



Environmental  
Protection Agency

AUG 11 2011

John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

**CERTIFIED MAIL**

Mr. Jeff Stavroff  
Red Raider Capital, LLC  
565 Metro Place South  
Suite 480  
Dublin, Ohio 43017

and

Ms. Nadine Morse  
Department of Development  
City of Reynoldsburg Ohio  
7323 East Main Street  
Reynoldsburg, Ohio 43068

**RE: Issuance of Covenant Not To Sue for the Former Big Bear Store #256  
Property (#11NFA416)  
Project ID #125-00-002755-002**

Dear Mr. Stavroff and Ms. Morse:

I am pleased to inform you that on AUG 11 2011, the Director of the Ohio Environmental Protection Agency issued a covenant not To sue (CNS) to the city of Reynoldsburg for the Former Big Bear Store #256 Property, located at 6300 East Livingston Avenue, Reynoldsburg, Franklin County, Ohio. The CNS was issued as final findings and orders pursuant to Ohio Revised Code (ORC) Chapter 3746 and Ohio Administrative Code (OAC) Chapter 3745-300.

The CNS states that based on the no further action letter, and subject to all conditions set forth in these findings and orders, Ohio EPA covenants not to sue and releases the city of Reynoldsburg, Ohio and Red Raider Capital, LLC and their respective agents, successors and assigns of the property, from all civil liability to perform additional investigational and remedial activities. The covenant not to sue and release of liability applies to the property that has undergone a Phase I or Phase II property assessment in compliance with ORC Chapter 3746 and OAC Chapter 3745-300 or has been the subject of remedial activities conducted under ORC Chapter 3746 and OAC Chapter 3745-300 to address a release of hazardous substances or petroleum, and the assessment or the remedial activities demonstrate or result in compliance with applicable standards.

Enclosed with the mailing to Mr. Jeff Stavroff, of Red Raider Capital, LLC, is a certified copy of the CNS and its exhibits for the recording of the documents in the same manner as a deed for the property, as instructed by the CNS (see the "Conditions and

Limitations" section of the CNS). The enclosed affidavit should be presented to the county recorder's office staff to support the required recording. Remember to submit to Ohio EPA after the recording a complete copy of the CNS that shows the filing date stamp of the county recorder's office.

The complete copy of the stamped document should be sent to the to the attention of Debi Tavizon, Records Management Officer, DERR, Ohio EPA Central Office, at the following address:

Ohio EPA – Division of Environmental Response and Revitalization  
Assessment Cleanup and Re-Use Section – Voluntary Action Program  
50 W. Town St., Suite 700  
P.O. Box 1049Columbus, OH 43216-1049

This action of the Director is final and may be appealed to the Environmental Review Appeals Commission (Commission) pursuant to ORC 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within 30 days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Ohio Treasurer," which the Commission, in its discretion, may reduce if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three days after the appeal is filed with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Commission at the following address: Environmental Review Appeals Commission, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215.

Congratulations on the issuance of this CNS. Many persons within the agency, the city of Reynoldsburg, Ohio; Red Raider Capital, LLC; and Civil & Environmental Consultants, Inc., among others, worked hard to remove the environmental barriers associated with redeveloping this property. If you have any questions or concerns, feel free to contact me at (614) 644-2924 or via e-mail at [tiffani.kavalec@epa.state.oh.us](mailto:tiffani.kavalec@epa.state.oh.us).

Sincerely,



Tiffani Kavalec, Manager  
Division of Environmental Response & Revitalization  
Assessment, Cleanup and ReUse (ACRE)

Enclosure

cc: Ron Wells, Certified Professional, Civil & Environmental Consultants, Inc.

City of Reynoldsburg  
Former Big Bear Store #256  
Page 3

8740 Orion Place, Columbus, Ohio 43240

ec: Robin Roth, DERR-CDO  
Deborah Strayton, DERR-CDO  
Martha Cooper, Legal Office  
[records@epa.state.oh.us](mailto:records@epa.state.oh.us)

TO BE RECORDED IN DEED RECORDS,  
PURSUANT TO ORC 317.08(A)

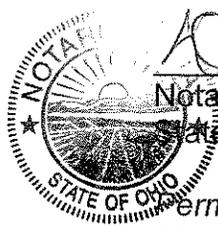
**AFFIDAVIT**

STATE OF OHIO )  
 )  
COUNTY OF FRANKLIN ) ss:

Before me, the subscriber, a Notary Public in and for the State of Ohio, personally appeared Tonya R. Lassiter, who, being duly sworn according to law, deposes and says that: (i) she is employed as a records management officer in the Legal Office of the Ohio Environmental Protection Agency ("Ohio EPA") and, as such, is authorized to sign this Affidavit on behalf of Ohio EPA; and (ii) the attached document is a true and correct copy of the Covenant Not to Sue / Director's Final Findings and Orders issued by the Director, and entered in the Ohio EPA Director's Journal on August 11, 2011, regarding property known as Former Big Bear Store #256, located at 6300 East Livingston Avenue in Reynoldsburg, Franklin County, Ohio and further described in the attached Covenant Not to Sue.

Tonya R. Lassiter  
Tonya R. Lassiter  
Records Management Officer  
Ohio EPA Legal Office

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this 11th day of August, 2011.



Donald L. Vanterpool  
DONALD L. VANTERPOOL, Attorney At Law  
Notary Public, STATE OF OHIO  
My Commission has no expiration date.  
Section 147.03 R.C.  
Permanent Commission  
No expiration, R.C. 147.03

This instrument prepared by:  
  
Marty Cooper, Attorney  
Ohio EPA Legal Office  
P.O. Box 1049  
Columbus, Ohio 43216-1049

OHIO E.P.A.

AUG 11 2011

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

City of Reynoldsburg Ohio  
7232 East Main Street  
Reynoldsburg, Ohio 43068

Regarding property known as:

Former Big Bear Store #256  
6300 East Livingston Avenue  
Reynoldsburg, Ohio

Red Raider Capital, LLC  
565 Metro Place South  
Suite 480  
Dublin, Ohio 43017

Covenant Not to Sue

Director's Final Findings  
and Orders

I certify this to be a true and accurate copy of the  
official documents as filed in the records of the Ohio  
Environmental Protection Agency.

*Don Lassiter* Date: 8-11-11

Pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300, the Director of the Ohio Environmental Protection Agency (the "Director") hereby makes the following Findings and issues the following Orders ("Findings and Orders").

**FINDINGS**

1. A No Further Action Letter, No. 11NFA416 (the "NFA Letter"), was submitted on May 19, 2011, to the Director under the Voluntary Action Program on behalf of city of Reynoldsburg, Ohio (the "Volunteer"), by Ron Wells, P.G., a certified professional, No. CP #214, as defined in ORC 3746.01(F) and OAC 3745-300-01(A) (the "Certified Professional").
2. The Certified Professional issued the NFA Letter by his CP affidavit on May 19, 2011. The Certified Professional also submitted to the Director an addendum to the NFA Letter, which was issued under CP affidavit on July 19, 2011. For the purposes of these Findings and Orders, the term "NFA Letter" includes the addendum.

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the matter of:**

City of Reynoldsburg Ohio  
7232 East Main Street  
Reynoldsburg, Ohio 43068

**Covenant Not to Sue**

**Director's Final Findings  
and Orders**

**Regarding property known as:**

Former Big Bear Store #256  
6300 East Livingston Avenue  
Reynoldsburg, Ohio

Red Raider Capital, LLC  
565 Metro Place South  
Suite 480  
Dublin, Ohio 43017

Pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300, the Director of the Ohio Environmental Protection Agency (the "Director") hereby makes the following Findings and issues the following Orders ("Findings and Orders").

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2. The Certified Professional issued the NFA Letter by his CP affidavit on May 19, 2011. The Certified Professional also submitted to the Director an addendum to the NFA Letter, which was issued under CP affidavit on July 19, 2011. For the purposes of these Findings and Orders, the term "NFA Letter" includes the addendum.

3. The NFA Letter describes the investigational and remedial activities undertaken at the approximately 10.084-acre property located within 19 plus acres of the Century City Shopping Center, formerly known as Big Bear Grocery/Harts Department Store #256, at 6300 East Livingston Avenue, Reynoldsburg, Ohio (the "Property"). An exact legal description of the Property is attached hereto as Exhibit 1. A property location map is attached hereto as Exhibit 2. Based on information in the NFA Letter, the Property is owned by Red Raider Capital, LLC, and the Franklin County parcel identification number is 060-001142-00.
4. The Certified Professional prepared pursuant to OAC 3745-300-13(J) an executive summary of the NFA Letter, which is attached hereto as Exhibit 3.

### **Summary of the Voluntary Action for the Property**

5. Based upon the information in the NFA Letter, the Volunteer undertook the following investigational and remedial activities regarding the Property:
  - a. A Phase I property assessment, in accordance with OAC 3745-300-06, to determine whether there is any reason to believe that a release of hazardous substances or petroleum has or may have occurred on, underlying or is emanating from the Property.
  - b. A determination that there is no reason to believe that a release of hazardous substances or petroleum has or may have occurred on, underlying or is emanating from the Property or the release is *de minimis*, pursuant to OAC 3745-300-06.
  - c. Other remedial activities, consisting of the abatement of regulated asbestos-containing materials within the former grocery store building at the Property, in accordance with OAC Chapter 3745-20.
  - d. A demonstration that the Property complies with applicable standards following completion of remedial activities for the identified chemicals of concern in the identified areas and affected media at the Property through the use of generic numerical standards in accordance with OAC 3745-300-08, or the use of a property-specific risk assessment in accordance with OAC 3745-300-09.
6. The Certified Professional has verified by affidavit that the voluntary action was conducted and the NFA Letter was issued for the Property in accordance with ORC Chapter 3746 and OAC Chapter 3745-300, that the Property is eligible for the Voluntary Action Program, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws and regulations.
7. At the time that analyses were performed, ESC Lab Sciences and Pace

Analytical Services were certified laboratories, No(s). CL0069 and CL101, respectively, as defined in ORC 3746.01(E) and OAC 3745-300-01(A), whose services were used in support of the NFA Letter (the "Certified Laboratories").

### **Applicable Standards**

8. Based on the information contained in the NFA Letter and all conditions set forth in these Findings and Orders, the Property meets applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for various uses including unrestricted residential land use and unrestricted potable ground water use. The applicable standards for the Property are those in effect when the NFA Letter was issued on May 19, 2011. The applicable standards, the methods of achieving compliance with the standards, and the associated points of compliance for the standards for each complete exposure pathway, are identified in the NFA Letter. The standards include one or more of the following:
  - a. Generic numerical standards determined in accordance with OAC 3745-300-08.
  - b. Property-specific risk assessment standards developed in accordance with OAC 3745-300-09.
  - c. Background standards determined in accordance with ORC 3746.06(A) and OAC 3745-300-07(H).
  - d. Standards for residential (potable) use of ground water underlying the Property, applied in accordance with ORC 3746.06(B).
9. Pursuant to ORC 3746.12(A), the Director of Ohio EPA is authorized to issue a covenant not to sue for the Property through these Findings and Orders. Based on the NFA Letter and subject to all conditions set forth in these Findings and Orders, the remedial activities for the Property are protective of public health and safety and the environment.

### **ORDERS**

#### **Covenant**

1. Based on the NFA Letter, and subject to all conditions set forth in these Findings and Orders, Ohio EPA hereby covenants not to sue and releases the city of Reynoldsburg, Ohio and Red Raider Capital, LLC, and their respective agents, employees, members, shareholders, officers, directors, successors and assigns, and successors and assigns of the Property, from all civil liability to the State of Ohio (the "State") to perform additional investigational and remedial activities. This covenant not to sue and release of liability ("Covenant") applies to the

Property that has undergone a Phase I or Phase II property assessment in compliance with ORC Chapter 3746 and OAC Chapter 3745-300 or has been the subject of remedial activities conducted under ORC Chapter 3746 and OAC Chapter 3745-300 to address a release of hazardous substances or petroleum, and the assessment or the remedial activities demonstrate or result in compliance with applicable standards.

### **Conditions and Limitations**

#### Requirement to Record These Findings and Orders / Covenant Not to Sue

2. Within thirty (30) days after the issuance of these Findings and Orders, the city of Reynoldsburg, Ohio or Red Raider Capital, LLC shall:
  - a. File with the Franklin County Recorder's Office, for recording in the same manner as a deed to the Property pursuant to ORC 3746.14, a copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Property Location Map), 3 (Executive Summary).
  - b. Submit to Ohio EPA a copy of the Findings and Orders that shows the filing date stamp of the Franklin County Recorder's Office or other reliable information that verifies the recording of the Findings and Orders in accordance with this Order. The submission shall include a cover letter that identifies "Recorded - Covenant Not to Sue for NFA Letter No. 11NFA416." The submission shall be delivered either (1) electronically to the DERR Records Management Officer at Ohio EPA's Central Office, at records@epa.state.oh.us or (2) by U.S. mail or by other reliable means to both Ohio EPA's Central Office, 50 West Town Street, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer and Ohio EPA's Central District Office, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, Ohio 43216-1049, Attention: DERR Site Coordinator for Former Big Bear Store #256, NFA Letter No. 11NFA416.

#### Limits of Covenant

3. Pursuant to ORC 3746.12(B)(1), the Covenant shall remain in effect for as long as the Property continues to comply with the applicable standards upon which the Covenant is based, as referenced in these Findings and Orders. Upon a finding pursuant to ORC 3746.12(B)(2) that the Property or portion thereof no longer complies with applicable standards upon which issuance of the Covenant was based and receipt of the Director's notice of that fact and the requirements of ORC 3746.12(B)(3), the person(s) responsible for maintaining compliance with those standards shall receive an "opportunity to cure" the noncompliance. ORC 3746.12(B)(4) provides for revocation of the Covenant upon a Director's finding that the noncompliance has not been cured.

4. The Covenant shall not apply to releases of hazardous substances or petroleum that occur after the issuance of the NFA Letter, including but not limited to, releases of asbestos that may occur from asbestos-containing materials remaining at the Property that were not abated or required to be abated pursuant to OAC Chapter 3745-20.
5. The Covenant shall not apply:
  - a. To 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. 9607 and 9613, as amended.
  - b. To claims the State may have pursuant to Section 107 of CERCLA, 42 U.S.C. 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.
  - c. As otherwise specifically provided in ORC Chapter 3746, including but not limited to obligations arising under other applicable laws.
6. Nothing in the Covenant limits the authority of the Director to act under ORC 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 the Property, when the Director determines that the release or threatened release poses an imminent and substantial threat to public health or safety or the environment.
7. Nothing in the Covenant shall be construed to limit or waive the Director's authority to revoke the Covenant in response to any of the circumstances for revocation of a covenant, as provided in ORC Chapter 3746 and OAC Chapter 3745-300.

#### **Ohio EPA Access to Property**

8. Pursuant to ORC 3746.21 and at reasonable times, upon proper identification, and stating the necessity and purpose as directed by applicable law, authorized representatives of the Director shall be granted access to the Property for the inspection or investigation purposes authorized under applicable law.

**Transfer**

9. Pursuant to ORC 3746.14 and OAC 3745-300-13(L), the NFA Letter and the Covenant Not to Sue/Findings and Orders may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.

**IT IS SO ORDERED:**

  
\_\_\_\_\_  
Scott J. Nally, Director  
Ohio Environmental Protection Agency

**AUG 11 2011**  
\_\_\_\_\_  
Date

Director's Final Findings & Orders – Covenant Not to Sue  
Big Bear #256 11NFA416  
Exhibit Pages

**Exhibit 1**  
**Legal Description**

## PROPERTY DESCRIPTION OF RECORD

10.084 acres

Situate in the County of Franklin, State of Ohio, City of Reynoldsburg, being located in Section 13, Township 12, Range 21, Refugee Lands, and being 10.084 acres of the lands conveyed to Coso Corporation and bounded and described as follows:

Beginning at a point in the centerline of Brice Road, at the northwesterly corner of the Morris L. Mattlin 0.653 acre tract of record in Deed Book 2347, Page 465, all references being to records of the Recorder's Office, Franklin County, Ohio, that is north  $0^{\circ}01'22''$  West, 264.35 feet from the intersection of the centerline of the said Brice Road with the centerline of Livingston Avenue;

thence along the centerline of the said Brice Road, North  $0^{\circ}01'22''$  West, 116.20 feet to a point at the southwesterly corner of the Harold Henry Stertzler 0.88 acre tract of record in Deed Book 2391, Page 75;

thence along the southerly line of the said Stertzler 0.88 acre tract, North  $89^{\circ}52'$  East, 330.0 feet to a point at the southeasterly corner of the said tract;

thence along the easterly line of the said Stertzler 0.88 acre tract, North  $0^{\circ}01'22''$  West 116.20 feet to a point at the northeasterly corner of the said tract;

thence North  $89^{\circ}52'$  East, 50.0 feet to a point;

thence North  $0^{\circ}01'22''$  West, (parallel to the centerline of the said Brice Road), 242.0 feet to a point;

thence North  $89^{\circ}52'$  East, 560.55 feet to a point;

thence South  $0^{\circ}00'12''$  East, (parallel to the easterly line of the said Coso Corporation tract), 740.35 feet to a point in the centerline of the said Livingston Avenue;

thence along the centerline of the said Livingston Avenue, being the arc of a curve to the right, (Radius = 1432.69 feet, Sub-Delta  $4^{\circ}05'07''$ ), a chord bearing a distance of South  $88^{\circ}08'35''$  West, 102.13 feet to the point of tangency of the said curve;

thence continuing along the centerline of the said Livingston Avenue, North  $89^{\circ}48'52''$  West, 358.22 feet to a point;

thence North  $0^{\circ}01'22''$  West, (being 150 feet Easterly at right angles from the easterly lines of the said Morris L. Mattlin tracts), 267.03 feet to a point;

thence South  $89^{\circ}52'$  West, (and in part along the northerly line of the said Morris L. Mottling 0.653 acre tract), 480.0 feet to the place of beginning, containing 10.084 acres, more or less.

Subject, however, to the highway easements of record in Deed Book 2698, page 473.

Reference: EMH&T Project # 2007-0192, Sheet 1 of 1, February 15, 2007

Director's Final Findings & Orders – Covenant Not to Sue  
Big Bear #256 11NFA416  
Exhibit Pages

**Exhibit 2**  
**Property Location Map**

Schedule B Items from Title Commitment No. 1576569 issued by The Tolan Group and First American Title Insurance Company with an effective date of January 18, 2007 at 7:29 A.M.

Item 10 5' x 5' Telephone Easement to The Ohio Bell Telephone Company of record in Deed Book 3235, Page 412 is located on the subject tract as shown hereon.

Item 11 5' Electric Easement to Columbus and Southern Ohio Electric Company of record in Deed Book 3225, Page 527 is located on the subject tract as shown hereon.

Item 12 Sanitary and Storm Sewer Easements to the City of Reynoldsburg, Ohio of record in Deed Book 3209, Page 199 are located on the subject tract as shown hereon.

Item 13 40' Highway Easement to the City of Reynoldsburg, Franklin County, Ohio of record in Deed Book 2698, Page 473 is located on the subject tract as shown hereon.

Item 14 Pole Line Easement to Columbus and Southern Ohio Electric Company of record in Deed Book 1079, Page 350 is located on the subject tract as approximately shown hereon.

Item 15 Electric Easement to Ohio-Midland Light and Power Company of record in Deed Book 1239, Page 25 is located on the subject tract as approximately shown hereon.

Item 16 3" Gas Line Easement to The Ohio Fuel Gas Company of record in Deed Book 2358, Page 3, as assigned to Columbia Gas of Ohio Inc. in Deed Book 2548, Page 90 is located on the subject tract as shown hereon.

Item 17 33" Gas Line Easement to The Ohio Fuel Gas Company of record in Deed Book 2368, Page 72, as assigned to Columbia Gas of Ohio Inc. in Deed Book 2548, Page 90 is located on the subject tract as shown hereon.

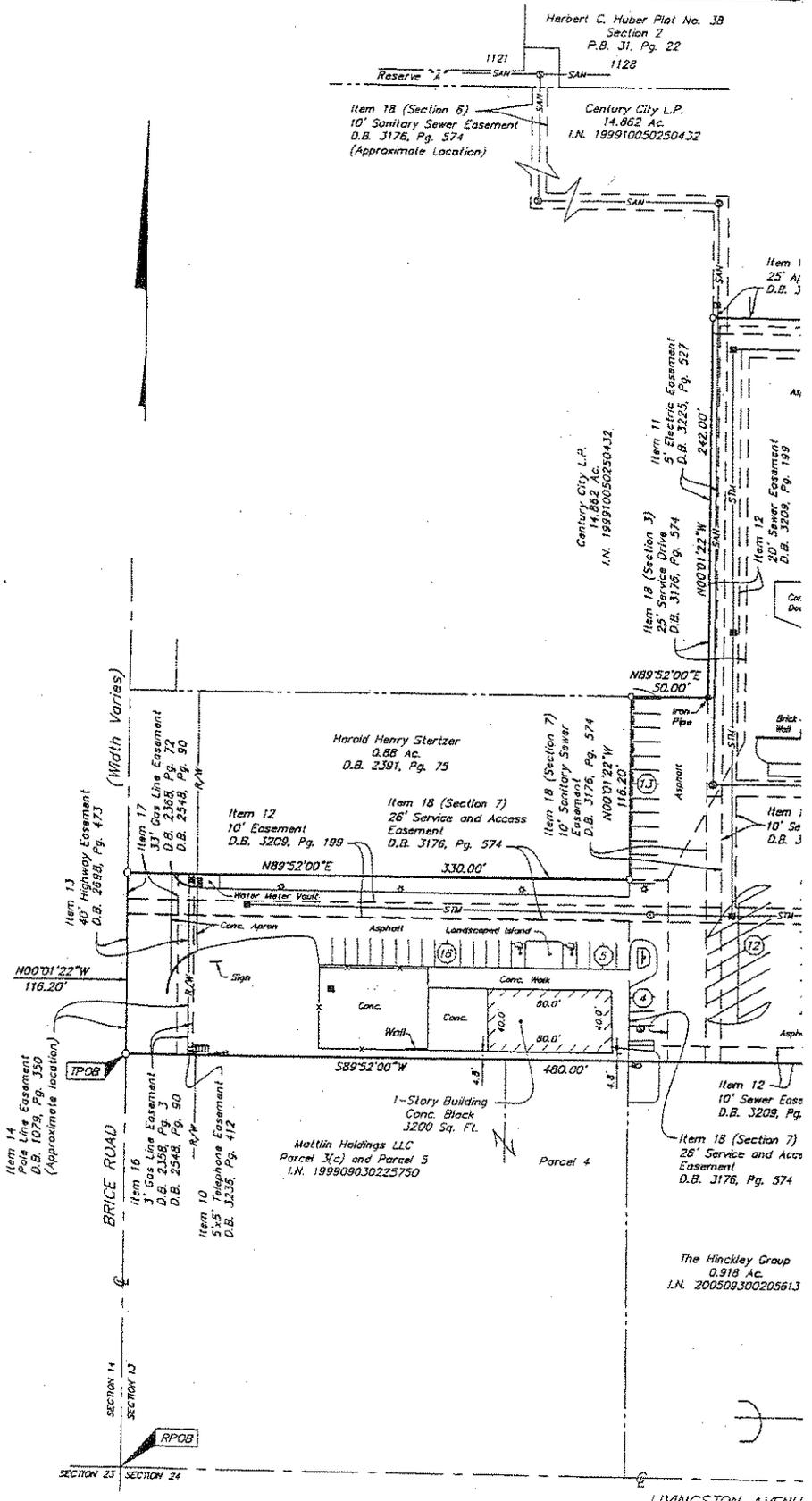
Item 18 The subject tract is located in the area described in the Common Area Agreement by and between Casa Corp. and Wayne E. Brown of record in Deed Book 3176, Page 574. Plottable easements are as shown hereon.

Blanket Reciprocal Common Areas Easement for pedestrian and vehicular traffic, parking, and ingress/egress both burdening and benefitting the subject tract is located on the subject tract and the 2.459 and 0.535 acre tracts adjacent to the subject tract to the east.

The subject tract benefits from a blanket service and access easement over the 0.918 acre tract adjacent to the subject tract to the southwest.

**UTILITY LEGEND**

⊙ = Utility Pole	⊙ = Telephone Pole
⊕ = Power Pole	⊙ = Telephone Pedestal
⊕ = Yard Light	⊙ = Telephone Booth/for Drive-Up
⊕ = Light Pole	⊙ = Metal Traffic Signal Pole
⊕ = Light Pedestal	⊙ = Sign
⊕ = Electric Marker Post	⊙ = Bollard
⊕ = Electric Meter	⊙ = Curb Inlet
⊕ = Electric Transformer	⊙ = Catch Basin
⊕ = Electric Pedestal	⊙ = Cleanout
⊕ = Electric Outlet	⊙ = Sanitary Manhole
⊕ = Electric Pull Box	⊙ = Storm Manhole
⊕ = Electric Manhole	⊙ = Telephone Manhole
⊕ = Gas Valve	—X—X— = Fence
⊕ = Gas Service	—W— = Water Line
⊕ = Gas Marker Post	—G— = Gas Line
⊕ = Gas Meter	—S— = Storm Sewer
⊕ = Fire Hydrant	—SAN— = Sanitary Sewer
⊕ = Water Valve	—UCG— = Underground Electric
⊕ = Water Service	—OHE— = Overhead Electric
⊕ = Water Meter	—UGT— = Underground Telephone
	—C— = Castles
	—R/W— = Right of Way Line



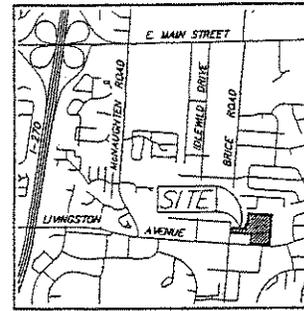
- ⊙ = STONE FND.
  - ⊕ = MON. FND.
  - ⊕ = I.P. FND.
  - ⊕ = I.P. SET
  - ⊕ = MAG. NAIL FND.
  - ⊕ = MAG. NAIL SET
  - ⊕ = R.R. SPK. FND.
  - ⊕ = R.R. SPK. SET
  - ⊕ = P.K. NAIL FND.
- I.P. Set are 1/2" I.D. iron pipe with cap inscribed EMHT INC

**BASIS OF BEARINGS:**  
Bearings are based on a portion of the centerline of Livingston Avenue bearing North 89° 48' 52" West as shown in Instrument Number 200508040157352.

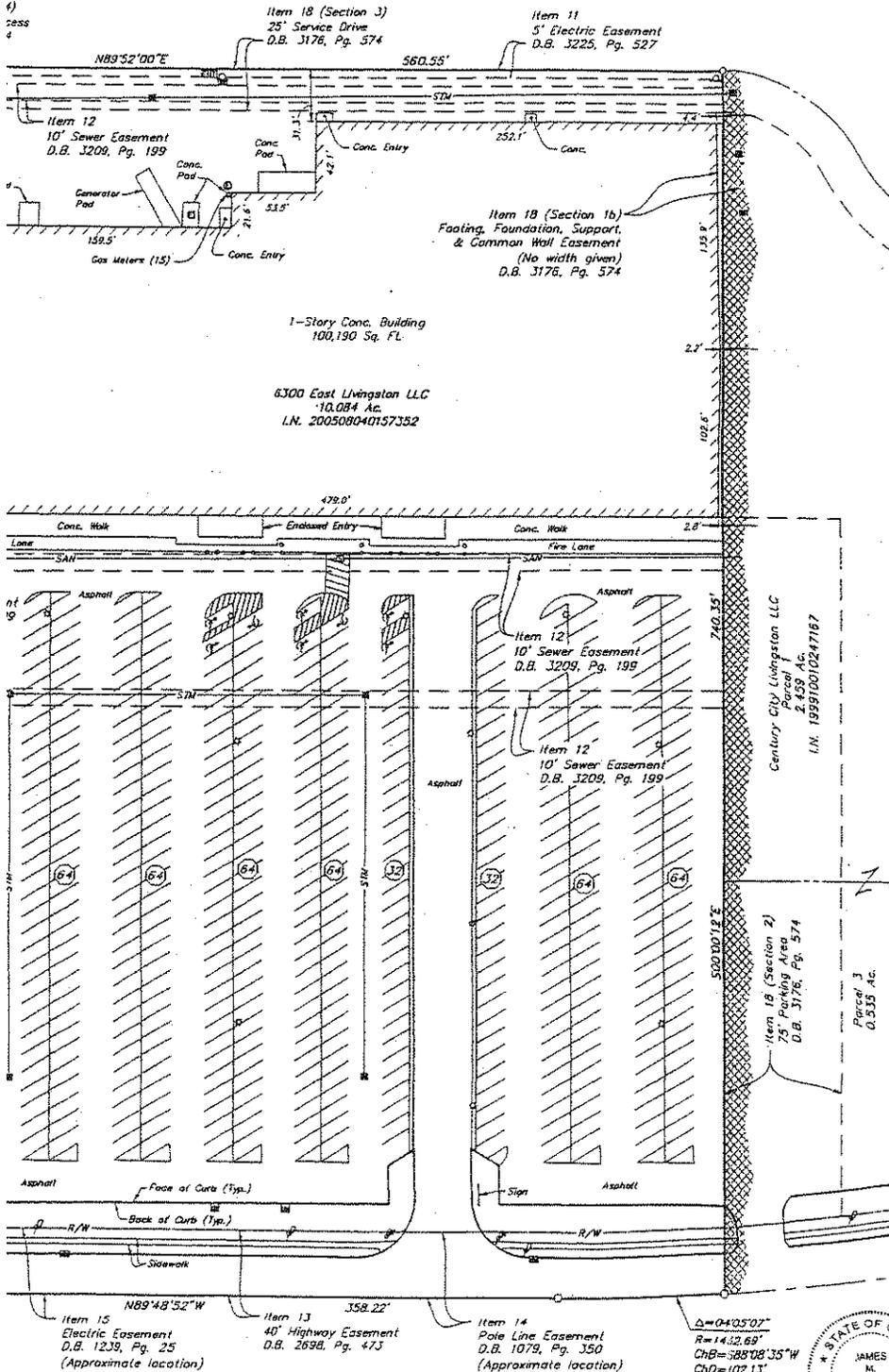
**FEMA NOTE:**  
According to the Federal Emergency Management Agency's Flood Insurance Map (dated August 2, 1995), the subject parcel shown hereon lies within Zone X (areas determined to be outside 500-year flood plain), Community Panel No. 39049C0279 G.

I:\CADD\1\BUREAU\PROJECT\20070102\DWG\70192AS.DWG\2 LANDSCAPES - 1.PRF: ARBA - LAST SAID BY THESE (1/19/2007 2:11:11 PM) - PLOTTED BY INEBB (1/19/2007 2:11:12 PM)

ALTA/ACSM LAND TITLE SURVEY  
SECTION 13, TOWNSHIP 12, RANGE 21  
REFUGEE LANDS  
CITY OF REYNOLDSBURG, FRANKLIN COUNTY, OHIO



LOCATION MAP  
NOT TO SCALE



PROPERTY DESCRIPTION  
OF RECORD

10.084 ACRES

Situate in the County of Franklin, State of Ohio, City of Reynoldsburg, being located in Section 13, Township 12, Range 21, Refugee Lands, and being 10.084 acres of the lands conveyed to Casa Corporation and bounded and described as follows:

Beginning at a point in the centerline of Brice Road, at the northwesterly corner of the Morris L. Mattlin 0.653 acre tract of record in Deed Book 2347, Page 463, all references being to records of the Recorder's Office, Franklin County, Ohio, that is north 0°1'22" West, 264.35 feet from the intersection of the centerline of the said Brice Road with the centerline of Livingston Avenue;

thence along the centerline of the said Brice Road, North 0°1'22" West, 116.20 feet to a point at the southwest corner of the Harold Henry Stertzer 0.88 acre tract of record in Deed Book 2391, Page 75;

thence along the southern line of the said Stertzer 0.88 acre tract, North 89°52' East, 330.0 feet to a point at the southeasterly corner of the said tract;

thence along the eastern line of the said Stertzer 0.88 acre tract, North 0°1'22" West, 116.20 feet to a point at the northeasterly corner of the said tract;

thence North 89°52' East, 50.0 feet to a point;

thence North 0°1'22" West, (parallel to the centerline of the said Brice Road), 242.0 feet to a point;

thence North 89°52' East, 580.55 feet to a point;

thence South 0°1'22" East, (parallel to the eastern line of the said Casa Corporation tract), 740.35 feet to a point in the centerline of the said Livingston Avenue;

thence along the centerline of the said Livingston Avenue, being the arc of a curve to the right, (Radius = 1432.69 feet, Sub-Delta = 4°05'07"), a chord bearing a distance of South 88°08'35" West, 102.13 feet to the point of tangency of the said curve;

thence continuing along the centerline of the said Livingston Avenue, North 89°48'52" West, 358.22 feet to a point;

thence North 0°1'22" West, (being 150 feet Easterly at right angles from the eastern lines of the said Morris L. Mattlin tracts), 267.03 feet to a point;

thence South 89°52' West, (and in part along the northerly line of the said Morris L. Mattlin 0.653 acre tract), 480.0 feet to the place of beginning, containing 10.084 acres, more or less.

Subject, however, to the highway easements of record in Deed Book 2698, page 473.

CERTIFICATION: Commitment No. 1576569

To Stavroff interests, Ltd., 6300 East Livingston LLC, an Ohio limited liability company, First American Title Insurance Company, and The Taton Group;

This is to certify that this map or plat and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys", jointly established and adopted by ALTA and NSPS in 2005, and includes Items 1, 2, I, 4, 7(a), 7(b)(1), 8, 9, 10, and 11(a) of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Ohio, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

*James M. Pearsall* 3/17/07  
Professional Surveyor No. 7840



NOTE: Utilities shown hereon have been located from field surveys and existing drawings. The surveyor makes no warranty that the utilities shown comprise all such utilities in either in service or abandoned. The surveyor further warrants that the utilities shown are in the exact location although he does certify that they are accurately as possible from information available.

PARKING NOTE:  
The total number of striped parking spaces on the subject property is 515, including 10 handicapped spaces.

ZONING NOTE:  
The subject property is zoned CC (Community Commercial).

<b>EMHT</b>		Date: February 15, 2007
Evers, MacSwain, Hamilton & Tilton, Inc. Engineers - Surveyors - Planners - Scientists 3500 New Albany Road, Columbus, OH 43254 Phone: 614.775.4200 Fax: 614.775.4202		Scale: 1" = 50'
Job No: 2007-0192		Sheet: 1 of 1
REVISIONS		
MARK	DATE	DESCRIPTION
JM	3/05/07	Revised Schedule "I" per new title commitment
TW	3/12/07	Added information from case 18
TH	3/19/07	Revised the text regarding item 18 and added item 18 (section 1b) hatch to drawing

Director's Final Findings & Orders – Covenant Not to Sue  
Big Bear #256 11NFA416  
Exhibit Pages

**Exhibit 3**  
**Executive Summary**



**NO FURTHER ACTION LETTER**

**REVISED EXECUTIVE SUMMARY  
FORMER BIG BEAR STORE #256 PROPERTY  
REYNOLDSBURG, FRANKLIN COUNTY, OHIO**

**Prepared For:**

**THE CITY OF REYNOLDSBURG, OHIO**

**Prepared By:**

**Ronald J. Wells  
Ohio VAP CP 314  
614-310-0177**

**CIVIL & ENVIRONMENTAL CONSULTANTS, INC.  
8740 ORION PLACE  
COLUMBUS, OHIO 43240**

**CEC Project No. 101-253**

**July 18, 2011**

**Civil & Environmental Consultants, Inc.**

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ATTACHMENT A – PROPERTY LEGAL DESCRIPTION

## 1.0 INTRODUCTION

This revised Executive Summary has been prepared on behalf of the City of Reynoldsburg (Volunteer) to present a concise summary of the activities conducted at the Property in preparation for submittal of a No Further Action (NFA) Letter under the Ohio Voluntary Action Program (VAP) to solicit a Covenant Not-to-Sue (CNS) from the Ohio Environmental Protection Agency (OEPA). This summary meets the requirements of Ohio Administrative Code (OAC) 3745-300-13(I) and OAC 3745-300-13(K), which outlines requirements for recording a summary of the NFA Letter in the county recorder's office.

The Property consists of the former Big Bear grocery/Harts department store #256, located at 6300 East Livingston Avenue in the Century City Shopping Center in Reynoldsburg, Franklin County, Ohio. The assessment has been completed solely with regard to the former Big Bear/Harts store, and the associated 10.084-acre parcel of land occupied by these buildings, currently owned by Red Raider Capital, LLC, but not any other portion of the shopping center area.

The Property (Parcel ID 060-001142-00), which is currently owned by Red Raider Capital, LLC, is located in the north central portion of the Century City Shopping Center in Reynoldsburg, Ohio just east of the city of Columbus, Franklin County, Ohio. A copy of the legal description for the Property is included in Attachment A to this Executive Summary. The Property is located on the north side of East Livingston Avenue just east of the intersection with Brice Road, and comprises 10.084 acres located within 19+ acres of the Century City Shopping Center. Included within the Property is a large former grocery/department store building (approximately 97,800 square feet under roof) in the north central portion of the Century City Shopping Center, and a smaller building (approximately 3,200 square feet) located along the western portion of the property that was formerly used as a garden center.

Ronald J. Wells, VAP Certified Professional (CP) #314, directed preparation of the Phase I Property Assessment (PA) and Phase I PA Update of the Property in accordance with the requirements of the VAP, as outlined in OAC 3745-300-06, and 07. **Mr. Wells issued the NFA Letter on May 19, 2011.**



Copies of the NFA Letter can be obtained for reproduction and associated labor charges by contacting Civil & Environmental Consultants, Inc. (CEC) at 8740 Orion Place, Suite 100, Columbus, Ohio 43240, or by telephone at 614-540-6633. Copies of the NFA may also be obtained by contacting the Ohio EPA – Division of Emergency and Remedial Response, Central Office Records Management Officer.

## **2.0 PROPERTY HISTORY**

Based on the historical records, the Property was undeveloped farm land until approximately 1971 when the Center City Shopping Center was developed. The Big Bear store was the anchor store for the shopping center development; no other businesses occupied the building or Property until May 2010, when a discount grocery store began operations in the western portion of the former Big Bear store building.

## **3.0 TIMELINE**

The Phase I PA report was issued by the CP in February 2010 as part of the Clean Ohio Assistance Fund (COAF) grant application. Some follow-up assessment activities were conducted in April 2010 with additional follow-up field activities in February of 2011 to evaluate the potential for an off-site source to impact the Property. The Phase I PA Update and NFA Letter were prepared and issued in May 2011.

## **4.0 NFA LETTER**

### **4.1 PHASE I PROPERTY ASSESSMENT**

The purpose of the Phase I PA was to evaluate the historical and current uses of the Property relative to known or suspected releases of hazardous substances or petroleum products which could qualify for designation as an Identified Area (IA), and as such, require additional investigation per the VAP rules.

The CP reviewed a prior Phase I Environmental Site Assessment (ESA) report and an asbestos survey prepared in 2007 for the Property as part of the Phase I PA. The ESA concluded that there was no evidence of a recognized environmental condition (REC) associated with the

Property. The asbestos survey identified asbestos containing materials (ACMs) in the former grocery store building as asbestos pipe wrap and floor tile with mastic.

The CP concluded that the Property was eligible for the VAP and designated the following IA on the Property:

IA 1: ACM (pipe wrap and floor tile/mastic); Chemical of Concern (COC) –  
Asbestos

During the review of the COAF grant, Ohio EPA notified the CP that the former Sunshine Dry Cleaners located to the west of the Property should be considered a potential off-site source that must be evaluated relative to the potential migration of dry cleaning chemicals into the former Big Bear building via the vapor intrusion (VI) pathway.

The only potentially viable complete pathway for the Property identified by the CP was VI to indoor air from volatile organic chemicals associated with dry cleaning chemicals that may have been released from the former nearby Sunshine Dry Cleaners through volatilization from the off-property soil and/or groundwater. COCs associated with this potential pathway include dry cleaning related chemicals: primarily perchloroethylene (PCE) and its associated degradation chemicals including trichloroethene (TCE), cis- and trans-1,2-dichloroethenes, and vinyl chloride.

To evaluate the VI pathway, nine soil borings ranging from 2 ½ feet to 20 feet below ground surface (bgs) were advanced for the purpose of identifying the subsurface geologic and hydrogeologic conditions on the Property, and for the installation and sampling of soil gas probes. The results showed that the soils below the asphalt and base consist of low permeability glacial clay and silt, such that soil gas sampling from probes installed into these materials would not yield sufficient soil gas for sampling and analysis. However, analysis of soil gas samples collected from shallow probes screened through more permeable materials overlying these silt/clay deposits resulted in very low concentrations of dry cleaning chemicals but only in the probes installed at the Property line. Groundwater was not encountered to the maximum explored depth of 20 feet bgs. The VI to indoor air pathway was evaluated using the maximum concentrations of the detected chemicals and the Johnson & Ettinger (J&E) model under conservative input parameters. The predicted risks from the modeling for the Property were significantly less than the Ohio EPA acceptable risk levels.



#### 4.2 PROPOSED LAND USE

The current and anticipated future land use of the Property is for commercial purposes.

#### 4.3 PHASE II PROPERTY ASSESSMENT

No IAs were identified on the Property; therefore a Phase II PA was not performed.

#### 4.4 CHEMICALS OF CONCERN

The following COCs were evaluated **from an off-Property source through VI** at the Property:

VOCs: PCE and its associated degradation chemicals including TCE, cis-and trans-1,2-dichloroethenes, and vinyl chloride. 1,1,1-trichloroethane was also detected in one of the samples and evaluated using the J&E model. The certified laboratories analyzed samples for these chemicals using US EPA Methods 8260b and TO-15.

#### 4.5 PHASE I PROPERTY ASSESSMENT UPDATE

A Phase I PA Update was prepared for the Property because more than 180 days had elapsed since the initial Phase I PA was issued. Updates to the PA included: 1) the elimination of the ACMs in the main building as an IA (based on the definition of an IA in OAC 3745-300-01(A)(64); 2) documentation of the changes to the Property associated with the abatement of the ACMs, demolition of the former Garden Center building, and occupation of the western portion of the building by Valu-King; 3) changes in the uses of some of the surrounding properties; and 4) addition of the evaluation of the former Sunshine Dry Cleaners as a potential off-site source.

### 5.0 CERTIFIED LABORATORIES

Soil gas samples associated with the evaluation of the VI pathway were analyzed by two certified laboratories: Pace Analytical (CL 101) and ESC Lab Services (CL0069).

## **6.0 REMEDIAL ACTIVITIES**

The only remedial activities conducted at the Property were the removal and recycling of the hazardous materials (fluorescent lamps and ballasts), and the abatement of the ACMs in the former Big Bear retail store building. No other remedies were conducted or required to meet Applicable Standards.

## **7.0 OPERATIONS AND MAINTENANCE/ENGINEERING CONTROLS/RISK MITIGATION PLANS**

No operation and maintenance plans, engineering controls, or risk mitigation plans are required to meet Applicable Standards.

## **8.0 INSTITUTIONAL CONTROLS**

No institutional controls are requested or required to meet the Applicable Standards for the Property.

## **9.0 DETERMINATION AND COMPLIANCE WITH APPLICABLE STANDARDS**

The Property is in compliance with VAP Applicable Standards for all property uses.