used herein are for convenience and shall not be used to interpret or qualify the terms of this use restriction.