

Environmental Use Control Program

CONCURRENCE SHEET

BUREAU OF ENVIRONMENTAL REMEDIATION

August 17, 2010

This concurrence form is for your review and comments on the enclosed Environmental Use Control Agreement (EUCA); please be advised that this is the **Original Instrument**. Secretary, please sign in blue ink, with notary.

IN THE MATTER OF: South McPherson - US Alt. 81

EUC NUMBER: 09-EUC-0007

PROJECT NUMBER: C5-059-03011

	Name	Date	Comments
EUC Project Manager	<i>Stuart M. Aller</i>	8/17/2010	
EUC Unit Chief	<i>Deanna Ross</i>	8/26/10	
Project Manager	<i>John K. Cook</i>	8/26/10	
Project Unit Manager	<i>Deanna Ross</i>	8/26/10	
Section Chief	<i>[Signature]</i>	7/26/10	
Bureau Manager	<i>Gay Black</i>	9/29/10	
Legal Office-	<i>Paul Mayo</i>	9/30/10	
Director of Legal	<i>[Signature]</i>	10-1-10	
Director of Environment	<i>[Signature]</i>	10-6-10	
General Counsel	<i>[Signature]</i>	10-1-10	
Secretary	<i>[Signature]</i>	10/13/10	

Please return **notarized** Instrument to EUC Program (Attn: Stuart Aller) for final distribution.

RECEIVED

OCT - 6 2010

OFFICE OF THE SECRETARY

Received

OCT 03 2010

DIRECTOR OF ENVIRONMENT
OFFICE OF HEALTH & ENVIRONMENT

5551x

State Of Kansas, McPherson Co., SS:

This instrument was filed for record
on the 8 day of Dec. A.D., 20 10
at 1:33 o'clock P.m, and duly recorded
in book 651 on page 127-145

Richard Paul
Register of Deeds ✓

Title of Document: ENVIRONMENTAL USE CONTROL AGREEMENT
Date of Document: November 30, 2010
Grantor(s): EL PASO MERCHANT ENERGY-PETROLEUM COMPANY
Grantee(s): KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Legal Description: PAGE 1 OF DOCUMENT

42
38

80

Fed Ex Env:

First American Title Insurance Company
911 Main Street – Suite 2500
Kansas City, MO 64105

Att: *Stephane Quisenberry*

DOCUMENT NUMBER: 09-EUC-0007
PROJECT NUMBER: C5-059-03011
PROPERTY CATEGORY: 2

ENVIRONMENTAL USE CONTROL AGREEMENT

El Paso Merchant Energy-Petroleum Company, a Delaware corporation, having a mailing address of 2 North Nevada Avenue, Colorado Springs, Colorado 80903, hereinafter referred to as “the Owner”, is the owner of real property known as the Former McPherson Terminal Facility Site, McPherson Kansas, in King City Township, McPherson County, Kansas, as shown on the map attached hereto as Figure 1 of Exhibit A, hereinafter referred to as “the Property”, and more particularly described by the following legal description:

A tract of land located in the Southeast Quarter of Section Five (5), Township Twenty (20) South, Range Three (3) West of the 6th P.M., McPherson County, Kansas, more particularly described as follows to wit:

Commencing at the Northeast Corner of the Southeast Quarter said Section 5;
THENCE S 00°36'25" W along the East Line of the Southeast Quarter of said Section 5 a distance of 1079.88 feet;
THENCE N 89°23'35" W a distance of 51.38 feet to the POINT OF BEGINNING;
THENCE S 00°38'22" W a distance of 105.36 feet;
THENCE S 80°34'04" W a distance of 41.12 feet;
THENCE S 00°26'20" W a distance of 32.28 feet;
THENCE S 79°43'37" E a distance of 41.01 feet;
THENCE S 00°36'52" W a distance of 486.80 feet;
THENCE S 64°40'40" W a distance of 367.28 feet;
THENCE N 37°04'52" W a distance of 1009.87 feet;
THENCE S 89°23'18" E a distance of 947.80 feet to the POINT OF BEGINNING.

And which shall likewise include any and all parcels contained therein.

WHEREAS the Owner has requested, by application to the Kansas Department of Health and Environment, hereinafter referred to as “KDHE”, to restrict, prohibit and/or limit certain uses of the Property in accordance with Kansas Statutes Annotated (K.S.A.) 2009 Supp. 65-1,221 *et seq.*

KDHE has approved the Owner’s application to restrict, prohibit, and/or limit certain uses of the Property since residual contamination, which exceeds department standards for unrestricted residential use, remains on the Property.

The conditions at the Property as of the date of KDHE’s approval of the application are as follows:

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Consent Order Agreement Case No. 96-E-0073 was executed in August 1996 between KDHE and Coastal Refining & Marketing, Inc. (now El Paso Merchant Energy-Petroleum Company) to address soil and groundwater contamination associated with the former petroleum distribution terminal at the Property. The final remedy for the Property will be documented in a KDHE-issued Corrective Action Decision.

Soil and groundwater at the Property are contaminated with total petroleum hydrocarbons reported as gasoline and diesel range organics (TPH-GRO and TPH-DRO), benzene, ethylbenzene, toluene, xylene (BTEX), naphthalene and other petroleum related compounds of lesser interest at concentrations exceeding the corresponding KDHE Tier 2 RSK screening values established in the *Risk-Based Standards for Kansas RSK Manual – 4th Version* (RSK) for residential and non-residential use scenarios. Contaminated groundwater at the Property is being hydraulically controlled using existing recovery wells located at an adjacent facility.

KDHE has determined, based on conditions at the Property, the application and other information pertaining to the Property, that environmental use controls are appropriate to ensure future protection of public health and the environment, subject to the conditions herein. Therefore, in accordance with K.S.A. 2009 Supp. 65-1,226 and the rules and regulations promulgated thereunder, the Property is hereby designated by KDHE as a Category 2 property.

The Owner acknowledges that this Agreement runs with the land and is binding on all successors in interest in the Property pursuant to K.S.A. 2009 Supp. 65-1,227(b); and is enforceable by KDHE pursuant to K.S.A. 2009 Supp. 65-1,229, unless and/or until such requirements are mutually terminated in writing by KDHE and Owner or Owner’s successor in interest. For purposes of the obligations set forth in this document, “Owner” shall be deemed to include the current Owner and any and all successors in interest.

This Agreement shall be recorded, by the Owner, with the McPherson County Register of Deeds for the purposes of providing notice of the environmental use controls, protecting public health and the environment, and to prevent interference with the operation, performance, and/or maintenance of any remedial actions on the Property.

RESTRICTIONS, PROHIBITIONS AND LIMITATIONS:

Due to the environmental conditions described above, it is the desire and intention of the Owner to restrict, prohibit, and/or limit the following uses of the Property:

- A. The Property shall not be used for residential purposes of any type including, but not limited to, a residence or dwelling, including a house, apartment, mobile home, nursing home, or condominium; or public use area, including a school, educational center, day care center, playground or similar structure, unrestricted outdoor recreational area, or park.

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- B. The Owner shall not allow water wells to be drilled, constructed, or used on the Property for the purposes of domestic, lawn and gardening, or other means, which use involves or may involve human consumption and/or other possible human contact uses. This restriction does not prohibit drilling, construction or use of water wells for the purpose of containing product or contamination, or for contaminated groundwater recovery, monitoring, or other remediation activities as approved in writing by KDHE.
- C. The Owner shall not file or petition to initiate re-zoning of the Property without fifteen (15) days prior notification to KDHE.
- D. The Owner shall provide KDHE with notification fifteen (15) calendar days prior to any excavation activities. The Owner shall not allow any excavation activities, grading, trenching, construction or other digging activities on the Property unless conducted in accordance with the *Soil Management Plan* attached as Exhibit A.
- E. KDHE may require sampling of soils prior to any excavation activities. Based on the potential hazards associated with the soil disturbance activities, KDHE may require specific protective or remedial actions for such soil disturbance activities to occur on the Property.
- F. The Owner shall inform all easement holders, contractors and/or other workers performing any excavation activities on the Property, prior to such activities, of the potential hazards associated with the direct contact and/or transport of any potentially contaminated and/or hazardous soil or other material from the Property. Easement holders, contractors and/or workers shall also be informed by the Owner of any potential hazards associated with releases from contaminated media located on the Property.
- G. The Owner shall preserve, protect and replace, as necessary, all permanent survey markers and benchmarks and all environmental monitoring stations that may be installed on the Property.
- H. The Owner shall consult with KDHE and obtain prior written authorization from KDHE before undertaking any of the following:
 - 1. Performing work on any monitoring devices or systems on the Property except for routine maintenance and emergency maintenance, in which case KDHE shall be notified of such maintenance as soon as is practicable;
 - 2. Producing food chain crops on the Property; or
 - 3. Removing any security fencing, signs or devices installed to restrict public access to the Property.

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- I. The Owner shall evaluate the vapor intrusion pathway with KDHE during planning and prior to constructing buildings on the Property.

LOCAL ORDINANCES AND ZONING:

The Owner and KDHE acknowledge that the following local ordinances and zoning requirements in place at the time of recording this Agreement shall be used in addition to the restrictions, prohibitions and limitations set forth in this Agreement.

The Property is zoned as M2 -Heavy Industrial by the McPherson County Planning commission.

ACCESS:

The Owner hereby agrees and conveys to KDHE, its agents, contractors, and employees, access to the Property for the term of this Agreement to enter or come upon the Property to inspect the Property and perform any required action (i.e., monitoring, sampling, etc.) KDHE deems necessary for any one or more of the following purposes:

1. Ensuring that use, occupancy, and activities of and at the Property are consistent with this Agreement;
2. Inspecting protective structures and any other remedial systems to ensure their designed operation, performance and structural integrity;
3. Documenting environmental conditions of and at the Property;
4. Ensuring implementation and enforcement of the requirements, restrictions, prohibitions, and other limitations described in this Agreement; and/or
5. Performing any additional investigations or remediation deemed necessary by KDHE to protect public health and the environment.

FUNDING:

The Owner hereby agrees to submit to KDHE a one-time payment of \$10,000 to compensate KDHE for costs incurred to perform inspections, monitoring, and tracking of the terms and requirements of this Agreement. The Owner acknowledges that the funding requirement for this Agreement is based on the size of the Property, physical properties of residual contamination, types of protective structures at the Property, and frequency of KDHE's anticipated inspections, and anticipated inspection costs.

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DURATION:

The Owner hereby agrees that this Agreement extends in perpetuity unless and/or until removal following approval by KDHE pursuant to K.S.A. 2009 Supp. 65-1,227.

MONITORING AND INSPECTION REQUIREMENTS:

Groundwater monitoring at the Property, currently overseen by KDHE’s Bureau of Environmental Remediation under the auspices of the State Cooperative Program, is conducted under Consent Order Agreement Case No. 00-E-0190 between KDHE and the National Cooperative Refinery Association (NCRA).

The Owner shall visually inspect the Property on an annual basis. The Owner shall submit on an annual basis to KDHE, a written report documenting information on the condition and current uses of the Property, inspection findings, photo documentation and any other information required to verify if the terms of this Agreement are being fulfilled. Subsequent written reports shall be submitted annually thereafter within the same month as established by the initial written report.

The Owner may submit and KDHE shall consider modifications of the frequency of inspection and reporting if warranted by technical data. Written approval from KDHE must be obtained for modification of frequency of inspection, reporting requirements or analytical methods throughout the term of this Agreement.

MAINTENANCE REQUIREMENTS:

The Owner hereby agrees to provide post-construction maintenance of the security fencing, signs or devices installed and correct deficiencies as outlined by KDHE to restrict public access to the Property. The Owner also hereby agrees to provide post-construction maintenance of the Property’s surface cover in accordance with *Section 3.0 Routine Maintenance of the Soil Management Plan*, attached as Exhibit A, and correct deficiencies as outlined by KDHE to prevent exposure to human health and the environment. Maintenance includes, but is not limited to, inspection, weed control, mowing, dirt hauling, rock hauling, vegetation planting and repairs. Repairs may be necessary to correct the effects of vandalism, fence deterioration, settlement, subsidence, erosion, or other events, which may provide unauthorized public access or potential exposure to contaminated soils.

OTHER TERMS AND CONDITIONS:

The Owner hereby agrees to provide KDHE written notification no less than fifteen (15) calendar days prior to any sale, lease, conveyance or other transfer of the Property. The notice shall include the name and business address (if applicable) of the transferee and the expected date of transfer.

The Owner shall cause any lease, grant, or other transfer of any interest in the Property to include a provision expressly requiring the lessee or transferee to comply with the terms of this Agreement.

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The failure to include such a provision shall not affect the validity or applicability to the Property of this Agreement.

Within fifteen (15) calendar days of real property conveyance, the Owner hereby agrees to provide KDHE a copy of the recorded deed with legal description and corresponding survey map for which this Agreement applies.

The Owner hereby agrees to provide KDHE written notification no less than fifteen (15) calendar days prior to any land use changes at the Property.

The Owner acknowledges that the requirements in this Agreement may not be extinguished, limited or impaired through adverse possession, abandonment, waiver, lack of enforcement, or other common law principles, pursuant to K.S.A. 2009 Supp. 65-1,227(e).

This Agreement may be modified by mutual written agreement by the Owner and KDHE. Within thirty (30) calendar days of executing an amendment, modification, or termination of this Agreement, the Owner shall record such amendment, modification, or termination with the McPherson County Register of Deeds, and within thirty (30) calendar days thereafter, the Owner shall provide a copy of the recorded amendment, modification, or termination to KDHE that bears the seal and/or notarized signature of the Register of Deeds.

ENFORCEABILITY:

If the terms of this Agreement are not being implemented by the Owner or contamination at the Property presents a hazard to public health or the environment, KDHE may take such action as authorized by K.S.A. 2009 Supp. 65-1,229, including:

- A. Issue an order directing the Owner to correct any deficiencies and fully implement the terms of this Agreement.
- B. Issue an order retracting this Agreement and any remedial action at the Property and requiring the Owner to implement a remedial action at the Property to attain a cleanup standard that will allow for unrestricted use of the Property.

EFFECTIVE DATE OF AGREEMENT:

The Owner shall provide to KDHE a copy of this Agreement bearing the seal or notarization of the Register of Deeds in McPherson County within ninety (90) days from **certified receipt** of this fully executed Agreement from KDHE.

The Owner shall provide KDHE with funding as determined by KDHE in accordance with K.S.A. 2009 Supp. 65-1,226 within ninety (90) days from **certified receipt** of this fully executed Agreement from KDHE.

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Proper recording of all necessary documents and submission of required funding shall be conditions precedent to the effectiveness of this Agreement.

IN WITNESS WHEREOF, KDHE and the Owner have entered into and executed this Environmental Use Control Agreement through their duly authorized representatives as of this 6th day of October, 2010.

Kansas Department of Health and Environment

By: [Signature]
 Roderick L. Bremby, Secretary

ACKNOWLEDGMENT:

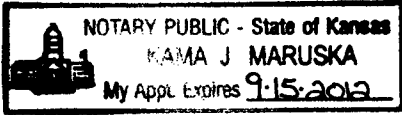
STATE OF KANSAS)
)ss:
 COUNTY OF SHAWNEE)

BE IT REMEMBERED, on this 6th day of October, 2010, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Roderick L. Bremby, Secretary and authorized representative of KDHE, who is personally known to be such person who executed the above document on behalf of KDHE, and such person duly acknowledged the execution of the same to be his/her act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Shawnee County, Kansas, the day and year last written above.

Kama J Maruska
 Notary Public in and for said County and State

My Term Expires: September 15, 2012



DOCUMENT	PROJECT	PROPERTY
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fw

Corporation: El Paso Merchant Energy-Petroleum Company

By: *John H. Anderson*

Date: 11/30/2010

Print Name: John H. Anderson
Vice President

Title: _____

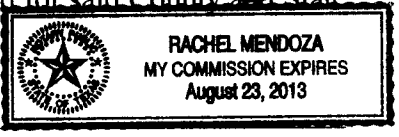
ACKNOWLEDGMENT:

STATE OF TEXAS)
)ss:
COUNTY OF HARRIS)

BE IT REMEMBERED, on this 30th day of November, 2010, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came John H. Anderson authorized representative of El Paso Merchant Energy-Petroleum Company, who is personally known to be such person who executed the above document on behalf of said corporation, and such person duly acknowledged the execution of the same to be his/her act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in HARRIS County, TEXAS, the day and year last written above.

Rachel Mendoza
Notary Public in and for said County and State



John H. Anderson
Vice President

My Term Expires:

EXHIBIT A

SOIL MANAGEMENT PLAN

EL PASO MERCHANT ENERGY-PETROLEUM COMPANY
FORMER McPHERSON TERMINAL
McPHERSON, KANSAS

1.0 PURPOSE

This Soil Management Plan (SMP) is one of the restrictions in the Kansas Department of Health and Environment (KDHE) Environmental Use Control (EUC) Agreement for El Paso Merchant Energy-Petroleum Company's (EPME-PC) former McPherson Terminal. The purpose of the SMP is to outline the general procedures which all personnel engaged in excavation, grading, trenching and/or construction activities will employ when working within the former terminal area due to the presence of known and suspected soil contamination.

The former petroleum distribution terminal occupies approximately 5 acres within the southern portion of a 96.56 acre parcel owned by EPMP-PC. There is an existing fence around the former terminal and additional property that occupies approximately 11 acres. In this SMP, "Site" is defined as this 11 acre area that contains the former petroleum terminal (see Figure 1). The Site and entire 96.56 acre parcel are east of and adjacent to the National Cooperative Refinery Association's (NCRA) McPherson Refinery. In August 1996, Consent Order 96-E-0073 was executed between KDHE and Coastal (now EPME-PC) to address soil and groundwater contamination associated with the Site. Results of soil assessment activities within the Site have identified the presence of contaminants of concern, specifically benzene, TPH-GRO, and TPH-DRO, at concentrations above Tier 2 risk-based cleanup levels for non-residential properties as defined in the Risk-Based Standards for Kansas (RSK) Manual (June, 2007).

EPME-PC owns, and NCRA leases, the Site and entire 96.56 acre parcel. The Ground Lease contains a pre-negotiated Real Estate Purchase Agreement that can be exercised by NCRA at any time. NCRA has provided notice to EPME-PC that it wishes to purchase the entire 96.56 acre parcel, including the Site. However, prior to executing the Real Estate Purchase Agreement, EPME-PC wants to establish EUC's for the Site, including this SMP. NCRA is the assumed future property owner and has a SMP for the active portion of their adjacent refinery. The NCRA SMP details how soils are handled following excavation or disturbance during construction; therefore, the NCRA SMP was modified to be specific to the Site.

This SMP restricts excavation, grading, trenching, construction or other digging activities within the Site without implementation of the process described in this SMP. Also, this SMP is intended to be used during the pre-construction planning stages to determine an appropriate course of action for handling disturbed soils generated within the Site. The objectives of the SMP process are the following:

- Establish a policy for documenting the decision making process prior to performing maintenance, excavation, grading, trenching, or construction activities within the Site,

- Establish a policy for the management and disposal of waste soils which may be generated during potential future excavation, grading, trenching, or construction activities (or other activities that might disturb contaminated soil) within the Site,
- Protect all workers from potential exposure to contaminated soil while performing routine maintenance, excavation, grading, trenching, or other activities that may result in potential exposure to soil contaminants within the Site,
- Protect all workers from potential uncontrolled exposures to contaminated soil during routine work activities, which may be unrelated to soil excavation and disturbance, and
- Ensure that work is conducted and contaminated soil is managed in accordance with the SMP and EUC and applicable federal and state laws and regulation.

2.0 APPLICABILITY

This SMP is applicable and applies to all work completed within the Site (see Figure 1) including but not limited to: routine maintenance, excavation, grading, trenching, construction, or other digging or soil disturbing activities which may be performed by refinery workers or contractors within the limits of the Site. Soil containing contaminants above KDHE RSK levels for non-residential properties for benzene, TPH-GRO, and TPH-DRO are known to exist and may be encountered by parties engaged in these activities within the Site. As a result, the procedures outlined in this SMP must be implemented prior to undertaking any soil disturbance within the Site. All construction related activities completed within the Site must be completed in accordance with the Soil Characterization Flow Chart for Site (see Figure 2) and all potentially impacted soils generated within the Site as a result of construction or disturbance must subsequently be handled in a manner consistent with the Soil Management Flow Chart for Site (see Figure 3).

This SMP is not applicable for spill response, leaks, or releases of petroleum or hazardous substances that may impact surface and/or shallow soils within the Site. These incidents require review of the NCRA Spill Prevention Control and Countermeasures (SPCC) Plan and subsequent coordination with the appropriate local, state, and federal agencies as required.

3.0 ROUTINE MAINTENANCE

NCRA intends to place and subsequently maintain a nominal 7-inch gravel cover over a portion of the Site. Potential uses for the gravel cover area include a parking area, equipment laydown area, and/or above slab job trailer sitting area. The remainder of the Site will be graded and seeded with grass to prevent soil erosion and runoff from the Site. The gravel and vegetated cover is intended to act as a control to prevent the exposure of on-site workers to potential contaminated sediment in excess of the non-residential direct contact RSK levels. The gravel and vegetated cover and long-term maintenance will thus become a mechanism of risk management within the Site.

The gravel cover should be designed and maintained to typical engineering standards. The area should be inspected for deterioration such as rutting and erosion. Inspections should be completed every 30 days and documented on an inspection form. Any necessary repairs resulting from the inspection results should be completed within 30 days. Any repairs resulting in disturbance of the sub-soil must be completed in accordance with the procedures detailed in Figure 2 and described below.

4.0 PRE-EXCAVATION PROCEDURES

Prior to any surface or subsurface disturbance, the area of the proposed excavation, grading, trenching, construction or other soil disturbance will be evaluated in accordance with Figure 2. The existing dataset of surface and shallow soil samples, as shown in Figures 4, 5, and 6 will be evaluated against the area of the proposed activities. Both the horizontal and vertical extent of the proposed area to be disturbed should be compared to the existing dataset for the Site to determine if adequate data exist or more data is required prior to proceeding.

If sufficient vertical and horizontal data are not available to delineate any possible contamination in the proposed disturbance area, samples for site contaminants of concern (BTEX, TPH-GRO, and TPH-DRO) must be collected at the horizontal and vertical extent of the proposed excavation within the Site, as necessary, to evaluate the potential for encountering contaminated soil(s) at contaminant concentrations that warrant action as set forth in this SMP (see Figure 3). The number and location of samples will depend on the area and volume of the proposed disturbance area and must be presented to and approved by the KDHE Bureau of Environmental Remediation Restoration and Long-Term Stewardship Unit. These data will also be used to identify necessary health and safety procedures and plans, as well as for waste characterization and to determine soil use and disposal criteria. Soils generated must subsequently be handled in accordance with Figure 3.

Provisions for controlling dust, noise, and stormwater run-on/run-off will be identified and implemented for activities within the Site. Construction areas exceeding one acre of disturbed area will require a construction stormwater permit to be issued by the KDHE Bureau of Water Stormwater Program under the construction stormwater general permit S-MCST-0701-1.

5.0 EXCAVATION AND DISPOSAL

Management and disposal of excavated soils will comply with this SMP (see Figure 3). Note that this SMP requires that any soil treated by on-site land farming be placed within the bounds of the Site to prevent potential commingling with RCRA soils associated with the NCRA refinery. Although NCRA is the assumed future property owner and has a KDHE BWM permit (#404) for landfarming soils on current NCRA refinery property, EPME-PC does not want to commingle soils due to the fact that EPME-PC cannot be

removed from the KDHE Consent Order after property transfer. Therefore, prior to treating impacted soils in an on-Site land farm, an Application to Landfarm Petroleum Contaminated Soils without a Permit must be approved by the KDHE Bureau of Waste Management Solid Waste Permits Section. Soils impacted by contaminants of concern should be handled with appropriate transportation and disposal regulations, depending on referenced analytical data or characterization samples.

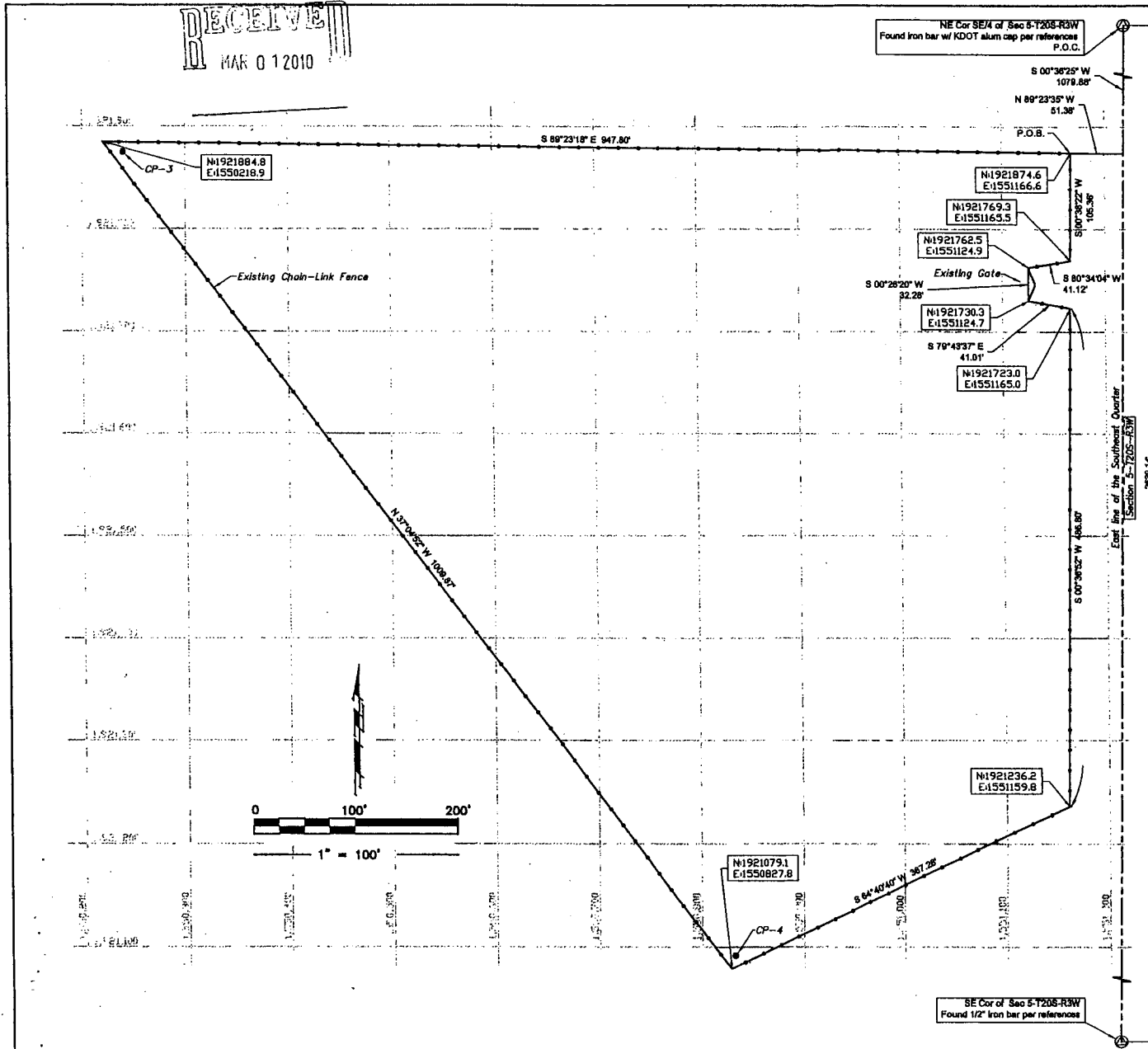
6.0 HEALTH AND SAFETY

Excavation, grading, trenching, construction, or other soil disturbance activities to be completed within areas determined to be impacted by contaminants must be conducted in accordance with 29 CFR 1910.120.

Although potential soil disturbance areas should be, or have been, adequately characterized prior to construction, contaminated soil could be unexpectedly encountered during excavation. Construction or other work in the affected area shall be stopped, and the area shall be cordoned off until an evaluation and/or additional sampling activities can be completed under KDHE oversight to determine the proper course of action.

Routine maintenance activities in the area which do not involve soil disturbance shall be completed in accordance with the applicable NCRA requirements.

Figure 1

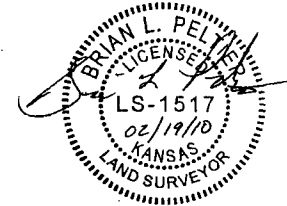


State of Kansas)
) SS
 February 18, 2010
 County of Butler)

We, Carlson-Baughman Company, Surveyors in aforesaid county and state do hereby certify that this 18th day of February, provided the description of the following:

Perimeter Fence Description
 A tract of land located in the Southeast Quarter of Section Five (5), Township Twenty (20) South, Range Three (3) West of the 6th P.M., McPherson County, Kansas, more particularly described as follows to wit:
 Commencing at the Northeast Corner of the Southeast Quarter said Section 5;
 THENCE S 00°36'25\" W along the East line of the Southeast Quarter of said Section 5 a distance of 1079.88 feet;
 THENCE N 89°23'35\" W a distance of 51.38 feet to the POINT OF BEGINNING;
 THENCE S 00°38'22\" W a distance of 105.36 feet;
 THENCE S 80°34'04\" W a distance of 41.12 feet;
 THENCE S 00°26'20\" W a distance of 32.28 feet;
 THENCE S 79°43'37\" E a distance of 41.01 feet;
 THENCE S 00°36'52\" W a distance of 486.80 feet;
 THENCE S 64°40'40\" W a distance of 367.28 feet;
 THENCE N 37°04'52\" W a distance of 1009.87 feet;
 THENCE S 89°23'18\" E a distance of 947.80 feet to the POINT OF BEGINNING.

The accompanying sketch is a true and correct exhibit of said survey based on actual field measurements where the monuments are of the character and occupy the positions as indicated.



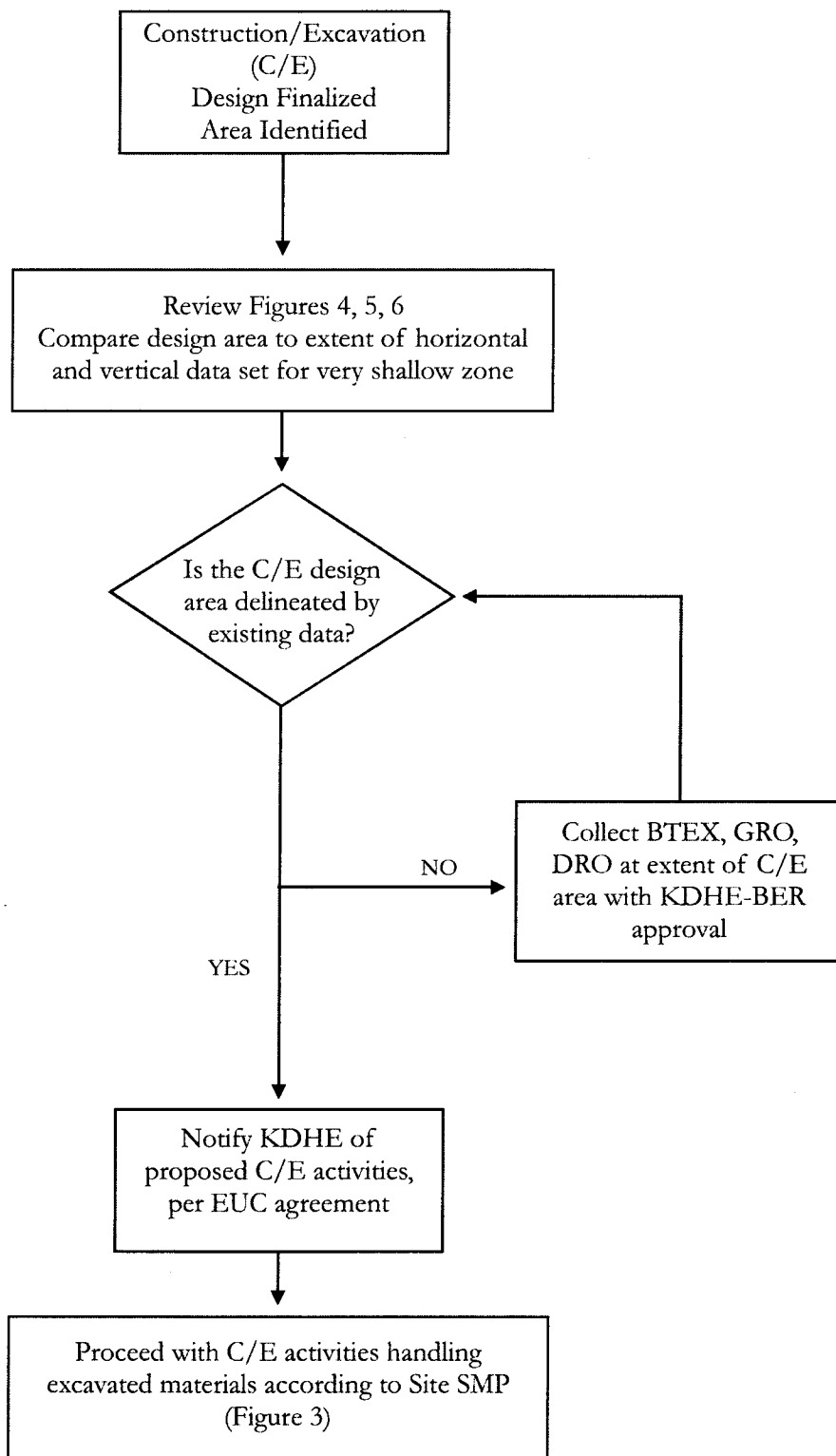
Brian L. Peltier, LS 1517

This document should contain an original stamped seal and a surveyor's signature in blue ink. If it does not, it is a copy and should be assumed to contain unauthorized alterations. The certification on this document shall not apply to any copies.

- LEGEND:**
- Legal Description
 - - - Existing Chain Link Fence
 - - - Remains of S&H Fence
 - - - Existing Walls
 - 3/4\" Iron found (CP)

DATE: 02/18/10	REVISED
PAGE: 1 OF 1	NO. DATE
DRAWING: F2009	NO. DATE
PROJ: 10-02-542	NO. DATE
CLIENT: MWI Associates, Inc. 8220 E. 34th St., Suite 1201 Wichita, KS 67226 P: 316-824-4211 F: 316-824-4211	DRAWN BY: T. Jacobson APPROVED BY: B. Fuller FIELD BOOK: NA SURVEYED BY: M. Carlson PURPOSE: 10-02-542
McPherson Terminal McPherson, KS Particular Fence Description	DATE: 02/18/10

Figure 2
Soil Characterization Flow Chart for Site
Former McPherson Terminal
Environmental Use Control (EUC) Area
McPherson, Kansas



**Figure 3
Soil Management Flow Chart for Site
National Cooperative Refinery Association
McPherson, Kansas**

Notes:

*See the figures and tables provided in this Soil Management Plan (Figures 4, 5, and 6) for locations and types of contamination (Scenario 1, 2, or 3) within the planned/proposed excavation areas. Note that contamination may be present in areas not identified in the report figures. Material encountered in areas not identified in the figures that is stained, discolored, and/or has a chemical/petroleum odor shall also be considered to be contaminant impacted and must be reported to NCRA Environmental Staff.

1. Soils under Scenario 1 have contaminant levels above the Maximum Contaminant Concentrations (MCCs) for the Toxicity Characteristic (40 CFR 261.24) as determined by the Toxicity Characteristic Leaching Procedure (TCLP). Scenario 1 soils may be excavated and re-consolidated within the Area of Contamination (AOC) in which they were encountered. If these soils are removed from the AOC they must be managed as hazardous waste.
2. Soils under Scenario 2 [contaminant concentrations above risk-based standards or screening levels for soil (soil exposure pathway)] may be re-used within the Site where they will be covered with one of the following: 1) 12 inches of soil that does not contain contaminant concentrations above risk based standards; 2) concrete or asphalt surfacing; 3) building foundations; or 4) other structures. Soils with contaminant concentrations only above risk-based standards for the migration from soil to ground water pathway have no restrictions for re-use because of the Refinery's ground water collection system.
3. Soils under Scenario 3 [contaminant concentrations above both Toxicity Characteristic MCCs and risk-based standards (soil exposure pathway)] may be excavated and relocated within the AOC, but they will not be utilized as surface cover (see Scenario 2). If these soils are removed from the AOC they must be managed as hazardous waste.

