

180000594

Tax Map No. 8-6-C, Part of Tax Map No. 8-6-A,
Part of Tax Map No. 8-6-B, and Part of Tax Map No. 8-6-D1

Prepared by: Williams Mullen
200 South 10th Street
Richmond, Virginia 23219
Attn: Channing J. Martin, Esq.
(804) 420-6422 (VSB#18887)

Remediation Program Site ID #: VAD000820506

UECA ENVIRONMENTAL COVENANT

This environmental covenant is made and entered into as of the 13th day of October, 2017, by and between VIRGINIA CASTING INDUSTRIES LLC, a Michigan limited liability company, whose address is 1500 Fourth Avenue, Cadillac, Michigan 49601 (hereinafter referred to as the “Grantor” or “Owner”), VIRGINIA CASTING INDUSTRIES LLC, a Michigan limited liability company, whose address is 1500 Fourth Avenue, Cadillac, Michigan 49601 (hereinafter referred to as the “Grantee” or “Holder”), and the VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY, whose address is 629 East Main Street, Richmond, Virginia 23219 (hereinafter referred to as the “Agency”), to be indexed as a grantor.

This environmental covenant is executed pursuant to the Virginia Uniform Environmental Covenants Act, § 10.1-1238 et seq. of the Code of Virginia (“UECA”). This environmental covenant subjects the Property identified in Paragraph 1 to the activity and use limitations in this document.

The Virginia Department of Environmental Quality joins in this environmental covenant as a grantor solely for the purposes set forth in the two paragraphs immediately below.

Release of 1996 Notice of Use Limitation.

The Agency, Lynchburg Foundry Company, and Internet Corporation are parties to a Notice of Land Use Limitation (the “Notice”) applicable to a portion of the Property that is identified in Paragraph 1 of this environmental covenant. The Notice was made on August 3, 1996 and recorded on August 4, 1996 in Deed Book 921, page 258 in the Clerk’s Office of the Circuit Court of Campbell County. As Owner of the Property, Virginia Casting Industries, LLC is the successor-in-title to the interests of Lynchburg Foundry Company and Internet Corporation under the Notice. As further described in the Final Remedy and Response to Comments issued by the Agency for the Property on October 21, 2016, a copy of which is attached as Exhibit B to this environmental covenant, the Agency has determined that an industrial or commercial use of the Property is acceptable and will not present an unreasonable risk to human health or the environment provided the institutional controls and land use restrictions set forth in this environmental covenant are implemented. Accordingly, the Agency has determined that the

Notice should be terminated and the environmental covenant set forth herein should be substituted in its place. In furtherance of the same:

The VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY and VIRGINIA CASTING INDUSTRIES, LLC, as successor-in-title to Lynchburg Foundry Company and Internet Corporation, hereby agree to terminate and release the Notice, and to remise and quitclaim to Owner all interests they may have under the Notice, such that the Notice, and any rights and obligations under the Notice, are no longer of any effect.

1. Property affected.

The property affected (collectively, the "Property") by this environmental covenant is a portion of certain tracts or parcels of land located in Campbell County, Virginia that are identified as Campbell County Tax Map Nos. 8-6-A, 8-6-B, 8-6-C, 8-6-D and 8-6-D1. The Property is located at 1132 Mt. Athos Road in Campbell County, Virginia and is further described as follows:

ALL those certain tracts or parcels of land shown and identified as "29.198 ACRES FORMER ARCHER CREEK FOUNDRY AREA" (the "Foundry Area") on that certain plat entitled "DRAWING SHOWING FORMER ARCHER CREEK FOUNDRY AREA AND LANDFILL LIMITS ON MT ATHOS ROAD LONG MTN DIST. CAMPBELL COUNTY, VIRGINIA", prepared by Nixon Land Surveying, L.L.C., dated May 4, 2017 (the "Plat"), a copy of which is attached hereto as Exhibit A and made a part hereof, and that certain portion of the Grantor Property shown and identified as "9.107 ACRES IN LANDFILL AREA" (the "Landfill Area") on the Plat.

2. Description of Contamination & Remedy.

a. The Administrative Record for this environmental response project is known as the "Virginia Casting Industries (formerly Internet) Archer Creek Foundry." A copy may be obtained from the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

b. The Property is located at 1132 Mt. Athos Road, Campbell County, near Lynchburg, Virginia. The Property was formerly owned and operated by Internet Corporation ("Internet"). The Property was formerly operated by Internet as a large foundry known as the Archer Creek Foundry (the "ACF facility"). The majority of the ACF facility was constructed in 1972, with several additions added and renovations performed over the years.

The ACF facility manufactured gray and ductile iron castings for the automotive and other industries. Manufacturing at the facility began in 1973. Manufacturing activities include mainly melting and casting of metal parts, with some limited machining and painting. The Property was owned and operated as a foundry by Lynchburg Foundry, LLC (f/k/a Lynchburg Foundry Company), an entity owned by Internet, from approximately 1973 to December, 2009 when operations ceased. The Property was sold to Virginia Casting Industries, LLC in May, 2010. That

company never operated the ACF facility. The ACF facility was demolished beginning in September, 2010, with demolition complete by the end of May, 2011.

The area of the Property formerly occupied by the ACF facility now consists of large concrete slabs delineating the locations of former structures, a few derelict structures, and elements of the wastewater treatment system. This area also contains closed landfills.

Numerous hazardous chemicals, non-hazardous chemicals, and petroleum products were historically used during the manufacturing process. The raw chemicals and petroleum products were stored in small aboveground storage tanks (ASTs), 55-gallon drums, and carboys. The hazardous and non-hazardous wastes generated at the ACF facility were stored in ASTs, 55-gallon drums, carboys, and small containers pending disposal/treatment.

Solid non-hazardous wastes generated at the facility included commercial wastes (trash, cardboard, pallets, drums, bags, etc.), foundry production wastes (used sand, used/broken cores, carbide slag, cupola slag, used refractory, baghouse dust, used air pollution bags or filters, used grinding wheels), and waste fluids (oil, metal cleaner, rust preventive testing fluids, spent scrubber liquid, etc.). Commercial waste was disposed off-site through contracted trash hauling services to either the Campbell County landfill or the City of Lynchburg landfill. Foundry production wastes were formerly disposed at the on-site landfills or the off-site Falwell landfill until those landfills were full. After the landfills were full, the foundry production wastes were disposed in commercial and local landfills (Amelia, Old Dominion, Fluvana County, Campbell County, and City of Lynchburg).

The Property is subject to the Corrective Action Program ("Corrective Action") under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments, 42 U.S.C. §§ 6901 et seq. (collectively "RCRA"). A Final RCRA Facility Inspection of the Property was completed in June, 1989. On February 23, 2007, EPA issued a Final RCRA Site Visit Report for the Property. Investigations and closure activities have occurred in certain areas of the Property, including the Baghouse Dust Treatment Area, Calcium Carbide Treatment Area, and both landfills.

The Agency issued a Statement of Basis for the Property on September 19, 2016. On October 21, 2016, the Agency issued a Final Decision and Response to Comments (FDRTC), a copy of which, including the Statement of Basis, is attached as Exhibit B to this environmental covenant. The FDRTC adopted the Final Remedy proposed in the Statement of Basis, with some revisions. The "existing fence" referenced in the activity and use restrictions in the FDRTC is no longer present, and may not have been present when the Statement of Basis and FDRTC was issued. Accordingly, there is no existing fence to be maintained.

3. Activity & Use Limitations.

a. The Property is subject to the following activity and use limitations, which shall run with the land and become binding on Grantor(s) and any successors, assigns, tenants, agents, employees, and other persons under its (their) control, until such time as this covenant may terminate as provided by law:

1. All earth moving activities including excavation, drilling and construction activities that would result in direct exposure to soil or disturbance of the soil on the Landfill Area and associated sedimentation basins shall be prohibited without Agency approval of a Materials Management Plan.
2. The Property shall not be used for residential purposes unless it is demonstrated to the Agency that such use will not pose a threat to human health or the environment and the Agency provides prior written approval for such use. "Residential purposes" as used herein shall mean and include any improvement, structure or dwelling used for living accommodations (single or multi-family occupancy, including, without limitation, detached housing, condominiums, apartment buildings, dormitories and senior citizen housing); day care facility (whether for infants, children, the infirm or the elderly); and any nursing home facility.
3. Groundwater shall not be used for potable purposes unless it is demonstrated to the Agency that such use does not pose an unacceptable risk to human health and the Agency provides prior written approval for such use.

b. Geographic coordinate lists defining the boundary of each activity and use restriction, depicted as a polygon.

Geographic coordinate lists defining the boundaries of the Property are shown on the Plat attached hereto as Exhibit A.

4. Notice of Limitations in Future Conveyances.

Each instrument hereafter conveying any interest in the Property subject to this environmental covenant shall contain a notice of the activity and use limitations set forth in this environmental covenant and shall provide the recorded location of this environmental covenant.

5. Compliance and Use Reporting.

a. By the end of March, 2019 and the end of every fifth March thereafter, the then current owner of the Property shall submit to the Agency written documentation stating whether or not the activity and use limitations in this environmental covenant are being observed. This documentation shall be signed by a responsible corporate official or qualified and certified professional engineer or geologist who has inspected and investigated compliance with this environmental covenant.

b. In addition, within one (1) month after any of the following events, the then current owner of the Property shall submit to the Agency written documentation describing the following: noncompliance with the activity and use limitations in this environmental covenant; transfer of the Property; changes in use of the Property; or filing of applications for building permits for the Property and any proposals for any site work, if such building or proposed site work will affect the contamination on the Property subject to this environmental covenant.

6. Access by the Holder(s) and the Agency.

In addition to any rights already possessed by the Holder and the Agency, this environmental covenant grants to the Holder and the Agency a right of reasonable access to the Property in connection with implementation, inspection, or enforcement of this environmental covenant.

7. Subordination.

If there is an agreement to subordinate one or more prior interests in the Property to this environmental covenant, then the subordination agreement(s) is/are set forth as follows:

The Property is subject to a Deed of Trust made and entered into as of May 7, 2010, recorded on May 7, 2010 in the Clerk's Office of the Circuit Court of Campbell County, Virginia (the "Clerk's Office") as Instrument No. 100002343, from Virginia Casting Industries, LLC to A. Brooks Hock and Channing J. Martin, Trustees, to secure an indebtedness owed to Golden Eagle Enterprises, LLC, Beneficiary, as assigned to Robert W. Meyer, Jr. ("Meyer") pursuant to an Assignment of Agreement and Other Documents dated February 25, 2011, recorded on April 3, 2012 in the Clerk's Office as Instrument No. 120001793 (collectively, the "Meyer Deed of Trust").

The Property is subject to a Deed of Trust made and entered into as of May 7, 2010, recorded on May 7, 2010 in the Clerk's Office as Instrument No. 100002344 (the "Double Heat Deed of Trust"), from Virginia Casting Industries, LLC to A. Brooks Hock and Channing J. Martin, Trustees, to secure an indebtedness owed to Double Heat, LLC ("Double Heat"), Beneficiary.

The Property is subject to a Deed of Trust made and entered into as of March 26, 2012, recorded on June 18, 2012 in the Clerk's Office as Instrument No. 120003370, from Virginia Casting Industries, LLC (the "Cadillac Casting Deed of Trust") to A. Brooks Hock and Channing J. Martin, Trustees, to secure an indebtedness owed to Cadillac Casting, Inc. ("Cadillac Casting"), Beneficiary.

Meyer, Double Heat, Cadillac Casting and A. Brooks Hock and Channing J. Martin, Trustees, have executed this environmental covenant for the sole purpose of subordinating the aforesaid Deeds of Trust to this environmental covenant and its terms.

8. Recording & Proof & Notification.

a. Within 90 days after the date of the Agency's approval of this environmental covenant, the Grantor shall record, or cause to be recorded, this environmental covenant with the Clerk of the Circuit Court for each locality wherein the Property is located. The Grantor shall likewise record, or cause to be recorded, any amendment, assignment, or termination of this UECA environmental covenant with the applicable Clerk(s) of the Circuit Court within 90 days of their execution. Any environmental covenant, amendment, assignment, or termination recorded outside of these periods shall be invalid and of no force and effect.

b. The Grantor shall send a file-stamped copy of this environmental covenant, and of any amendment, assignment, or termination, to the Holder and the Agency within 60 days of recording. Within that time period, the Grantor also shall send a file-stamped copy to the chief administrative officer of each locality in which the Property is located, any persons who are in possession of the Property who are not the Grantors, any signatories to this covenant not previously mentioned, and any other parties to whom notice is required pursuant to the Uniform Environmental Covenants Act.

9. Termination or Amendment.

This environmental covenant is perpetual and runs with the land unless terminated or amended (including assignment) in accordance with UECA.

10. Enforcement of Environmental Covenant.

This environmental covenant shall be enforced in accordance with § 10.1-1247 of the Code of Virginia.

[Signatures begin on next page.]

ACKNOWLEDGMENTS:

GRANTOR

VIRGINIA CASTING INDUSTRIES, LLC
a Michigan limited liability company

By: *D. D. Minor*
Daniel D. Minor, Manager

State of Michigan)

County of Wexford)

On this 13 day of October, 2017, Daniel D. Minor, who is personally known to me, appeared before me and acknowledged that he is the person whose name is subscribed to this environmental covenant, and acknowledged that he freely executed the same on behalf of Virginia Casting Industries, LLC for the purposes herein contained.

In witness whereof, I hereunto set my hand and official seal.

Kristin Downey McLeod
Notary Public

My commission expires: 07/22/2018

Registration No.: _____
Kristin L. Downey-McLeod
Notary Public - State of Michigan
County of Wexford
My Commission Expires July 22, 2018
Acting in the County of Wexford

[Signatures continue on next page.]

GRANTEE and HOLDER

VIRGINIA CASTING INDUSTRIES, LLC
a Michigan limited liability company

By: *D. D. Minor*
Daniel D. Minor, Manager

State of Michigan)

County of Wexford)

On this 13 day of October, 2017, Daniel D. Minor, who is personally known to me, appeared before me and acknowledged that he is the person whose name is subscribed to this environmental covenant, and acknowledged that he freely executed the same on behalf of Virginia Casting Industries, LLC for the purposes herein contained.

In witness whereof, I hereunto set my hand and official seal.

Kristin Downey McLeod
Notary Public

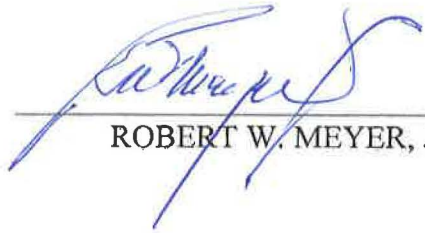
My commission expires: 07/22/2018

Registration No.:

Kristin L. Downey-McLeod
Notary Public - State of Michigan
County of Wexford
My Commission Expires July 22, 2018
Acting in the County of Wexford

[Signatures continue on next page.]

MEYER

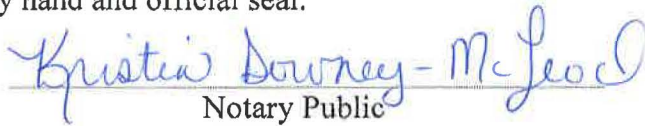

ROBERT W. MEYER, JR.

State of Michigan)

County of Wexford)

On this 13 day of October, 2017, Robert W. Meyer, Jr., who is personally known to me, appeared before me and acknowledged he is the person whose name is subscribed to this environmental covenant, and that he freely executed this environmental covenant for the sole purpose of subordinating the above-referenced Meyer Deed of Trust to this environmental covenant and its terms.

In witness whereof, I hereunto set my hand and official seal.


Notary Public

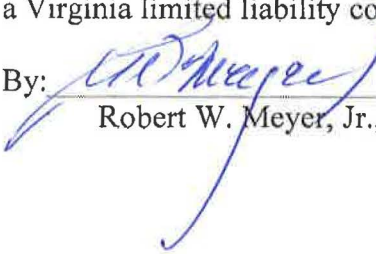
My commission expires: 07/22/2018

Registration No. _____
Kristin L. Downey-McLeod
Notary Public - State of Michigan
County of Wexford
My Commission Expires July 22, 2018
Acting in the County of Wexford

[Signatures continue on next page.]

DOUBLE HEAT

DOUBLE HEAT, LLC
a Virginia limited liability company

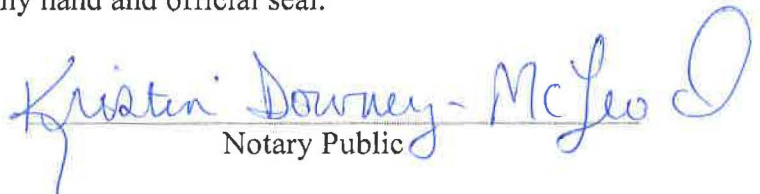
By: 
Robert W. Meyer, Jr., Manager

State of Michigan)

County of Wexford)

On this 13 day of October, 2017, Robert W. Meyer, who is personally known to me as the Manager of Double Heat, LLC, a Virginia limited liability company, appeared before me and acknowledged that he is the person whose name is subscribed to this environmental covenant, and acknowledged that he freely executed this environmental covenant for the sole purposes of subordinating the above-referenced Double Heat Deed of Trust to this environmental covenant and its terms.

In witness whereof, I hereunto set my hand and official seal.


Notary Public

My commission expires: 07/22/2018

Registration No.: _____
Kristin L. Downey-McLeod
Notary Public - State of Michigan
County of Wexford
My Commission Expires July 22, 2018
Acting in the County of Wexford

[Signatures continue on next page.]

CADILLAC CASTING

CADILLAC CASTING, INC.,
a Michigan corporation


By: 
Daniel D. Minor, President

State of Michigan)

County of Wexford)

On this 5 day of February, 2018, Daniel D. Minor, who is personally known to me as the President of Cadillac Casting, Inc., a Michigan corporation, appeared before me and acknowledged that he is the person whose name is subscribed to this environmental covenant, and acknowledged that he freely executed this environmental covenant for the sole purposes of subordinating the above-referenced Cadillac Casting Deed of Trust to this environmental covenant and its terms.

In witness whereof, I hereunto set my hand and official seal.


Notary Public

My commission expires: 7/22/2018

Registration No.: _____
Kristin L. Downey-McLeod
Notary Public - State of Michigan
County of Wexford
My Commission Expires July 22, 2018
Acting in the County of Wexford

[Signatures continue on next page.]

TRUSTEES

[Handwritten Signature]

A. BROOKS HOCK, TRUSTEE

Commonwealth of Virginia)

City of Richmond)

On this 14th day of November, 2017, A. Brooks Hock, who is personally known to me, appeared before me and acknowledged he is the person whose name is subscribed to this environmental covenant, and that he freely executed this environmental covenant for the sole purpose of subordinating the above-referenced Deeds of Trust to this environmental covenant and its terms.

In witness whereof, I hereunto set my hand and official seal.

[Handwritten Signature: Sammy Lee Bracey]
Notary Public



My commission expires: July 31, 2020

Registration No. 7212361

[Handwritten Signature: Channing J. Martin]
CHANNING J. MARTIN, TRUSTEE

Commonwealth of Virginia)

City of Richmond)

On this 14th day of November, 2017, Channing J. Martin, who is personally known to me, appeared before me and acknowledged he is the person whose name is subscribed to this environmental covenant, and that he freely executed this environmental covenant for the sole purpose of subordinating the above-referenced Deeds of Trust to this environmental covenant and its terms.

In witness whereof, I hereunto set my hand and official seal.

[Handwritten Signature: Sammy Lee Bracey]
Notary Public



My commission expires: July 31, 2020

Registration No. 7212361

[Signatures continue on next page.]

AGENCY

APPROVED by the Department of Environmental Quality as required by § 10.1-1238 et seq. of the Code of Virginia. The Department of Environmental Quality joins in this environmental covenant as a grantor solely for purposes of terminating, releasing, remising and quitclaiming the 1996 Notice of Use Limitation that is referenced on pages 1 and 2 of this environmental covenant.

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

By: *Justin L. Williams*

Name: Justin L. Williams

Title: Land Protection and Revitalization Director

Commonwealth of Virginia)

City of Richmond)

On this 18 day of December, 2017, Justin L. Williams, who is personally known to me as the Land Protection and Revitalization Director of the Virginia Department of Environmental Quality, appeared before me and acknowledged that he is the person whose name is subscribed to this environmental covenant, and acknowledged that he freely executed this environmental covenant.

In witness whereof, I hereunto set my hand and official seal.

Michelle R. Hollis
Notary Public
I was commissioned as Michelle R. Hollis
Registration No.: 207528

My commission expires: 2/28/18



EXHIBIT A

PLAT

[See Attached]

EXHIBIT B

FINAL DECISION AND RESPONSE TO COMMENTS

[See Attached]



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

FINAL DECISION AND RESPONSE TO COMMENTS

Internet Archer Creek Foundry
Lynchburg, Virginia
(VAD000820506)

I. FINAL DECISION

The Virginia Department of Environmental Quality (DEQ) is issuing this Final Decision and Response to Comments (Final Decision) under the authority of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, and the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. Sections 6901 and 6992k, regarding the remedy for the Archer Creek Foundry facility (Facility) located at 1132 Mount Athos Rd., Lynchburg, Virginia.

On September 18, 2016, DEQ issued a Statement of Basis (SB) in which it described its proposed remedy for the Facility. The SB is hereby incorporated in this Final Decision by reference and is included in the enclosed.

II. PUBLIC COMMENT PERIOD

On September 18, 2016, DEQ published the public notice for the SB in the New & Advance newspaper and announced the commencement of a thirty (30)-day public comment period in which it requested comments from the public on the remedy proposed in the SB. On September 19, 2016, DEQ placed the public notice and SB on its web page. The public comment period ended on October 19, 2016.

III. RESPONSE TO COMMENTS

On October 13, 2016, DEQ received comments on its proposed remedy for the Facility. The comments are enclosed and consist of a request to revise language specific to the proposed land use restrictions. The requested revisions do not change the restrictiveness of the proposed land use controls. Consequently, DEQ's Final Remedy did not change from the remedy it proposed in the SB and the proposed revisions to the land use restrictions are accepted. All persons that submitted comments during the comment period will be provided a copy of the Final Decision and Response to Comments.

IV. FINAL REMEDY

The Final Remedy, the components of which are explained in detail in the SB, requires the implementation of and maintenance with institutional controls in the form of land use controls. Institutional controls will be imposed by an environmental covenant pursuant to the Uniform Environmental Covenants Act, Title 10.1, Chapter 12.2, Sections 10.1-1238 through 10.1-1250 of the Code of Virginia.

V. DECLARATION

Based on the Administrative Record compiled for Corrective Action at the Internet Archer Creek Foundry, DEQ has determined that the Final Remedy selected in this Final Decision and Response to Comments is protective of human health and the environment.



Chris Evans, Director
Office of Remediation Programs
Virginia Department of Environmental Quality



Date

Enclosure: Statement of Basis, August 2016

COMMENTS RECEIVED

WILLIAMS MULLEN

RECEIVED

OCT 13 2016

OFFICE OF HW - PERMITTING

Direct Dial: 804.420.6422
cmartin@williamsmullen.com

October 13, 2016

BY HAND ONLY

Brett Fisher, P.G.
Corrective Action Project Manager
Office of Remediation Programs
Virginia Department of Environmental Quality
629 E. Main Street
Richmond, VA 23219

Re: Comments on Statement of Basis for
former Internet Archer Creek Foundry Facility

Dear Mr. Fisher:

I represent Virginia Casting Industries LLC ("VCI"), the current owner of the property that encompasses the former Internet Archer Creek Foundry Facility in Campbell County (Lynchburg), Virginia. These comments to the September 19, 2016 Statement of Basis for this Facility are submitted on behalf of VCI, as well as on behalf of Double Heat, LLC; Cadillac Casting, Inc.; and Robert W. Meyer, Jr., all of whom have secured interests in the property. This letter should be made part of the administrative record for this Facility.

The second deed restriction proposed in the Statement of Basis (page 9) is:

The Facility property shall not be used for any purposes other than industrial unless it is demonstrated to VDEQ that such use will not pose a threat to human health or the environment and VDEQ provides prior written approval for such use.

This provision is unnecessarily restrictive and will have a devastating effect on VCI and the secured lenders. Limiting use of the property to "industrial" substantially devalues it for this reason: Industry is not looking for new sites in this part of the state; in fact, the opposite is true - industry is leaving. In addition, a portion of the remaining building on the property is now leased to a commercial tenant. Restricting use of the property to industrial use only would require this tenant to move out (something that may subject the landlord to legal action.)

WILLIAMS MULLEN

Brett Fisher, P.G.
October 13, 2016
Page 2

We ask that the language be revised as follows:

The Facility property shall not be used for residential purposes unless it is demonstrated to VDEQ that such use will not pose a threat to human health or the environment and VDEQ provides prior written approval for such use. "Residential purposes" as used herein shall mean and include any improvement, structure or dwelling used for living accommodations (single or multi-family occupancy, including, without limitation, detached housing, condominiums, apartment buildings, dormitories, and senior citizen housing); any day care facility (whether for infants, children, the infirm, or the elderly); and any nursing home facility.

This revision is consistent with Section 6.2.1 of the Statement of Basis which clearly states that the purpose of the land deed restriction is to prohibit "residential land use." Moreover, this revision will ensure that risks associated with residing at the property are avoided while allowing a productive use of the property either for industrial or commercial purposes. Finally, this revision avoids the ambiguity and uncertainty that could arise in determining whether a use is, in fact, an "industrial use."

The fourth deed restriction proposed in the Statement of Basis (p.10) is:

To minimize potential trespasser exposure to site-related inorganic soil contaminants, the existing fence must be maintained.

We ask that the language be revised as follows:

To minimize potential trespasser exposure to site-related inorganic soil contaminants, the existing fence must be maintained by the then-current owner of the property.

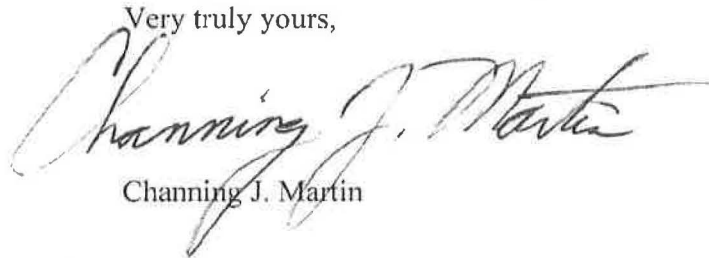
This revision makes clear that this obligation runs with the land and is imposed on the whomever then owns the land.

WILLIAMS MULLEN

Brett Fisher, P.G.
October 13, 2016
Page 2

Thank you for your consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Channing J. Martin". The signature is written in black ink and is positioned above the printed name.

Channing J. Martin

CJM/rno
cc: Erik Weissbart, EPA (via email only)

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STATEMENT OF BASIS



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

STATEMENT OF BASIS

**Intermet Archer Creek Foundry
1132 Mount Athos Road**

Lynchburg, Virginia

EPA ID No. VAD000820506

August 2016

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I. INTRODUCTION

The Virginia Department of Environmental Quality (VDEQ) has prepared this Statement of Basis (SB) for the Virginia Casting Industries (formerly Internet) Archer Creek Foundry (ACF) located at 1132 Mt. Athos Road, Lynchburg, Virginia 24504 (hereinafter referred to as the Facility) to solicit public comment on its proposed final remedy. VDEQ's proposed decision requires the Facility to maintain certain property mechanisms known as Institutional Controls (ICs) and Engineering Controls (ECs). The proposed controls are discussed in Section V below. This SB highlights key information relied upon by VDEQ in selecting its proposed remedy for the site.

The Facility is subject to the Corrective Action Program under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, and the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. Sections 6901 to 6992k. The Corrective Action Program is designed to ensure that certain facilities subject to RCRA have investigated and cleaned up any releases of hazardous waste and waste constituents that have occurred at their property. Information on the Corrective Action Program can be found by navigating <http://www.epa.gov/reg3wcmd/correctiveaction.htm>.

The Administrative Record (AR) for the Facility contains all documents, including data and quality assurance information, on which DEQ's proposed decision is based. See Section VIII, Public Participation, for information on how you may review the AR.

II. FACILITY BACKGROUND

The Archer Creek property is located at 1132 Mt. Athos Road, Campbell County, near Lynchburg, Virginia. The approximately 193 acre property was formerly owned and operated by Internet Corporation. A large portion of the 193 acres is comprised of undeveloped wooded land. ACF operated a large manufacturing plant at the property. The plant was comprised of a casting foundry (formerly referred to as the Small Castings Foundry), warehouse, and associated asphalt parking lot, rail spurs, roadways, and landscaped areas. Several small out buildings were also used at the ACF facility. The majority of the manufacturing plant was constructed in 1972, with several additions added and renovations performed over the years.

The ACF facility manufactured metal parts for automobiles, heavy trucks, small internal combustion engines, computers, industrial tools, and household appliances. Manufacturing at the facility began in 1973. Manufacturing activities include mainly melting and casting of metal parts, with some limited machining and painting. The property was owned and operated as a foundry by Lynchburg Foundry, LLC (f/k/a Lynchburg Foundry Company), an entity owned by Internet Corporation, from approximately 1973 to December, 2009 when operations ceased. The property was sold to Virginia Casting Industries, LLC in May, 2010. That company never operated the foundry. The foundry was demolished beginning in September, 2010, with demolition complete by the end of May, 2011. When the facility was owned and operated by Lynchburg Foundry Company it was referred to as the Archer Creek Plant.

Numerous hazardous chemicals, non-hazardous chemicals, and petroleum products were historically used during the manufacturing process. The raw chemicals and petroleum products were stored in small aboveground storage tanks (ASTs), 55-gallon drums, and carboys. The hazardous and non-hazardous wastes generated at the facility were stored in ASTs, 55-gallon drums, carboys, and small containers pending disposal/treatment.

Wastes stored at the facility were generated during research and development, product quality assurance testing, and product manufacturing.

Solid non-hazardous wastes generated at the facility included commercial wastes (trash, cardboard, pallets, drums, bags, etc.), foundry production wastes (used sand, used/broken cores, carbide slag, cupola slag, used refractory, baghouse dust, used air pollution bags or filters, used grinding wheels), and waste fluids (oil, metal cleaner, rust preventive testing fluids, spent scrubber liquid, etc.). Commercial waste was disposed off-site through contracted trash hauling services to either Campbell County landfill or City of Lynchburg landfill. Foundry production wastes were formerly disposed at the on-site landfills or off-site Falwell landfill (an industrial captive landfill used only by the Lynchburg Foundry Lower Basin Plant and Archer Creek Plant) until the landfills were full. After the landfills were full, the foundry production wastes were disposed in commercial and local landfills (Amelia, Old Dominion, Fluvana County, Campbell County, and City of Lynchburg). A review of the disposal records by ACF indicates that off-site disposal began in February 2002, with some on-site disposal continuing until October 2002. Disposal at the Falwell Landfill ceased in October 2002.

A summary of the SWMUs identified in a June 1989 RCRA Facility Assessment and closure activities are provided in the table below.

Unit	Description	COCs or waste	Closure Status
(1) SWMU 1 – Baghouse Dust Treatment Area	used from 1983 until April 1991 to blend baghouse dust into a non-hazardous waste	lead and cadmium	VDEQ Closure in September 1998. Deed restriction.

Unit	Description	COCs or waste	Closure Status
(2) SWMU 2 – Calcium carbide treatment area	From 1983 until April 1991 the area was used to treat waste carbide slag into a non-hazardous waste	carbide slag was considered non-hazardous waste; however, the slag contained arsenic and selenium at elevated concentrations	VDEQ Closure in September 1998. Deed restriction.
(3) SWMU 3 – Closed Landfill Permit # 456	Approximately 15 acres and consisted of four cells - A, B, C, and D	spent casting sand, calcium carbide slag, baghouse dust sand fines, waste foundry sand, iron dust from casting finishing operations, and waste refractory brick and mortar	Phase II groundwater monitoring since May 1996. No adverse impact to groundwater identified. VDEQ assumed responsibility for groundwater monitoring.
(4) SWMU 4 - Old waste piles within Landfill Cells C and D	Waste stockpiles existed from 1973 until 1983	Foundry waste materials	Excavated and transported to the northwest landfill area (designated SMWU-5)
(5) SWMU 5 – Northwest Landfill Area, Permit # 347	Approximately 3.6 acres and closed. Disposal began in 1973 and ceased in 1985.	Foundry waste materials	In 1985 ACF closed the landfill by capping, grading, and re-vegetating.
(6) SWMU 6 – Sedimentation Area for the Northwest Landfill Area	Used during operation of the northwest landfill. The sedimentation area was comprised of a natural and manmade depression that diverted surface runoff from the landfill into a rip-rap filled sedimentation area.		Sediments collected in the area were removed on an as needed basis and disposed in the active landfill.
(7) SWMU 7 – Drainage and sedimentation for baghouse dust treatment area	Formerly received runoff from the baghouse dust treatment area. Formerly permitted outfall.		All water from the sedimentation area is currently diverted to the wastewater treatment ponds

Unit	Description	COCs or waste	Closure Status
(8) SWMU 8 – Wastewater Treatment System	Two activated sludge treatment plants, two grit removal tanks, two aerated lagoons, and a stabilization pond	Sanitary wastewater, cooling water, slag quenching wastewater, wet dust collection wastewater, and stormwater runoff	Sediments removed from the lagoons were formerly disposed in the ACF facility landfills; No disposal has been required since the on-site landfill ceased receiving wastes. ACF maintained a NPDES permit for the discharge.
(9) SWMU 9 – Water Treatment Filter Backwash Ponds	Water pumped from the James River was filtered to remove solids. Two ponds were used to store filter backwash water and solids. Water from the ponds discharges directly into the James River via a VPDES permitted outfall		Removed sediments were disposed in the on-site landfill.
(10) SWMU 10 – Underground Storage Tanks	A 15,000-gallon No. 2 fuel oil, a 1,000-gallon kerosene, 5,000-gallon gasoline, and 500-gallon used oil tank were in use at the facility at one time.		The No. 2 fuel oil tank was removed in November 1988, the kerosene and gasoline tanks were removed in December 1988, and the used oil tank in June 1988.
(11) SWMU 11 through SWMU 25	March 4, 1994 correspondence from Kilpatrick & Cody to Goldblum, USEPA re. Request for information.	Various	The letter recognized 14 SWMUs identified during a 1990 EPA site visit plus 1 additional. Each unit was characterized and were operating according to permits or otherwise. No releases were identified and no remediation was recommended.

Unit	Description	COCs or waste	Closure Status
(12) SWMU 26 through 44 including AOC 1 and AOC 2	February 23, 2007 Site Visit Report; ICOR and USACE for USEPA and VADEQ.	Various	SWMUs and AOCs identified in the September 21, 2005 site visit by USEPA and VADEQ. Disposition of each as characterized in the 2007 report.

The former foundry is currently vacant, consisting of large concrete slabs delineating the locations of former structures, a few derelict structures, and elements of the wastewater treatment system. The northwest landfill is largely overgrown and inaccessible as is much of the site. The closed landfill (SWMU 3) rises above the site abutting the property boundary to the northwest and is enclosed by a security fence.

III. SUMMARY OF ENVIRONMENTAL HISTORY

June 28, 1989, PRC Environmental Management Inc. completed the Final RCRA Facility Assessment (FA) for the ACF. In summary the FA concluded that the ACF facility likely released baghouse dust to the atmosphere during periods when air pollution control equipment has malfunctioned. Furthermore the FA identified five possible sources of releases of hazardous waste to surface water including spills, deposition of dust into the James River, wastewater discharges, discharges from sedimentation areas, and groundwater discharge. The FA concluded that one or more of the SWMUs present at the ACF facility may be affecting groundwater quality at the facility based on a review of the limited groundwater sampling data for the facility. Finally the FA concluded that the ACF facility may have released hazardous constituents to the soil through dust emissions during air treatment control malfunctions and leachate discharging to soil underlying SWMUs.

The following describes the documented releases from USTs located at ACF:

A release occurred in January 1988, from the 20,000-gallon AST formerly located south of the Small Castings Foundry. A January 19, 1988 letter from the facility to the VDEQ concerning the January 11, 1988 release of fuel oil estimated the release to be less than 100 gallons. The Commonwealth of Virginia State Water Control Board (SWCB) and National Response Center (NRC) were notified of the release. A February 13, 1989 letter from the facility to the VDEQ updated the status of the cleanup activities.

A SWCB memorandum dated January 29, 1991 stated that a release of 4,000 gallons of fuel oil occurred as a result of human error, with the released fuel entering a tributary of the James River via a storm sewer. An estimated 3,000 to 3,500 gallons of fuel oil

reportedly reached State waters and an estimated 3,200 gallons of the released fuel were recovered. A February 28, 1991 letter from the facility to the SWCB detailed the release incident and cleanup activities implemented following the release. The letter stated oil was pumped from the ground into 55-gallon drums, absorbent pillows were deployed in the receiving stream, gravel dikes were built, soil affected by the release was removed, banks of the stream were spray washed, oil was recovered from wetlands, and improvements to the pump station were made to minimize the potential for future releases. A March 4, 1994 letter prepared by Kilpatrick & Cody details a release of fuel oil at the ACF facility in April 1991. The release was reportedly the result of "human error" during dispensing of fuel from a 20,000-gallon AST. The released fuel entered a storm drain and eventually discharged into an unnamed tributary of Archer Creek. The VDEQ was notified and surface water and soil cleanup was conducted with VDEQ oversight.

On December 16, 2005 an estimated 750 to 800 gallons of fuel oil occurred from a supply line leading from the 20,000-gallon tank to a non-active roof mounted space heater. Notifications were provided to the VDEQ and the National Response Agency on December 17, 2006. Corrective actions were implemented on December 16, 2006 and the VDEQ determined no further site investigation was necessary upon completion of the cleanup activities.

As written previously the ACF facility no longer exists. The site is vacant and evidence of previous operations has been removed excepting the concrete slab of the former foundry building, the remaining out-buildings, the closed industrial landfill, and the unused waste-water treatment system. There is no risk from ongoing operations. However, historical soil and groundwater data suggests that both may contain contamination above Industrial Risk-Based Screening Levels and there is no current data that supersedes the historical data.

IV. CORRECTIVE ACTION OBJECTIVES

4.1 Soil

VDEQ's Corrective Action Objective for Facility soils is to control exposure to any hazardous waste constituents remaining in soils by requiring the compliance with and maintenance of engineering and institutional controls at the Facility further described in Section V. The control will limit the Facility to non-residential uses and require subsequent owners to comply with this restriction.

4.2 Groundwater

VDEQ's Corrective Action Objectives for groundwater at the Facility is to control exposure to any hazardous constituents in the groundwater by requiring the compliance with and

maintenance of a groundwater use restriction at the facility further described in Section V. This will and remain in effect until data is presented demonstrating that groundwater poses no risk to exposure.

V. PROPOSED REMEDY

VDEQ's proposed decision represents "Corrective Action Complete with Controls" as described in EPA's "Final Guidance on Completion of Corrective Action Activities at RCRA Facilities", (68 FR 8757, February 25, 2003). A Corrective Action Complete with Controls determination indicates that protection of human health and the environment has been achieved, and will continue as long as the necessary operation and maintenance actions are performed, and the institutional controls are maintained and complied with. Institutional controls are required to restrict the Facility to non-residential uses and to prohibit the potable use of groundwater beneath the facility.

VDEQ anticipates that the land use restrictions will be implemented by an environmental covenant pursuant to the Virginia Uniform Environmental Covenants Act (UECA), Title 10.1, Chapter 12.2, Sections 10.1-1238-10.1-1250 of the Code of Virginia (Environmental Covenant).

VDEQ's proposed remedy for the Facility consists of the following components:

5.1 Compliance with and Maintenance of Institutional and Engineering Controls (ICs and ECs)

Because contamination may remain in the subsurface soils and groundwater at the Facility, VDEQ's proposed final remedy includes land use restrictions to minimize the potential for human exposure to soil that contains contaminants above levels of concern. The land use restrictions will be implemented through institutional and engineering controls (ICs and ECs). ICs are non-engineered instruments such as administrative and/or legal controls that minimize the potential for human exposure to contamination by limiting land or resource use and inform subsequent purchasers of the environmental conditions at the Facility and of VDEQ's final remedy for the Facility. ECs encompass a variety of engineered and constructed physical barriers (e.g., soil capping, subsurface venting systems, mitigation barriers, fences) to contain and/or prevent exposure to potential contamination on a property.

VDEQ is proposing the following institutional and engineering controls be implemented and maintained at the Facility:

- All earth moving activities including excavation, drilling and construction activities that would result in direct exposure to soil or disturbance of the soil on those portions of the Facility associated with the closed landfills and associated sedimentation basins shall be prohibited without VDEQ approval of a Materials Management Plan.
- The Facility property shall not be used for any purposes other than industrial unless it is demonstrated to VDEQ that such use will not pose a threat to human health or the environment and VDEQ provides prior written approval for such use.

- Groundwater shall not be used for potable purposes unless it is demonstrated to VDEQ that such use does not pose an unacceptable risk to human health and VDEQ provides prior written approval for such use.
- To minimize potential trespasser exposure to site-related inorganic soil contaminants the existing fence must be maintained.

In addition, compliance with the ICs and ECS shall be reported and maintained in accordance with the forthcoming environmental covenant. VDEQ also proposes to require VCI to provide a coordinate survey as well as a metes and bounds survey, of the ACF boundary. Mapping the extent of the land use restrictions will allow for presentation in a publicly accessible mapping program such as Google Earth or Google Maps.

5.2 Implementation

VDEQ is proposing that the Facility pursue an environmental covenant pursuant to the Virginia Uniform Environmental Covenants Act (UECA), Title 10.1, Chapter 12.2, Sections 10.1- 1238 through 10.1-1250 of the Code of Virginia.

VI. EVALUATION OF VDEQ'S PROPOSED DECISION

6.1 Threshold Criteria

This section provides a description of the criteria VDEQ used to evaluate the proposed remedy consistent with EPA guidance. VDEQ evaluated three remedy threshold criteria as general goals.

6.1.1 Protect Human Health and the Environment

The proposed remedy will restrict the use of the entire Facility property to industrial use. The proposed industrial use restriction for the entire Facility is due to the past industrial use of the property, land use controls will be imposed to prevent exposure to potential residual contamination.

6.1.2 Achieve Media Cleanup Objectives

The proposed remedy will achieve the media cleanup objectives. Land use restrictions, as required by the proposed remedy, will control exposure to any hazardous constituents remaining in subsurface soils and groundwater.

6.1.3 Remediating the Source of Releases

There are no known releases. Previously releases were identified and managed under VDEQ's UST program.

6.2 Balancing/Evaluation Criteria

6.2.1 Long-Term Effectiveness

The proposed remedy will provide long-term protection of human health and the environment. In addition, land and groundwater use restrictions prohibiting residential land use and potable use of groundwater beneath the facility will be maintained until potential risks are demonstrated to be otherwise.

6.2.2 Reduction of Toxicity, Mobility, or Volume of the Hazardous Constituents

The reduction of toxicity, mobility and volume of hazardous constituents at the Facility has already been achieved by the excavation of contaminated soils associated with known petroleum releases.

6.2.3 Short-Term Effectiveness

The Facility is vacant and there is no current or ongoing risk therefore the short-term effectiveness is high.

6.2.4 Implementability

VDEQ's proposed remedy is readily implementable. With respect to the implementation of the ICs and as part of the proposed remedy, the Facility will pursue an environmental covenant, pursuant to the Virginia Uniform Environmental Covenants Act, Title 10.1, Chapter 12.2, Sections 10.1-1238-10.1-1250 of the Code of Virginia. Therefore, VDEQ does not anticipate any regulatory constraints in implementing its proposed remedy.

6.2.5 Cost

VDEQ's proposed remedy is cost effective since the only remaining CA activities include the recordation of the UECA covenant and ongoing inspection and maintenance of engineering and institutional controls.

6.2.6 Community Acceptance

VDEQ will evaluate Community acceptance of the proposed remedy during the public comment period, which will last thirty (30) days. VDEQ's final decision and comments accepted during the public comment period will be addressed in the Final Decision and Response to Comments (FDRTC)

6.2.7 Federal Agency Acceptance

VDEQ and EPA coordinated on the proposed remedy. If EPA provides comments during the public comment period, VDEQ will address them in the FDRTC.

VII. PUBLIC PARTICIPATION

Before VDEQ makes a final decision of its proposal for the Facility, the public may participate in the remedy selection process by reviewing this SB and documents contained in the AR for the Facility. The AR contains all information considered by VDEQ in reaching this proposed decision. The Administrative Record, including the SB, is available for review during normal business hours at:

Virginia Department of Environmental Quality
629 East Main Street
Richmond, Virginia 23218
Contact: Brett Fisher
Phone 804-698-4219
Fax 804-698-4234
Email brett.fisher@deq.virginia.gov

Interested parties are encouraged to review the AR and comment on VDEQ's proposed remedy. The public comment period will last thirty (30) calendar days from the date that the notice is published in a local newspaper. You may submit comments by mail, fax, or email to Brett Fisher, VDEQ Corrective Action Project Manager. VDEQ will hold a public meeting to discuss the proposed remedy upon request which should also be made to Brett Fisher whose contact information is listed above.

VDEQ will respond to all relevant comments received during the comment period. If VDEQ determines that new information warrants a modification to the proposed remedy, VDEQ will modify the proposed remedy or select other alternatives based on such new information changes in a document entitled Final Record of Decision and Response to Comments (FDRTC). All persons who comment on this SB will receive notice of the Final FDRTC.

Date: 9/19/16



Chris Evans, Director
Office of Remediation Programs

Intermet Archer Creek Foundry

VAD 00820506

Administrative Record

Statement of Basis – August 2016

1. Final RCRA Site Visit Report, Intermet Archer Creek Foundry, February 23, 2007: this report contains a list of references obtained by the authors that includes the 1989 Final RCRA Facility Assessment and the 1994 Kilpatrick and Cody letter to EPA that were the basis for the proposed remedy decision.

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