

LAND USE COVENANT

This is an environmental covenant executed pursuant to the Voluntary Remediation and Redevelopment Act, West Virginia Code Chapter 22, Article 22, and the Uniform Environmental Covenants Act, West Virginia Code Chapter 22, Article 22B, to restrict the activities on, and uses of, the following described property:

The property, described as the PAC Development Company, LLC Lot, is located along Park Drive in the Three Springs Industrial and Business Park, Weirton, Brooke County, West Virginia, consisting of approximately 7.32 acres, more or less, particularly described in a deed of record, Deed Book 323 Page 662, in the office of the County Clerk of Brooke County, West Virginia.

Activities on and uses of the above described property that may result in excessive human exposure or in the release of a contaminant that was contained as part of the remedial action related to this covenant are prohibited. Those activities and uses include, but are not limited to:

- a. *The Owner shall restrict the uses of the property to commercial and industrial purposes. This restriction prohibits use of the property for any residential use, including schools, daycare centers, nursing homes, or other residential-style facilities or recreational areas.*

The current Owner of record of the property, and its contact information, is as follows:

PAC Development, LLC
c/o Mark Colantonio
Frankovitch, Anetakis, Colantonio & Simon
337 Penco Road
Weirton, West Virginia 26062

Any person, including a person that owns an interest in the real property, the state or federal agency determining or approving the environmental response project pursuant to which an environmental covenant is created, or a municipality or other unit of local government may be a holder of an environmental covenant. The following are all of the holders of this covenant:

PAC Development, LLC
c/o Mark Colantonio
Frankovitch, Anetakis, Colantonio & Simon
337 Penco Road
Weirton, West Virginia 26062

and

The West Virginia Department of Environmental Protection
601 57th Street, SE
Charleston, West Virginia 25304

The facts regarding the remediation response project at this property are:

The site was approximately 7.32 acres in size and was located in the Three Springs Business Park in Weirton, Brooke County, West Virginia. The site consisted primarily of a vacant grassy lot to the west of a Wal-Mart Stores, Inc. retail store. Historically, the site had been strip mined for coal in the 1950s. Next, the site was the home of the offices of Weirton Steel Corporation (Weirton Steel). PAC acquired the site from the West Virginia Economic Development Authority (WVEDA) in 2008.

An assessment of the property concluded that there was the potential for benzo(a)pyrene in the surface soil, and arsenic and benzene in the subsurface soil, to be present in concentrations greater than their respective de minimis Residential risk-based concentrations, but less than their respective de minimis Industrial risk-based concentrations.

Industrial exposure assumptions were used to comply with a site-specific remediation standard under the Voluntary Remediation and Redevelopment Act.

This Land Use Covenant restricts residential uses of the site.

The Owner of the property shall provide written notice to the Secretary of the Department of Environmental Protection within 10 days following transfer of a specified interest in the property subject to this covenant, changes in use of the property, application for building permits regarding the property, or proposals for any site work affecting the contamination on the property.

The Owner(s) shall conduct inspections of the property to monitor compliance with this Land Use Covenant at least once per year, and shall submit two (2) signed copies of the inspection monitoring report to the WVDEP, DLR headquarters in Charleston, within thirty (30) days of the inspection.

This covenant relieves PAC Development, LLC and their subsequent successors and assigns from all civil liability to the state as provided under West Virginia Code Article 22 of Chapter 22 and shall remain in effect so long as the property complies with the applicable standards in effect at the time this covenant was issued.

This covenant shall not be amended, modified or terminated except by written instrument executed by and between the Owner at the time of the proposed amendment, modification or termination, and the Secretary of the West Virginia Department of Environmental Protection, or his successor in accordance with regulations promulgated by the Secretary or his successor. Within 5 days of executing an amendment, modification or termination of this Land Use Covenant, the Owner shall record such amendment, modification or termination with the Clerk of the Brooke County Commission, and within 5 days thereafter, the Owner shall provide a true copy of the recorded amendment, modification or termination to the Secretary of the Department of Environmental Protection.

The administrative record for the environmental response project reflected in this covenant is maintained in the files of the West Virginia Department of Environmental Protection, 601 57th Street, SE, Charleston, West Virginia, 25304 and is entitled

PAC DEVELOPMENT, LLC
PAC DEVELOPMENT COMPANY, LLC LOT
WEIRTON, BROOKE COUNTY, WEST VIRGINIA
WVDEP VRP #09398

The West Virginia Department of Environmental Protection is granted full right of access to the property for the purpose of implementation or enforcement of this covenant.

All restrictions and other requirements described in this covenant shall run with the land and shall be binding upon all holders and their grantees, lessees, authorized agents, employees or persons acting under their direction or control.