

# RAILROAD COMMISSION OF TEXAS

## OIL AND GAS DIVISION

February 16, 2022

Mr. Todd Buster  
Breen Industrial Park, LLC  
1221 Lumpkin Road  
Houston, TX 77043

RE: *Certificate of Completion with Restrictions*  
15.05 Acre Tract of Land  
11601, 11609, and 11617 North Galayda Street, 7401 and 7444 Getty Road, and 11611  
N. Houston Rosslyn Road  
Houston, Harris County, Texas  
Voluntary Cleanup Program (VCP) No. 03-19005

Dear Mr. Buster:

Railroad Commission of Texas (RRC) VCP staff is pleased to enclose a Certificate of Completion (COC) with restrictions for the 15.05-acre property located off North Galayda Street, Getty Road, and N. Houston Rosslyn Road in Houston, Texas (Site). The Site is more specifically located at latitude 29.2900338 and longitude -95.4999095 (WGS 84). This letter only applies to historical oil and gas exploration and production activities on the property that are subject to the RRC's jurisdiction under Chapter 91 of the Texas Natural Resources Code. The following reports were reviewed for the Site prior to the issuance of this Certificate:

*Phase I Environmental Site Assessment, 15.05-Acre Property, 11601 N. Galayda Street, Houston, Harris County, Texas 77086, dated September 19, 2018;*

*Environmental Summary, Former Oil and Gas Exploration and Production (OGEP), Site Gathering Facility, 11601, 11609, and 11617 North Galayda Street; 7401 and 7444 Getty Road; and 11611 N. Houston Rosslyn Road, Houston, Harris County, Texas, ESE Document: LET-19-0167-001 Rev 0, dated April 17, 2019;*

*Site Investigation Report, Breen Industrial Park, 11601, 11609, and 11617 North Galayda Street; 7401 and 7444 Getty Road; and 11611 N. Houston Rosslyn Road, Houston, Harris County, Texas, VCP No. 03-19005, dated December 6, 2019;*

*Response to RRC Comments and Workplan for Further Investigation, Breen Industrial Park, 11601, 11609, and 11617 North Galayda Street; 7401 and 7444 Getty Road; and 11611 N. Houston Rosslyn Road, Houston, Harris County, Texas, Voluntary Cleanup Program (VC) No. 03-19005, Document No.: LET-19-0167-003 Rev 0, dated May 5, 2020;*

*Site Investigation Report Addendum, Breen Industrial Park, 11601, 11609, and 11617 North Galayda Street; 7401 and 7444 Getty Road; and 11611 N. Houston Rosslyn Road, Houston, Harris County, Texas, VCP No. 03-19005, dated August 12, 2020;*

*Response Action Workplan, Breen Industrial Park, 11601, 11609, and 11617 North Galayda Street; 7401 and 7444 Getty Road; and 11611 N. Houston Rosslyn Road, Houston, Harris County, Texas, VCP No. 03-19005, dated October 20, 2020;*

*Response to RRC Comments; Workplan for Additional Assessment, Breen Industrial Park, 11601, 11609, and 11617 North Galayda Street; 7401 and 7444 Getty Road; and 11611 N. Houston Rosslyn Road, Houston, Harris County, Texas, Voluntary Cleanup Program (VC) No. 03-19005, Document No.: LET-19-0167-004 Rev 0, dated February 12, 2021;*

*Closure Request & Response to RRC Comments. Breen Industrial Park, 11601, 11609, and 11617 North Galayda Street; 7401 and 7444 Getty Road; and 11611 N. Houston Rosslyn Road, Houston, Harris County, Texas, Voluntary Cleanup Program (VC) No. 03-19005, Document No.: LET-19-0167-005 Rev 0, dated June 19, 2021.*

### **History of Site**

Historic aerial images indicate that a gas processing facility was present on the property between 1944 and 1978. The following features were identified as part of the gas processing facility: 15 above ground storage tanks, a reserve pit, various equipment for gas compression, separation, and storage, various flow lines, and multi-stage production separation equipment. Additionally, one plugged oil and gas well was identified on the property. Two plugged oil and gas wells, as well as one dry hole were identified immediately adjacent to the property. Per RRC records, these wells were plugged and abandoned between 2001 and 2015. From 1978 to present, the site has been used for various light industrial operations, several of which were/are listed as both small-quantity and large-quantity generators and/or handlers of the following constituents: cadmium, chromium, lead, chlorinated solvents, benzene, methyl ethyl ketone (MEK), spent halogenated solvents, spent non-halogenated solvents, mineral spirits, and petroleum naphtha. Historical releases are known to have occurred at the site in relation to the industrial practices and have been remediated with supervision from the Texas Commission on Environmental Quality. The site currently consists of several warehouse buildings that are still used for various industrial activities.

### **Soil and Groundwater Assessment**

A Phase I Environmental Site Assessment (ESA) and Limited Site Investigation was performed by Terracon Consultants, Inc. (Terracon) at the site in 2002 and 2006. The investigation identified petroleum hydrocarbon contamination in soil and groundwater on the western portion of the property. Terracon submitted the reports to the RRC District Office requesting that the RRC require remediation of the site by the active operator at that time, WB Osborn Oil & Gas Operations. The RRC requested additional investigation of the site to determine whether the contamination is associated with oil and gas exploration and production activities or the industrial practices at the site. RRC VCP staff have not received copies of these reports. However, the information presented above is presented in various reports submitted by ESE Partners, LLC (ESE) on behalf of the VCP applicant.

In September 2018, a prospective purchaser of the property conducted a Phase I ESA for the property. Based on the results of the Phase I ESA, Terracon conducted a Supplemental Site Investigation (SSI) in October 2018 to further investigate contamination on the site. A draft copy of the SSI report was submitted by ESE in the VCP application package. The SSI included the advancement of 16 borings. Three borings were installed to a shallow depth (12 feet below ground surface (bgs)) and thirteen were installed to deeper depths (20 feet bgs). Ten of the thirteen deeper borings were converted into temporary monitor well locations and the remaining three were converted into permanent monitor wells. Soil samples were collected from each boring based on the highest photoionization detection (PID) readings. Groundwater was collected from each temporary and permanent monitor well. Soil and groundwater samples were analyzed for volatile organic compounds (VOCs), total petroleum hydrocarbon (TPH), Resource Conservation and Recovery Act (RCRA)-8 metals, and chlorides. The following constituents and maximum concentrations were detected in soil above the Tier 1 residential soil-to-groundwater protective concentration levels (PCLs): TPH (10,010 mg/kg), benzene (19.2 mg/kg), ethylbenzene (47 mg/kg), 1,2-dichloroethane (0.133 mg/kg), methylene chloride (2.8 mg/kg), naphthalene (40.7 mg/kg), 1,2,4-trimethylbenzene (45 mg/kg), arsenic (18.4 mg/kg), barium (1,810 mg/kg), and lead (248 mg/kg). The following constituents and maximum concentrations were detected in groundwater above the Tier 1 residential groundwater ingestion PCL: TPH (795 mg/L), benzene (12.9 mg/L), naphthalene (1.193 mg/L), and chlorides (559 mg/L). Filtered and nonfiltered groundwater samples were collected for metal analysis. The following constituents and maximum concentrations were detected above the Tier I groundwater ingestion PCL in nonfiltered groundwater samples from the temporary monitor wells: arsenic (0.333 mg/L), barium (22.1 mg/L), cadmium (0.0112 mg/L), chromium (0.45 mg/L), lead (1.3 mg/L), and mercury (0.02 mg/L). The following constituents and maximum concentrations were detected above the Tier 1 groundwater ingestion PCL in filtered groundwater samples from the temporary wells: arsenic (0.333 mg/L), barium (4.3 mg/L), and lead (0.0205 mg/L). Arsenic was the only constituent detected above the groundwater ingestion PCL in the permanent monitor wells at a maximum concentration of 0.0582 mg/L in a filtered sample.

In 2019, ESE conducted additional site investigation activities through the installation of nineteen soil borings and six permanent monitor wells. Soil samples were collected from the intervals showing the highest PID readings and/or field observations. Soil samples were selectively analyzed for polycyclic aromatic hydrocarbons (PAHs), TPH, benzene, ethylbenzene, naphthalene, 1,2,4-trimethylbenzene, methylene chloride, arsenic, and barium. Groundwater samples were analyzed for arsenic, TPH, benzene, and PAHs. The following constituents were detected in soil above the Tier I residential soil-to-groundwater PCLs: benzene (2.11 mg/kg), ethylbenzene (8.65 mg/kg), naphthalene (50.8 mg/kg), and TPH (4,860 mg/kg). The following constituents were detected in groundwater above the Tier 1 residential groundwater ingestion PCL: arsenic (0.0936 mg/L), benzene (6.24 mg/L), TPH (26.4 mg/L), and naphthalene (0.765 mg/L). Due to the past metal exceedances in soil, Tier II PCLs were calculated for arsenic, barium, and lead. The calculated Tier II soil-to-groundwater PCLs are as follows: arsenic - 16.17 mg/kg, barium - 3206 mg/kg, and lead - 287 mg/kg. The maximum concentrations of barium and lead found in soils collected from the site were all below the calculated Tier II PCLs. Arsenic concentrations in one soil sample were above the Tier II PCL, which is also the only soil sample above the Texas Secondary Background Concentration of 5.9 mg/kg. The soil and groundwater samples with the highest TPH concentrations were analyzed via Texas Method TX1006 and site-specific mixture

PCLs were calculated. The most conservative total soil combined PCL calculated was 9,630 mg/kg, assuming a 0.5-acre source area and residential property use and the most conservative groundwater ingestion PCL with the same assumptions was 5.59 mg/L. All but one soil sample was below the site-specific mixture PCL of 9,630 mg/kg for TPH. However, the site will be used for commercial/industrial purposes and the maximum concentration of TPH detected at the site (10,010 mg/kg) is below the calculated commercial/industrial site-specific mixture PCL of 31,400 mg/kg. Additionally, based on ESE review of the boring from which the soil sample was collected (B-8), the sample appears to have been collected from within the smear/saturated zone. Further, a soil boring was installed later within the same location as B-8 and TPH concentrations from just above the saturated zone was below the Tier 1 residential total-soil-combined PCL.

In 2020, groundwater samples collected from three of the nine permanent monitor wells were analyzed for amines and glycol at the request of the RRC. The wells sampled were selected based on the apparent location of natural gas processing area from historical aerial images. Results of the sampling indicated that all amines and glycols were below laboratory detection limits. Surface soil samples were also collected within the historic natural gas processing area and also analyzed for amines and glycols. Results of the sampling indicated that all soil samples were below detection limits.

Since 2018, six groundwater sampling events have occurred at the site. The three groundwater monitor wells installed at the site by Terracon in 2018 have been sampled six times and the remaining six wells have been sampled four to five times depending on the constituent. Mann-Kendall analysis was used to determine if concentrations of constituents were stable and/or declining. Results of the analysis showed that concentrations of arsenic, benzene, ethylbenzene, and TPH were either stable, decreasing, or did not have a trend. Based on the lack of an increasing trend in concentrations, RRC staff determined that a groundwater use restriction was an appropriate remedy to control groundwater contamination at the site. Additionally, because delineation of groundwater contamination extended to only the VCP property boundaries, RRC staff requested that ESE notify adjacent property owners of the potential groundwater contamination below their properties. Notifications were sent in accordance with RRC guidelines in July 2021.

### **Restrictive Covenant**

A restrictive covenant, limiting land and groundwater use on the 15.05-acre property, was filed with the Harris County Clerk's Office on January 24, 2022. The document was assigned the Document Number RP-2022-40308 and has the following restrictions:

1. No part of the Affected Property shall be used for residential land use as defined in this Restrictive Covenant.
2. The investigation and assessment reports identified impacted soil at 0 feet (surface) below ground surface (bgs) and impacted groundwater at 13 feet bgs. Penetration of the impacted soil and beneath the Affected Property for any purpose shall only be conducted in such a manner as to prevent the migration or release of contaminants to any other zone or media and to prevent uncontrolled exposure to human and ecological receptors.

Mr. Todd Buster

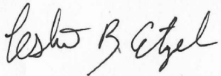
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3. Use or consumption of groundwater beneath the Affected Property ranging from surface to 30 feet bgs, shall be prohibited except for monitoring and remediation purposes.
4. Any water wells completed on the Affected Property must be installed by a Texas Department of Licensing and Regulation (TDLR)-licensed water well driller in accordance with applicable rules. Installed wells shall not be screened/perforated from the surface to 30 feet bgs unless for authorized monitoring purposes and the collection of samples for analysis.
5. These restrictions shall be a covenant running with the land.

On behalf of the staff of the RRC Site Remediation Section, I would like to thank you for your participation in the VCP. Should you have questions regarding this letter, you may contact me at 512-463-3384 or [leslie.bruce@rrc.texas.gov](mailto:leslie.bruce@rrc.texas.gov).

Sincerely,



Leslie Bruce Etzel  
VCP/Brownfields Program Coordinator  
Site Remediation

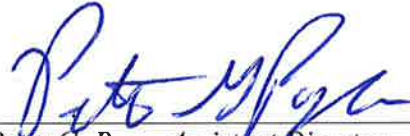
CC: Peter Pope, Site Remediation Manager (via email)  
Tim O'Neil, ESE Partners, LLC (via email)  
Aaron Munsart, ESE Partners, LLC (via email)

**VOLUNTARY CLEANUP PROGRAM  
FINAL CERTIFICATE OF COMPLETION  
WITH RESTRICTIONS**

As provided for Chapter 91, Subchapter 0, Texas Natural Resource Code.

*I, PETER G. POPE, ASSISTANT DIRECTOR OF THE SITE REMEDIATION SECTION, OIL AND GAS DIVISION, RAILROAD COMMISSION OF TEXAS, CERTIFY UNDER CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE, THAT NECESSARY RESPONSE ACTIONS HAVE BEEN COMPLETED FOR VOLUNTARY CLEANUP PROGRAM SITE VCP NO. 03-19005 FOR THE TRACT OF LAND DESCRIBED IN EXHIBIT "A", BASED ON THE AFFIDAVIT OF COMPLETION OF RESPONSE ACTION, EXHIBIT "B" AND WHICH ARE FURTHER DESCRIBED IN THE APPROVED FINAL REPORT FOR THE SITE. THE APPLICANT WAS NOT A RESPONSIBLE PARTY UNDER SECTION 91.113. ON THE DATE OF ISSUANCE OF THIS CERTIFICATE THE APPLICANT IS QUALIFIED TO OBTAIN THE PROTECTION FROM LIABILITY PROVIDED BY CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE.*

EXECUTED on 16 February 2022



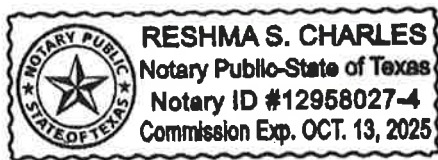
*Peter G. Pope, Assistant Director*  
Site Remediation Section

STATE OF Texas

COUNTY OF Travis

BEFORE ME, personally appeared Peter G. Pope, Assistant Director, Site Remediation Section, of the Railroad Commission of Texas, known to me to be the person and agent of said commission whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 16<sup>th</sup> Day of February 2022.



Notary without Bond



Notary Public in and for the State of Texas

***EXHIBIT "A"***  
***RAILROAD COMMISSION OF TEXAS***  
***VOLUNTARY CLEANUP PROGRAM***  
***LEGAL DESCRIPTION FOR A TOTAL OF 15.05-Acres***

***VCP No. 03-19005***





***EXHIBIT "B"***  
***RAILROAD COMMISSION OF TEXAS***  
***VOLUNTARY CLEANUP PROGRAM***  
***AFFIDAVIT OF COMPLETION***

***VCP No. 03-19005***

**EXHIBIT "B"**  
**RAILROAD COMMISSION OF TEXAS**  
**VOLUNTARY CLEANUP PROGRAM**  
**AFFIDAVIT OF COMPLETION OF RESPONSE ACTION**

I, Todd Buster, representing North Horizon Ventures, LLC, have completed the necessary response actions, pursuant to Chapter 91, Subchapter O, Texas Natural Resource Code, at the approximately 15.050-Acre tract of land described in Exhibit "A" (Site) of this certificate pertaining to Voluntary Cleanup Program (VCP) No. 03-19005 located in Harris County, Texas. The applicant has submitted and received approval from the Railroad Commission of Texas (RRC) on all plans and reports required by the Voluntary Cleanup Agreement. The plans and reports were prepared using a prudent degree of inquiry of the Site consistent with accepted industry standards to identify all contaminants, waste and contaminated media of regulatory concern. The response actions for the site have achieved response action levels as determined by the standards of the RRC and remain protective as long as the following controls are maintained:

1. No part of the Affected Property shall be used for residential land use as defined in the Restrictive Covenant.
2. The investigation and assessment reports identified impacted soil at 0 feet (surface) below ground surface (bgs) and impacted groundwater at 13 feet bgs. Penetration of the impacted soil and groundwater beneath the Affected Property for any purpose shall only be conducted in such a manner as to prevent the migration or release of contaminants to any other zone or media and to prevent uncontrolled exposure to human and ecological receptors.
3. Use or consumption of groundwater beneath the Affected Property ranging from surface to 30 feet bgs, shall be prohibited except for monitoring and remediation purposes.
4. Any water wells completed on the Affected Property must be installed by a Texas Department of Licensing and Regulation (TDLR)-licensed water well driller in accordance with applicable rules. Installed wells shall not be screened/perforated from the surface to 30 feet bgs unless for authorized monitoring purposes and the collection of samples for analysis.
5. These restrictions shall be a covenant running with the land.

These restrictions were filed in the Harris County Clerk's office on January 24, 2022, under Document No. RP-2022-40308 (Attachment 1). The response actions eliminate substantial present or future risk to public health and safety and to the environment from releases and threatened releases of contaminants at or from the Site. The Applicant has not acquired this certificate of completion by fraud, misrepresentation, or knowing failure to disclose material information. Further information concerning the response actions at this Site may be found in the final report at the central office of the RRC filed under VCP No. 03-19005.

The preceding is true and correct to the best of my knowledge and belief.

Applicant

By: \_\_\_\_\_ 

Print Name: Todd Buster

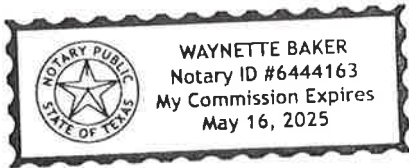
STATE OF TEXAS  
COUNTY OF HARRIS

BEFORE ME, personally appeared Topo Buster,  
known to me to be the person and agent of said commission whose name is subscribed to the foregoing  
instrument, and he acknowledged to me that he executed the same for the purposes and in the capacity  
therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 31<sup>th</sup> day of Jan 2022.

Notary Public in and for the State of Texas

Waynette Baker



***ATTACHMENT 1***  
***RAILROAD COMMISSION OF TEXAS***  
***VOLUNTARY CLEANUP PROGRAM***  
***Institutional Control Document No.***  
***RP-2022-40308***

***VCP No. 03-19005***



Pipeline Company in Volume 3477, Page 351 in the Deed Records of Harris County (H.C.D.R.), Texas, and being on the northeast R.O.W. line of aforesaid Burlington Northern Santa Fe Railroad;

Thence, coincident the north line of the herein described tract and the south line of aforesaid 10.114-acre tract, North 87 Degrees 19 Minutes 41 Seconds East, a distance of 1,321.88 feet to a 5/8-inch iron rod with "Gruller" cap set for the northeast corner of the herein described tract and the northwest corner of a called 2.1599-acre tract of record in the name of Sadamichi 4, LLC in H.C.C.F. number 20150252003;

Thence, coincident the east line of the herein described tract the following thirteen (14) courses;

1. South 02 Degrees 12 Minutes 00 Seconds East, a distance of 172.99 feet to a 5/8-inch iron rod with "Gruller" cap set for the southwest corner of aforesaid 2.1599-acre tract, and being on the north line of a 30 feet wide easement tract of record in H.C.C.F. G586577 (aka Getty Road);
2. North 87 Degrees 47 Minutes 45 Seconds East, a distance of 430.22 feet to an "X" cut in concrete for the beginning of a curve to the left;
3. Coincident aforesaid curve to the left, an arc length of 70.25 feet, having a radius of 76.91 feet, a central angle of 52 Degrees 19 Minutes 54 Seconds and a chord bearing of North 61 Degrees 37 Minutes 33 Seconds East, a distance of 67.83 feet to an "X" cut in concrete for the point of reverse curvature;
4. Coincident aforesaid curve to the right, an arc length of 85.16 feet, having a radius of 106.91 feet, a central angle of 45 Degrees 38 Minutes 29 Seconds and a chord bearing of North 58 Degrees 16 Minutes 52 Seconds East, a distance of 82.93 feet to a 5/8-inch iron rod with "Gruller" cap set for the southeast corner of aforesaid 2.1599-acre tract, being on the north line of aforesaid Getty Road and the west R.O.W. line of North Houston Rosslyn Road (width varies);
5. South 02 Degrees 12 Minutes 00 Seconds East, a distance of 30.29 feet to a 5/8-inch iron rod with "Gruller" cap set for the northeast corner of the remainder of a called 1.8478-acre tract of record in the name of Four Seasons Business Park I, LLC in H.C.C.F. Number 20070032770, being on the south line of aforesaid Getty Road and the beginning of a curve to the left;
6. Coincident aforesaid curve to the left, an arc length of 57.74 feet, having a radius of 76.91 feet, a central angle of 43 Degrees 00 Minutes 43 Seconds and a chord bearing of South 56 Degrees 56 Minutes 54 Seconds West, a distance of 56.39 feet to a 5/8-inch iron rod with "Gruller" cap set for the point of reverse curvature;
7. Coincident aforesaid curve to the right, an arc length of 97.65 feet, having a radius of 106.91 feet, a central angle of 52 Degrees 19 Minutes 58 Seconds and a chord bearing of South 61 Degrees 37 Minutes 34 Seconds West, a distance of 94.29 feet to a 5/8-inch iron rod found, being on the north line of aforesaid 1.8478-acre tract and the south line of aforesaid Getty Road;

8. South 87 Degrees 47 Minutes 45 Seconds West, a distance of 409.50 feet to a 5/8-inch iron rod with "Gruller" cap set for the northwest corner of a called 1.0682 acre tract of record in the name of Miars Holdings, LLC in H.C.C.F. Number RP-2017-41438, and being on the south line of aforesaid Getty Road;
9. Coincident the west line of aforesaid 1.0682-acre tract, South 02 Degrees 09 Minutes 04 Seconds East, a distance of 141.00 feet to a 5/8-inch iron rod with "Gruller" cap set for the southwest corner of said 1.0682-acre tract;
10. Coincident the south line of aforesaid 1.0682 acre tract, North 87 Degrees 47 Minutes 45 Seconds East, a distance of 542.66 feet to a 5/8-inch iron rod found for the southeast corner of aforesaid 1.8478-acre tract, and being on the west R.O.W. line of aforesaid North Houston Rosslyn Road;
11. South 02 Degrees 12 Minutes 00 Seconds East, a distance of 206.03 feet to a 5/8-inch iron rod found for the northeast corner of a called 1.4923 acre tract of record in the name of 9902 East Hardy, L.P., in H.C.C.F. Number 20140016449 and being on the west R.O.W. line of said North Houston Rosslyn Road;
12. Coincident the north line of aforesaid 1.4923 acre tract, South 87 Degrees 47 Minutes 45 Seconds West, a distance of 602.70 feet to a 5/8-inch iron rod with "Gruller" cap set for the northwest corner of aforesaid 1.5668-acre tract;
13. South 02 Degrees 12 Minutes 00 Seconds East, a distance of 222.63 feet to the POINT OF BEGINNING and containing 15.050 acres of land.

This Restrictive Covenant is required for the following reasons:

The **Affected Property** was utilized as an *oil and gas exploration, production, gathering, and separation facility* that was operated by *various parties including Arco Oil & Gas Co., Pennzoil Producing CO., Pringle Resources, Inc., Osborn, W.B. Oil and Gas Operations, Riseden Services, Inc., Pringle Petroleum, Inc., and BP Pipelines (North America), Inc.* from as early as December 1944 to December 1978 based on historical aerial imagery; wherein COCs attributable to the operations at the former *oil and gas exploration, production, gathering, and separation facility* impacted soil and groundwater and an environmental investigation and response action was required in accordance with Commission Regulations. *North Horizon Ventures, LLC* performed the response action to characterize and remediate the COCs.

The remediation was performed in such a manner that COCs remained in soil and groundwater at the **Affected Property** when the Restrictive Covenant was filed with the County. The COCs and the maximum concentration levels remaining in the **Affected Property** are specified on *Exhibit B – COCs Remaining in Soil and Groundwater*. The investigation, assessment, remediation and analytical data are contained in the RRC project case file *Voluntary Cleanup Program (VCP) number 03-19005* and further summarized in the following reports:

- *Site Investigation Report (Document No. REP-19-0167-001 Rev 0)*
- *Site Investigation Report Addendum (Document No. REP-19-0167-002 Rev 0)*

- *Response Action Workplan (Document No. REP-19-0167-003 Rev 0)*
- *Groundwater Monitoring Report (Document No. REP-19-0167-004 Rev 1)*

Copies of the reports may be obtained from *North Horizon Ventures, LLC at 1233 West Loop South, Suite 900, Houston, Texas* and from the Commission under *Voluntary Cleanup Program (VCP) number 03-19005*.

The response action has been approved by the Commission based on the presumption that the **Affected Property**, will be protective of commercial/industrial land use with the implementation of this Restrictive Covenant.

For purposes of this Restrictive Covenant the terms

- “commercial/industrial land use” means use of property for anything other than use for human habitation or for other purposes with a similar potential for human exposure. Human habitation includes but is not limited to residential land use.
- “environmental medium” means a material found in the natural environment such as soil, groundwater, air, surface water, and sediments, or a mixture of such materials with liquids, sludges, gases, or solids.
- “exposure pathway” means the course that a COC takes from a source area to ecological or human receptors and includes a source area, a point of exposure, and an exposure route (e.g. ingestion), as well as a transport mechanism if the point of exposure is different from the source area.
- “residential land use” means use for dwellings, such as single family houses and multi-family apartments, children’s homes, nursing homes, residential portions of government-owned lands (local, state or federal), day care facilities, educational facilities, hospitals, residential portions of ranch and farm land, and parks (local, state or federal).

Based on information contained in the investigation, assessment and monitoring reports, as long as an incomplete exposure pathway is maintained to impacted soil and groundwater exceeding health-based values then the COCs associated with the **Affected Property** pose no significant present or future risk to humans or the environment. With the filing of this document, the Commission does not require any further remediation of the **Affected Property** as long as an incomplete exposure pathway is maintained to impacted soil and groundwater exceeding health-based values.

Upon the filing and recording of this Restrictive covenant in the County Real Property Records, the Commission does not require any further remediation of the **Affected Property** if the **Affected Property** is not put to residential land use and the restrictions identified in this Restrictive Covenant are implemented.

The Restrictive Covenant is necessary to assure that all present and future owners, operators, lessors, and lessees of the **Affected Property** are aware of its condition and do not use the **Affected**



**Property** or any groundwater below the surface of the **Affected Property** in any manner inconsistent with the Restrictive Covenant.

In consideration of the response actions leading to final approved remediation of the **Affected Property**, the landowner of the Property has agreed to place the following restrictions on the **Property** in favor of the Commission and the State of Texas. Now therefore, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following Restrictive Covenant in favor of the Commission and the State of Texas are placed on the **Property** described on **Exhibit A**, to-wit:

1. No part of the Affected Property shall be used for residential land use as defined in this Restrictive Covenant.
2. The investigation and assessment reports identified impacted soil at **0** feet (surface) below ground surface (bgs) and impacted groundwater at **13** feet bgs. Penetration of the impacted soil and groundwater beneath the **Affected Property** for any purpose shall only be conducted in such a manner as to prevent the migration or release of contaminants to any other zone or media and to prevent uncontrolled exposure to human and ecological receptors.
3. Use or consumption of groundwater beneath the Affected Property ranging from **surface** to **30** feet bgs, shall be prohibited except for monitoring and remediation purposes.
4. Any water wells completed on the **Affected Property** must be installed by a Texas Department of Licensing and Regulation (TDLR)-licensed water well driller in accordance with applicable rules. Installed wells shall not be screened/perforated from the surface to **30** feet bgs unless for authorized monitoring purposes and the collection of samples for analysis.
5. These restrictions shall be a covenant running with the land.

For additional information, exposure assumptions with the Restrictive Covenant, please request the information from the Commission or from the *North Horizon Ventures, LLC*.

Contact Addresses:

- Railroad Commission of Texas  
Oil and Gas Division  
Site Remediation Section  
P.O. Box 12967  
1701 N. Congress  
Austin, Texas 78711-2967
- North Horizon Ventures, LLC  
1233 West Loop South, Suite 900  
Houston, Texas 77006

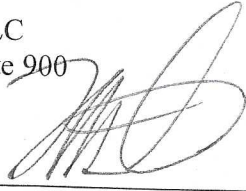
As of the date of this Restrictive Covenant, the record owner of fee title to the Affected Property is owned by North Horizon Ventures, LLC at 1233 West Loop South, Suite 900, Houston, Texas.

This Restrictive Covenant may be rendered of no further force or effect only by a release executed by the Commission and filed in the same Real Property Records as those in which this Restrictive Covenant is filed.

Executed this 3<sup>RD</sup> day of December, 2021.

(2)  
10/2

North Horizon Ventures, LLC  
1233 West Loop South, Suite 900  
Houston, Texas 77006



Signature: \_\_\_\_\_

Printed Name: Todd Buster

Title: Member

STATE OF Texas

COUNTY OF Harris

BEFORE ME, on this the 3<sup>RD</sup> day of December, 2021 personally appeared Todd Buster known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity herein expressed.

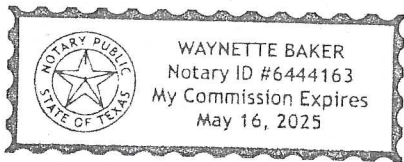
GIVEN UNDER MY HAND AND SEAL OF OFFICE

Signature Waynette Baker

Notary Public in and for the State of Texas

County of Harris

My Commission Expires: May 16, 2021



Accepted as Third Party Beneficiary this 20th day of December, 2021.

102

Railroad Commission of Texas

By: Peter G. Pope

Printed Name: Peter G. Pope

Title: Manager, Site Remediation

State of Texas

Travis County

BEFORE ME, on this the 20th day of December, 2021 personally appeared Peter G. Pope, manager on behalf of the Oil and Gas Division of the Railroad Commission of Texas, known to me to be the person whose name is subscribed for the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity herein expressed.

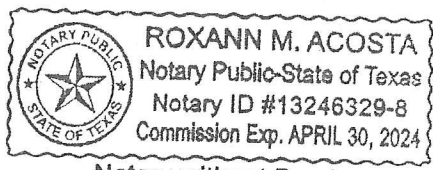
GIVEN UNDER MY HAND AND SEAL OF OFFICE

Signature Roxann M. Acosta

Notary Public in and for the State of Texas

County of Travis

My Commission Expires: April 30, 2024



Notary without Bond

VW KAT

ESE Partners, LLC  
2002 West Grand Parkway N  
Suite 140  
Katy, Tx 77449  
Attn: Aaron Munsert

**EXHIBIT "A"**

**Property/Affected Property**



**EXHIBIT "B"**

**COCs Remaining in Soil and Groundwater**

### Exhibit B – COCs Remaining in Soil and Groundwater

Upon completion of the remediation, COCs at the following maximum levels, exceeding the regulatory action level, remained in subsurface soil and groundwater beneath the **Affected Property**:

Environmental Media <sup>(1) (2)</sup>  (Soil, groundwater, or air)	Constituents Remaining <sup>(3)</sup>	Maximum Detected Sample Concentration  (4) (5)	Date of Sample Collection	PSH Measured Apparent Thickness in Feet <sup>(6)</sup>  (8)	Depth BGS and Location <sup>(1) (2) (6) (7)</sup>
Soil	Arsenic	18.4 mg/kg	10/25/2018	NA	0-3 ft. TER-TSP-3
Soil	Benzene	19.2 mg/kg	10/25/2018	NA	4-6 ft. TER-TSP-2
Soil	Ethylbenzene	34.8 mg/kg	10/25/2018	NA	4-6 ft. TER-TSP-2
Soil	Naphthalene	50.8 mg/kg	7/31/2019	NA	2-4 ft. MW-04
Soil	1,2,4-Trimethylbenzene	45 mg/kg	2006	NA	13-14 ft. B-8
Soil	1,2-Dichloroethane	0.133 mg/kg	10/29/2018	NA	10-12 ft. TER-TSP-8
Soil	Methylene chloride	2.8 mg/kg	10/25/2018	NA	4-6 ft. TER-TSP-2
Soil	TPH (total)	10,010 mg/kg	2006	NA	13-14 ft. B-8
Groundwater	Arsenic	0.175 mg/L	6/15/2020	NA	MW-07
Groundwater	Benzene	13.1 mg/L	3/12/2020	NA	MW-01
Groundwater	Ethylbenzene	0.765 mg/L	6/15/2020	NA	MW-05
Groundwater	Napthalene	0.765 mg/L	7/31/2019	NA	MW-04
Groundwater	TPH (total)	30.9 mg/L	3/4/2021	NA	MW-03
Groundwater	Chloride	349 mg/L	3/4/2021	NA	MW-03

- (1) Groundwater – A saturated geologic formation, group of formations, or part of a formation.
- (2) Soil includes surface soils and subsurface soils. For surface soil, the soil zone extending from ground surface to five feet in depth for commercial/industrial land use; or to the top of the uppermost groundwater-bearing unit or bedrock, whichever is less in depth. For subsurface soil, the portion of the soil zone between the base of surface soil and the top of the groundwater-bearing unit(s).
- (3) Constituents identified as Site-specific COCs that exceed the regulatory action level within the “Affected Property”.
- (4) milligrams per kilogram (mg/kg)
- (5) milligrams per liter (mg/L)
- (6) Phase-Separated Hydrocarbons (PSHs)
- (7) Monitor Well (MW);
- (8) Not Applicable (NA)

FILED FOR RECORD

10:05:57 AM

Monday, January 24, 2022



COUNTY CLERK, HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED; in the Official Public Records of Real Property of Harris County Texas

Monday, January 24, 2022



COUNTY CLERK  
HARRIS COUNTY, TEXAS