



March 25, 2010

103-89204

New York State Department of Environmental Conservation
Division of Solid and Hazardous Materials, Region 9
270 Michigan Avenue
Buffalo, New York 14203

RECEIVED
NYSDEC - REGION 9

MAR 26 2010

Attention: Mr. David Szymanski, Project Manager

✓ REL FOIL UNREL

**RE: PERIODIC REVIEW REPORT
ITT HEAT TRANSFER FACILITY
175 STANDARD PARKWAY, CHEEKTOWAGA, NY**

Dear Mr. Szymanski:

On behalf of ITT Heat Transfer (ITT), Golder Associates Inc. (Golder) has prepared this Periodic Review Report (PRR) to document the compliance with site management requirements for the above-referenced facility. The requirements are associated with soil impacts identified through a Voluntary Cleanup Agreement (VCA – Site No. V00329), which activities were performed in support of receiving a letter of *Assignable Release and Covenant Not to Sue* from the New York State Department of Environmental Conservation (NYSDEC), dated June 8, 2005.

This PRR certifies that all covenants and restrictions set forth in the above letter remain in effect.

1.0 BACKGROUND

The site is an active industrial property currently owned by ITT. The facility consists of two buildings totaling 184,778 square feet on approximately 24 acres of property. The site is bordered to the south and west primarily by residential properties. The land to the east is owned by Niagara Mohawk Power Co., and is traversed by unpaved service roads. The land adjacent to the north parcel boundary is owned by the town of Cheektowaga. A railroad owned and operated by Consolidated Rail Corp. is located adjacent to the northernmost service road.

The ITT facility has been occupied by ITT since 1986. Prior to ITT's occupancy, the site was owned by American Standard, the precursor company to ITT Standard. American Standard occupied the site from 1966 to 1986. From 1947 to 1966, U.S. Rubber Reclaiming Co., Inc., a tire recycling facility, operated at the site. Prior to the construction of the facility in 1947, the land was undeveloped.

The site has been characterized during several previous investigations performed from approximately 1997 to 2003, which have been documented and submitted to the NYSDEC.

2.0 COVENANTS AND RESTRICTIONS

As described above, the activities under the VCA were performed in support of receiving a letter of Assignable Release and Covenant Not to Sue from the NYSDEC. The letter references required deed restrictions, which are specified in the Declaration of Covenants and Restrictions, dated November 30th, 2004, and which are presented below.

- First, the property subject to this Declaration of Covenants and Restrictions is described in Appendix "A" and made a part hereof.

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Golder Associates Inc.
2221 Niagara Falls Boulevard, Suite 9
Niagara Falls, NY 14304 USA
Tel: (716) 215-0650 Fax: (716) 215-0655 www.golder.com

- Second, unless prior written approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "The Relevant Agency", is first obtained, there shall be no disturbance of soils or excavation of the Property, which results in unacceptable human exposure to contaminated soils. Any disturbance of soils or excavation of the Property that is in conformance with a Soil Management Contingency Plan prepared by the owner of the Property and approved, in writing, by the Relevant Agency shall not be deemed to result in unacceptable human exposure to contaminated soils.
- Third, the owner of the Property shall prohibit the Property from ever being used for purposes other than for industrial use without the express written waiver of such prohibition by the Relevant Agency.
- Fourth, the owner of the Property shall prohibit the use of the groundwater underlying the Property without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Relevant Agency.
- Fifth, the owner of the Property shall continue in full force and effect any institutional and engineering controls required under the Agreement and maintain such controls unless the owner first obtains permission to discontinue such controls from the Relevant Agency. The owner of the Property shall certify annually, by the tenth day of April, commencing April 2005, to the Relevant Agency, that all covenants and restrictions set forth in this Declaration are in place or have been complied with, and identify any excavation activities undertaken during the past year.
- Sixth, any soils generated during the excavations from the area defined as "APC-10" on the attached Appendix B will be tested and analyzed by an approved laboratory from the New York State Environmental Laboratory Approval Program (ELAP). If sample results exceed guidance values listed in either the Department's Technical, Administrative Guidance Memorandum (TAGM) HWR-94-4046 (Revised) or the Department's STARS Memo #1 (Petroleum Contaminated Soil Guidance Policy), the owner of the Property will remediate or properly dispose the excavated material.
- Seventh, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property and shall provide that the owner and its successors and assigns consent to enforcement by the Relevant Agency of the prohibitions and restrictions that Paragraph X of the Agreement require to be recorded, and hereby covenant not to contest the authority of the Relevant Agency to seek enforcement.
- Eighth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

To address the second restriction above, a Soil Management Contingency Plan (SMCP) dated August 2007 was prepared and submitted to and approved by the NYSDEC. The second, third, and fourth restrictions above together constitute the site's Institutional Controls, which in simplified terms are:

- Soil Management Contingency Plan;
- Industrial land use restriction; and
- Groundwater use restriction.

No engineering controls were specified for the facility.

3.0 SITE WALKTHROUGH OBSERVATIONS

Golder met with an ITT facility representative, Marlene Guerra, on March 12, 2010, to review site documents and perform a site walkthrough to confirm institutional controls were in place. ITT reported that there were no soil disturbances/excavations performed during the reporting period, no change from industrial land use, and no use of site groundwater. Golder's visual observations of the exterior of the facility supports these reports.

4.0 CERTIFICATION

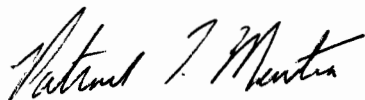
Attachment A consists of the NYSDEC Institutional and Engineering Controls Certification Form.

5.0 CLOSURE

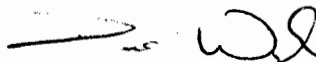
If you have any questions concerning the certification presented in this PRR report, please contact us at 716-215-0650.

Sincerely,

GOLDER ASSOCIATES INC.



Patrick T. Martin, P.E., BCEE
Senior Consultant



David C. Wehn, CPG
Associate

Attachment:

Attachment A – NYSDEC Institutional and Engineering Controls Certification Form

PTM/DCW:dml

ATTACHMENT A
NYSDEC INSTITUTIONAL AND ENGINEERING CONTROLS CERTIFICATION FORM



Enclosure 1
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Periodic Review Report Notice
Institutional and Engineering Controls Certification Form



	Site Details	Box 1
Site No.	V00329	
Site Name	ITT Heat Transfer (ITT Standard)	
Site Address:	175 Standard Parkway	Zip Code: 14227
City/Town:	Cheektowaga	
County:	Erie	
Allowable Use(s) (if applicable, does not address local zoning):		
Site Acreage:	24.0	
Owner:	Rexus LLC C/O Attn: Societe Generale NY 1221 Avenue of the Americas, New York, NY 10020	
Reporting Period:	October 08, 2009 to March 27, 2010	
		ITT Corporate 4 West Red Oak Lane White Plains, NY 10604

	Box 2	
Verification of Site Details	YES	NO
1. Is the information in Box 1 correct?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If NO, are changes handwritten above or included on a separate sheet?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If YES, is documentation or evidence that documentation has been previously submitted included with this certification?	<input type="checkbox"/>	<input type="checkbox"/>
3. Have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If YES, is documentation (or evidence that documentation has been previously submitted) included with this certification?	<input type="checkbox"/>	<input type="checkbox"/>
4. If use of the site is restricted, is the current use of the site consistent with those restrictions?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If NO, is an explanation included with this certification?	<input type="checkbox"/>	<input type="checkbox"/>
5. For non-significant-threat Brownfield Cleanup Program Sites subject to ECL 27-1415.7(c), has any new information revealed that assumptions made in the Qualitative Exposure Assessment regarding offsite contamination are no longer valid?	<input type="checkbox"/>	<input type="checkbox"/>
If YES, is the new information or evidence that new information has been previously submitted included with this Certification?	<input type="checkbox"/>	<input type="checkbox"/>
6. For non-significant-threat Brownfield Cleanup Program Sites subject to ECL 27-1415.7(c), are the assumptions in the Qualitative Exposure Assessment still valid (must be certified every five years)?	<input type="checkbox"/>	<input type="checkbox"/>
If NO, are changes in the assessment included with this certification?	<input type="checkbox"/>	<input type="checkbox"/>

SITE NO. V00329

Box 3

Description of Institutional Controls

Parcel

Institutional Control

S_B_L Image: 113.01-1-28

Ground Water Use Restriction
Landuse Restriction
Soil Management Plan

Box 4

Description of Engineering Controls

None Required

Attach documentation if IC/ECs cannot be certified or why IC/ECs are no longer applicable.
(See instructions)

Control Description for Site No. V00329

Parcel: 113.01-1-28

In accordance with the Declaration of Covenants and Restrictions, filed with the Erie County Clerk's office on December 8, 2004, and the Soil Management Contingency Plan, the following controls require annual certification:

- i) Continued industrial use;
- ii) Sample and properly handle excavated soils during future construction activities;
- iii) Prohibition on groundwater use.

Periodic Review Report (PRR) Certification Statements

1. I certify by checking "YES" below that:

a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

b) to the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and complete.

YES NO

2. If this site has an IC/EC Plan (or equivalent as required in the Decision Document), for each Institutional or Engineering control listed in Boxes 3 and/or 4, I certify by checking "YES" below that all of the following statements are true:

(a) the Institutional Control and/or Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;

(b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;

(c) access to the site will continue to be provided to the Department, to evaluate the remedy, including access to evaluate the continued maintenance of this Control;

(d) nothing has occurred that would constitute a violation or failure to comply with the Site Management Plan for this Control; and

(e) if a financial assurance mechanism is required by the oversight document for the site, the mechanism remains valid and sufficient for its intended purpose established in the document.

YES NO

3. If this site has an Operation and Maintenance (O&M) Plan (or equivalent as required in the Decision Document);

I certify by checking "YES" below that the O&M Plan Requirements (or equivalent as required in the Decision Document) are being met.

YES NO

4. If this site has a Monitoring Plan (or equivalent as required in the remedy selection document);

I certify by checking "YES" below that the requirements of the Monitoring Plan (or equivalent as required in the Decision Document) is being met.

YES NO

IC CERTIFICATIONS
SITE NO. V00329

Box 6

SITE OWNER OR DESIGNATED REPRESENTATIVE SIGNATURE

I certify that all information and statements in Boxes 2 and/or 3 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I PATRICK T. MARTIN at 2221 NIAGARA FALLS BLVD, STE 9, NIAGARA FALLS, NY 14304
print name print business address

am certifying as OWNER (Owner or Remedial Party)

for the Site named in the Site Details Section of this form.

Patrick T. Martin
Signature of Owner or Remedial Party Rendering Certification
(OWNER'S DESIGNATED REPRESENTATIVE)

03/25/10
Date

IC/EC CERTIFICATIONS

Box 7

QUALIFIED ENVIRONMENTAL PROFESSIONAL (QEP) SIGNATURE

I certify that all information in Boxes 4 and 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I PATRICK T. MARTIN at 2221 NIAGARA FALLS BLVD, STE 9, NIAGARA FALLS, NY 14304
print name print business address

am certifying as a Qualified Environmental Professional for the OWNER

(Owner or Remedial Party) for the Site named in the Site Details Section of this form.

Patrick T. Martin
Signature of Qualified Environmental Professional, for
the Owner or Remedial Party, Rendering Certification



03/25/10
Date