

**To be recorded with Deed  
Records - ORC § 317.08**

## **ENVIRONMENTAL COVENANT**

This Environmental Covenant is made as of the 12<sup>th</sup> day of November, 2020\_\_, by and among Rutgers Organics LLC ("Owner" or "Rutgers") (as further identified below) and the United States Environmental Protection Agency ("EPA") pursuant to Ohio Revised Code ("ORC") §§ 5301.80 to 5301.92 for the purpose of subjecting the Property (described below) to the Activity and Use Limitations and to the rights of access described below.

Whereas, pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, EPA placed the Nease Chemical Site ("Site") on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register, 48 Fed. Reg. 40658 (September 8, 1983); and,

Whereas, hazardous substances found at the Site included volatile organic compounds (VOCs) (such as benzene, perchloroethylene, and vinyl chloride), semi-volatile organic compounds (SVOCs) (such as diphenyl sulphone and 1,2,-dichlorobenzene), and mirex. Five unlined former wastewater treatment ponds at the Site contain VOCs, SVOCs, and mirex. Soil in areas of the Site also contains contaminants. In addition, both overburden (shallow) and bedrock (deep) groundwater are contaminated beneath and downgradient of the Site. VOCs are the primary risk-drivers in groundwater at the Site (although mirex and SVOCs have also been detected); and,

Whereas, the EPA approved a plan for environmental remediation of the Site in a Record of Decision for Operable Unit 2 (OU2 ROD) signed by the EPA Region 5 Superfund Division Director on September 29, 2005, with concurrence by the Director of Ohio EPA; a Record of Decision for Operable Unit 3 (OU3 ROD) signed by the EPA Region 5 Superfund Division Director on September 24, 2008, with concurrence by the Director of Ohio EPA; and, an Explanation of Significant Differences for Operable Unit 2 (OU2 ESD) signed by the EPA Region 5 Superfund Division Director on August 26, 2011. In a Consent Decree (and workplans developed pursuant to the Consent Decree, all of which are collectively referred to as "Consent Decree") entered into with the EPA and Ohio EPA, Rutgers Organics Corporation ("ROC") agreed to implement a remedial action plan described in the OU2 ROD, OU3 ROD, and OU2 ESD; and,

Whereas, the Consent Decree requires implementation and compliance with activity and use limitations on the Site in order to prevent unacceptable exposures from remaining hazardous substances; and,

Whereas, the parties hereto have agreed: 1) to allow the Access Parties (as hereafter defined) a permanent right of access to the Property for purposes of implementing, facilitating and monitoring the Remedial Action, and 2) to impose Activity and Use Limitations on the Property as covenants that will run with the land for the purpose of protecting human health and the environment; and,

Now therefore, Owner and EPA agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant executed and delivered pursuant to ORC §§ 5301.80 to 5301.92.

2. Property. This Environmental Covenant concerns an approximately 33.66 acre tract of real property with address 1224 Benton Road located between Allen Road and Benton Road in Columbiana County, Salem, Ohio. The Property is more particularly described in Exhibit A attached hereto and hereby incorporated by reference.

3. Owner. The Property is owned by Rutgers Organics LLC (“Owner” or “Rutgers”). The mailing address of Rutgers is 2 Turner Place, Piscataway, New Jersey 08855. Owner is the successor to Rutgers Organics Corporation (ROC), the Settling Defendant (“Settling Defendant”) named in the Consent Decree.

4. Holder. Pursuant to ORC § 5301.81, the Holder of this Environmental Covenant is the Owner, Rutgers, whose address appears in Paragraph 3 above.

5. Agency. EPA and Ohio EPA are each the “Agency,” as defined by ORC §5301.80(B), that determined or approved the Environmental Response Project, as set forth in the OU2 ROD, OU3 ROD, and OU2 ESD and confirmed by the Consent Decree, pursuant to which this Environmental Covenant is created.

6. Other Defined Terms. All capitalized terms in this Environmental Covenant which are not defined herein shall have the same meaning as set forth in the Consent Decree and, for terms not defined in the Consent Decree, the meaning set forth in ORC §§ 5301.80 to 5301.90.

7. Running with the Land. This Environmental Covenant shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC § 5301.85, subject to amendment or termination as set forth herein. The term “Transferee,” as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

8. Activity and Use Limitations on the Property. The following Activity and Use Limitations apply to the Property and activities are also subject to the procedures described in the Soil Management Plan (SMP) required by the Consent Decree (Exhibit D):

- (a) Land Use Restrictions. The Property shall not be used for Residential Uses and Other Prohibited Uses. The term “Residential Uses and Other Prohibited Uses” means: (i) single and multi-family dwellings and transient residential units; (ii) occupancy on a 24-hour basis; (iii) uses to house, educate, or provide care for children, the elderly, the infirm, or other sensitive subpopulations; and (iv) agricultural uses. The Property shall also not be used in any manner that would interfere with or adversely affect the integrity or protectiveness of the Remedial Action which has been implemented or which will be implemented pursuant to the Consent Decree unless the written consent of the EPA to such use is first obtained. Further, no Waste Material shall be brought onto the Property, except in accordance with any federal, state or local permit or the Consent Decree.

- (b) No Interference with Cover. Except as provided in a plan that is consistent with the SMP and approved in writing by EPA, the following activities are prohibited in any cover installed pursuant to the requirements of the Consent Decree: 1) any excavation or other intrusive activity that could affect the integrity of the cover; and 2) any disturbance of the materials underneath the cover. These restrictions include the cover system, engineered banks, and rip rap erosion control features installed in Feeder Creek. The locations of the cover system, engineered banks, and erosion control features are as shown in the SMP. In addition, the permanent markers showing the boundaries of the cover systems may not be disturbed or removed until the written consent of the EPA is obtained to modify such features.
- (c) Groundwater Restrictions. Except as required as part of an EPA approved activity, or upon written certification by EPA that all applicable performance standards have been met, construction of wells and activities that extract, consume, or otherwise use any groundwater are prohibited on the Property.
- (d) Restrictions on Construction. Construction of structures over cover systems is prohibited except as provided in a plan approved in writing by EPA. Construction of enclosed structures over areas where a vapor intrusion pathway may occur is prohibited unless 1) such construction includes adequate mitigation measures for the vapors, as demonstrated in a plan approved in writing by EPA, or 2) an evaluation of the vapor intrusion pathway has been conducted and EPA agrees in writing that such mitigation measures are unnecessary. Verification procedures to validate any vapor intrusion mitigation measures necessary prior to occupancy should be provided to the Agencies.
- (e) Fencing and Security. Fences and signs to secure the Property shall be maintained until the written consent of the EPA is obtained to modify such features.

9. Access Agreement. Owner agrees that EPA, Ohio EPA, and Rutgers, its successors and assigns, and its respective officers, employees, agents, contractors and its other invitees (collectively, "Access Parties") shall have an unrestricted right of access to the Property to undertake the Permitted Activities described in Paragraph 10 below. The right of access shall be irrevocable while this Environmental Covenant remains in effect.

10. Permitted Activities. At all reasonable times, the Access Parties shall have access to the Property for the purpose of conducting any activity related to the Consent Decree including, but not limited to, the following activities:

- a) Monitoring the Remedial Work;
- b) Verifying any data or information submitted to the EPA or Ohio EPA;
- c) Conducting investigations relating to contamination at or near the Property;

- d) Obtaining samples;
- e) Assessing the need for, planning, or implementing response actions at or near the Property;
- f) Assessing implementation of quality assurance and quality control practices as defined in the approved construction quality assurance plan (CQAP);
- g) Implementing the Remedial Work pursuant to the Consent Decree;
- h) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Owner or its agents, consistent with Section XXIX (Access to Information) of the Consent Decree;
- i) Assessing Rutgers' compliance with the Consent Decree;
- j) Determining whether the Property or other property is being used in a manner that is prohibited or restricted or that may need to be prohibited or restricted under the Consent Decree; and,
- k) Implementing, monitoring, maintaining, reporting on, and enforcing any Institutional Controls and the requirements of the Institutional Control Implementation and Assurance Plan (ICIAP).

11. Notice Upon Conveyance.

- a) Each instrument conveying any interest in the Property shall contain a notice substantially in the form set forth in Exhibit C.
- b) At least 60 days prior to the proposed conveyance of any interest in the Property, including, but not limited to, fee interests, leasehold interests, and mortgage interests, the Owner conveying the interest shall give written notice to EPA and Ohio EPA of the conveyance, including the name and address of the Transferee. The notice to EPA and Ohio EPA must include the date on which notice of the Consent Decree, this Environmental Covenant, and the rights of access set forth herein was given to the grantee of any interest in the Property.

12. Administrative Record. Owner is the successor to ROC, the Settling Defendant in an action filed by EPA under federal programs governing environmental remediation of the Site under CERCLA in the United States District Court for the Northern District of Ohio, Eastern Division, Civil Action No. 4:16-cv-02254 that has executed and delivered a Consent Decree dated September 9, 2016 settling such lawsuit. A notice of the Consent Decree has been recorded in the Office of the Columbiana County Recorder at OR Book 2410, Pages 123-127. The Consent Decree constitutes an Environmental Response Project as defined by ORC § 5301.80(E) and requires certain Remedial Action to be taken by the Settling Defendant. Copies of the EPA administrative record for the Site are maintained at the following locations:

EPA Region 5  
Superfund Records Center (7th Floor)  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Lepper Library  
303 E. Lincoln Way  
Lisbon, Ohio

Salem Public Library  
821 E. State Street  
Salem, Ohio

13. Amendments; Early Termination. This Environmental Covenant may be modified or amended or terminated while Owner owns the property only by a writing signed by Owner and EPA, with the formalities required for the execution of a deed in Ohio which is recorded in the Office of the Recorder of Columbiana County, Ohio. Upon transfer of all or any portion of the Property, Owner waives any rights that it might otherwise have under ORC § 5301.90 to withhold its consent to any amendments, modifications, or termination of this Environmental Covenant, to the extent that Owner has transferred its interest in that portion of the Property affected by said modification, amendment or termination. The rights of Owner's successors in interest as to a modification, amendment or termination of this Environmental Covenant are governed by the provisions of ORC § 5301.90.

14. Other Matters.

- (a) Representations and Warranties of Owner. Owner represents and warrants: that Owner is the sole owner of the Property; that Owner holds fee simple title to the Property which is free, clear and unencumbered except for the Consent Decree, and except for the interests which have been disclosed to EPA, and that EPA has determined that these interests do not impinge upon the efficacy of this Environmental Covenant.
- (b) Right to Enforce; Equitable Remedies. This Environmental Covenant may be enforced through a civil action for injunctive or other equitable relief for any violation of any term or condition of this Environmental Covenant, including violation of the Activity and Use Limitations under Paragraph 8 and denial of the Permitted Activities under Paragraph 10. Such an action may be brought individually or jointly by EPA, Ohio EPA, and the Holder of this Environmental Covenant.
- (c) Future Cooperation; Execution of Supplemental Instruments. Owner agrees to cooperate fully with EPA, Ohio EPA, and Rutgers to assist it in implementing the agreements made in this Environmental Covenant and, in furtherance thereof, agrees to execute and deliver such further documents as may be requested by EPA or Ohio EPA to confirm the agreements made hereunder.

- (d) Cumulative Remedies; No Waiver. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. Nothing in this Environmental Covenant affects EPA's authority to take or require performance of response actions to address releases or threatened releases of hazardous substances or pollutants or contaminants at or from the Property, or to enforce a consent order, consent decree or other settlement agreement entered into by EPA. The failure to enforce any rights hereunder, to take action to remedy any violation by Owner of the terms hereof, or to exercise any remedy provided herein, shall not be deemed to be a waiver of any such right or remedy. No forbearance on the part of EPA, and no extension of the time for performance of any obligations of Owner, shall operate to release or in any manner affect EPA's rights.
- (e) Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
- (f) Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the Columbiana County Recorder's Office.
- (g) Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Columbiana County Recorder.
- (h) Distribution of Environmental Covenant/Other Notices. The Owner shall distribute a file-stamped and date-stamped copy of the recorded Environmental Covenant to: EPA, Ohio EPA, Columbiana County, and each person holding a recorded interest in the Property. Within 30 days after recording a termination, amendment or modification of this Environmental Covenant, the owner in fee shall transmit a copy of the document in recorded form to: EPA, Ohio EPA, Columbiana County, and each person holding a recorded interest in the Property.
- (i) Notices. All notices, requests, demands or other communications required or permitted under this Environmental Covenant shall be given in the manner and with the effect set forth in Section XXXI of the Consent Decree.
- (j) Governing Law. Except as provided herein, the laws of the State of Ohio shall be the governing law. Federal law shall govern issues related to environmental remediation, the Environmental Response Project, the adequacy of the institutional controls to protect human health and the environment, and issues involving or relating to the authority of EPA. The federal court for the appropriate judicial district shall have jurisdiction of any action involving the EPA.

- (k) Captions. All paragraph captions are for convenience of reference only and shall not affect the construction of any provision of this Environmental Covenant.
- (l) Time of the Essence. Time is of the essence for each and every performance obligation of Owner under this Environmental Covenant.
- (m) Access Easement. A portion of the Property is or in the future may be subject to an easement in favor of the Western Reserve Land Conservancy and the Nease Natural Resource Damage Trustees for pedestrian and vehicular access to adjacent property owned by Owner that is subject to a conservation easement.

**[SIGNATURE PAGES TO FOLLOW]**

IN WITNESS WHEREOF, Owner and EPA have executed and delivered this Environmental Covenant as of the date first above written.

**FOR THE OWNER:**

RUTGERS ORGANICS LLC

By A.E. Kruczek (signature)  
Andrew E. Kruczek  
Vice President

State of Maine )  
County of Oxford ) SS.

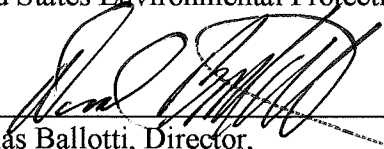
On October 29, 2020, this instrument was acknowledged before me by, Andrew E. Kruczek, Vice President, on behalf of Rutgers Organics LLC.

Ellen K. Cressy (signature)  
Notary Public

ELLA K. CRESSY  
Notary Public, Maine  
My Commission Expires February 9, 2027

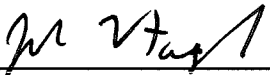
**FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

On behalf of the Administrator of the  
United States Environmental Protection Agency

By:   
Douglas Ballotti, Director,  
Superfund and Emergency Management Division, Region 5

STATE OF ILLINOIS       )  
                                      ) SS.  
COUNTY OF COOK       )

The foregoing instrument was acknowledged before me this 12<sup>TH</sup> day of NOVEMBER, 2020, by Douglas Ballotti, Director, Superfund and Emergency Management Division, Region 5 of the United States Environmental Protection Agency, on behalf of the United States of America.

 (signature)  
Notary Public

My Commission Expires 03/13/22



## Exhibit A - Legal Description of the Property

File No.: NCS-1010786-CLE

The Land referred to herein below is situated in the County of Columbiana, State of Ohio, and is described as follows:

### Parcel 1:

Situated in the Township of Perry, County of Columbiana and State of Ohio:

Situated in the Southwest Quarter of Section 26, Township 17, Perry, Range 4, Columbiana County, Ohio, and being more definitely described as follows: Commencing at the Southwest corner of Section 26,

run thence East with the South line of said Section a distance of 545.06' to an iron pin set on the Westerly line of lands now or formerly owned by Violet Bok;

thence North with said Boks Westerly line a distance of 494.0' to an iron pin;

thence East 200' to an iron pin and the true place of beginning of the tract hereinafter described;

Thence from said beginning point North a distance of 341.92' to an iron pin;

thence West 398' to an iron pin;

thence North 706.50' to an iron pin;

thence East 351' to an iron pin on the Westerly line of the railroad right of way;

thence with said Westerly right of way line the following four courses and distances: South 38° 38' East 181.5' to an iron pin; South 34° 5' East 218.5 to an iron pin; North 55° 55' East 30' to an iron pin and South 34° 9' East 898.5' to an iron pin;

thence West 719.6' to an iron pin and the place of beginning and containing 15.62 acres, be the same more or less.

### Parcel 2:

Situated in the Township of Perry, County of Columbiana and State of Ohio:

Situated in the Southwest Quarter of Section 26, tp. 17 (Perry) Range 4, Columbiana County, Ohio, and being more definitely described as follows: Commencing at the point of intersection of the Easterly right of way line of the Pittsburgh, Fort Wayne & Chicago Railway Company's land with the South line of Section 26, and

running thence N. 34° 09' W., with said right of way line, a distance of 277.4' to an Iron Pin and true place of beginning of the within described tract.

Thence from said true beginning point, continuing North 34° 09' W., with said right of way line, a distance of 1172.1' to an Iron Pin at Grantors Northwesterly corner;

thence S. 89° 21' E., with Grantors Northerly boundary, a distance of 800.5' to an Iron Pin;

thence S. 2° 52' E., a distance of 948.0' to an Iron Pin;

thence S. 82° 52' W., a distance of 190.0' to the place of beginning. Containing 10.33 Acres, be the same more or less.

Above description prepared by J. Homer Browne, Registered Surveyor, May 2, 1961.

Parcel 3:

Situated in the Township of Perry, County of Columbiana and State of Ohio:

Situated in the Northwest Quarter of Section 35, Township 17, Perry Range 4, Columbiana County, Ohio, and being more definitely described as follows: Commencing at the Southwest corner of Section 26,

run thence East with the South line of said Section a distance of 545.06' to an iron pin set on the Westerly line of lands now or formerly owned by Violet Bok;

thence North with said Boks Westerly line a distance of 494.0' to an iron pin;

thence East 919.6' to an iron pin;

thence South 34° 9' East, 597.85' to an iron pin on the North line of said Section and the true place of beginning of the tract hereinafter described.

Thence from said beginning point South 34° 9' East 302.95' to an iron pin;

thence South 35° 9' West, passing through an iron pin on the Northerly line of State Route 14, 720' to the centerline of said highway;

thence North 53° 21' West along the centerline of said highway; 526.64' to a point in said centerline;

thence North 18° 45' East, passing through an iron pin on the Northerly line of said highway, 556.47' to an iron pin;

thence East along the Northerly line of said Section, 489.4' to an iron pin and the place of beginning, and containing 10.66 Acres, be the same more or less.

Parcel 4:

Situated in the Township of Perry, County of Columbiana and State of Ohio:

Situated in the Southwest Quarter of Section 26 and the Northwest Quarter of Section 35, Township 17, Perry, Range 4, Columbiana County, Ohio and being more definitely described as follows: Commencing at the Southwest corner of Section 26,

run thence East with the South line of said Section a distance of 545.06' to an iron pin set on the Westerly line of lands now or formerly owned by Violet Bok;

thence North with said Boks Westerly line a distance of 494.0' to an iron pin;

thence East 731.8' and to an iron pin, the true place of beginning of the tract hereinafter described.

Thence East 187.8' to an iron pin on the Westerly line of the railroad right of way;

thence South 34° 9' East along said Westerly right of way line 597.85' to an iron pin on the South line of said Section;

thence West along the South section line 489.4' to an iron pin;

thence South 18° 45' West, 530.20' to an iron pin on the Northerly line of State Route 14;

thence North 53° 21' West along the Northerly line of said highway, 200' to an iron pin;

thence North 18° 45' East, 925.40' to an iron pin and the place of beginning, and containing 6.98 Acres, be the same more or less.

Excepting Therefrom:

Situated in the County of Columbiana in the State of Ohio, and the Township of Perry and bounded and described as follows:

Situated in the Northwest Quarter of Section 35, Township 17 North, Range 4 West, Perry Township, Columbiana County, Ohio and being more particularly described as follows:

Beginning, for reference, at the Northwest corner of Section 35;

thence East 465.06 feet, in the North line of said Section 35, to a point in the Northeasterly Right of Way line of State Route No. 14 (Benton Road), said State Route No. 14 being 50 feet wide;

Thence South 53° 21' East 642.33 feet, in the said Northeasterly Right of Way line, to an iron pin marking the Southwesterly corner of a certain 6.98 acre tract, of which this parcel is a part, and being the principal place of beginning of the herein described parcel;

Thence continuing South 53° 21' East 62.00 feet, in the said Northeasterly Right of Way line of State Route No. 14, parallel to and 25 feet at right angle Northeasterly from the centerline, to an iron pin;

Thence North 46° 33' East 71.32 feet to an iron pin;

Thence North 52° 17' West 97.55 feet to an iron pin in the Westerly line of aforesaid 6.98 acre tract;

Thence South 18° 45' West 75.75 feet, in grantors said Westerly line, to the place of beginning, containing 0.130 acres, more or less.

This description was prepared by R. L. Tootle Registered Surveyor #5318.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PREMISES:

A Conservation Easement situated in the Township of Perry, County of Columbiana, State of Ohio, in the Southwest Quarter of Section 26, Township 17, Range 4 East, and being a part of land described in deed to Nease Chemical Company, Inc. recorded in Volume 1081, Page 159, records of Columbiana County, described as follows:

COMMENCING at the Southwest Corner of said Section 26; THENCE North 89°06'00" East, a distance of 545.92 feet; THENCE North 00°54'31" West, a distance of 493.39 feet; THENCE North 89°05'29" East, a distance of 200.00 feet to a 1/2-inch iron rod found at a southwesterly corner of said Nease Chemical Company, Inc. land; THENCE North 00°47'19" West, a distance of 341.52 feet to an old fence post found at the POINT OF BEGINNING of the easement being described:

THENCE South 89°20'33" West, a distance of 398.00 feet to an old wood fence post found;

THENCE North 00°54'31" West, along an old wire fence, a distance of 706.24 feet to an old wood fence post found;

THENCE North 89°05'29" East, along an old wire fence, a distance of 352.09 feet to an old wire fence post found;

THENCE South 39°32'31" East, along the southwesterly right-of-way of the Norfolk Southern Railroad, a distance of 181.39 feet;

THENCE South 34°59'31" East, along the southwesterly right-of-way of the Norfolk Southern Railroad, a distance of 218.50 feet;

THENCE North 55°00'29" East, along the southeasterly right-of-way of the Norfolk Southern Railroad, a distance of 30.00 feet; THENCE South 35°02'54" East, along the southwesterly right-of-way of the Norfolk Southern Railroad, a distance of 281.07 feet;

THENCE South 54°57'06" West, along a chain link fence, a distance of 14.26 feet to a fence post found;

THENCE South 22°03'57" West, along a chain link fence, a distance of 176.80 feet;

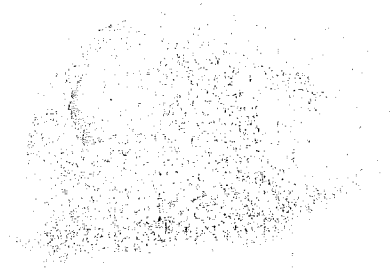
THENCE South 89°20'33" West, a distance of 291.56 feet to the old fence post found at the POINT OF BEGINNING and containing 9.801 acres or 426,915 square feet of land, more or less,

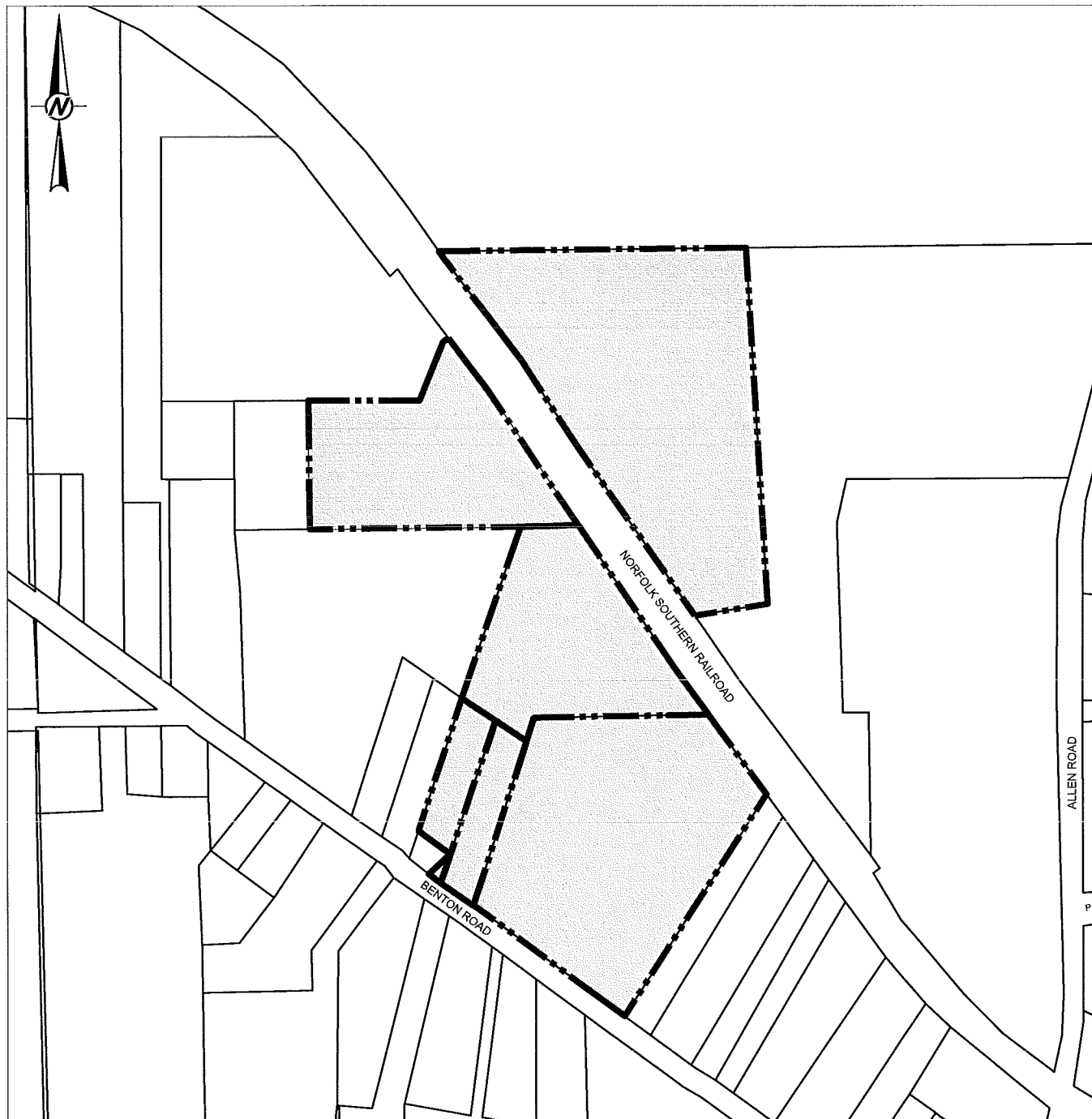
but subject to all legal highways and easement of record as determined by a survey performed by David W. Grant, Ohio Professional Surveyor No. 8460, for and on behalf of North Coast Geomatics in August of 2020.

The Basis of Bearing for this survey is Grid North of the Ohio State Plane Coordinate System, North Zone (FIPS Zone 3401), on the North American Datum of 1983(2011) (Epoch 2010.000) using geoid model GEOID18, with a combined scale factor of 1.00010643214811. A GNSS Real Time Kinematic Network survey was used to establish a bearing of North 00°47'19" West for west line of the parent parcel, and a Northing of 459,613.34 and Easting of 2,412,487.97 (U.S. Survey Feet) for the 1/2-inch iron rod found at a southwesterly corner of the parent parcel.

**EXHIBIT B**

**Drawing of Property**





## EXHIBIT C

### **Notice upon Conveyance of Property or any Portion Thereof**

THE INTEREST CONVEYED HEREBY IS SUBJECT TO A CONSENT DECREE DATED SEPTEMBER 9, 2016, NOTICE OF WHICH WAS RECORDED IN THE OFFICE OF THE COLUMBIANA COUNTY RECORDER, OR BOOK 2410, Pages 123-127, AND WHICH RESTRICTS THE INTEREST CONVEYED AS SET FORTH IN THIS NOTICE AND AN ENVIRONMENTAL COVENANT, DATED \_\_\_\_\_, 2020, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE COLUMBIANA COUNTY RECORDER ON \_\_\_\_\_, 2020, in BOOK \_\_\_\_\_, Page \_\_\_\_\_. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS AND ACCESS RIGHTS:

1. Activity and Use Limitations on the Property. The following Activity and Use Limitations apply to the Property and activities are also subject to the procedures described in the Soil Management Plan (SMP) required by the Consent Decree (Exhibit D):
  - (a) Land Use Restrictions. The Property shall not be used for Residential Uses and Other Prohibited Uses. The term "Residential Uses and Other Prohibited Uses" means: (i) single and multi-family dwellings and transient residential units; (ii) occupancy on a 24-hour basis; (iii) uses to house, educate, or provide care for children, the elderly, the infirm, or other sensitive subpopulations; and (iv) agricultural uses. The Property shall also not be used in any manner that would interfere with or adversely affect the integrity or protectiveness of the Remedial Action which has been implemented or which will be implemented pursuant to the Consent Decree unless the written consent of the EPA to such use is first obtained. Further, no Waste Material shall be brought onto the Property, except in accordance with any federal, state or local permit or the Consent Decree.
  - (b) No Interference with Cover. Except as provided in a plan that is consistent with the SMP and approved in writing by EPA, the following activities are prohibited in any cover installed pursuant to the requirements of the Consent Decree: 1) any excavation or other intrusive activity that could affect the integrity of the cover; and 2) any disturbance of the materials underneath the cover. These restrictions include the cover system, engineered banks, and rip rap erosion control features installed in Feeder Creek. The locations of the cover system, engineered banks, and erosion control features are as shown in the Soil Management Plan. In addition, the permanent markers showing the boundaries of the cover systems may not be disturbed or removed until the written consent of the EPA is obtained to modify such features.
  - (c) Groundwater Restrictions. Except as required as part of an EPA approved activity, or upon written certification by EPA that all applicable performance standards have been met, construction of wells and activities

that extract, consume, or otherwise use any groundwater are prohibited on the Property.

- (d) Restrictions on Construction. Construction of structures over cover systems is prohibited except as provided in a plan approved in writing by EPA. Construction of enclosed structures over areas where a vapor intrusion pathway may occur is prohibited unless 1) such construction includes adequate mitigation measures for the vapors, as demonstrated in a plan approved in writing by EPA, or 2) an evaluation of the vapor intrusion pathway has been conducted and EPA agrees in writing that such mitigation measures are unnecessary. Verification procedures to validate any vapor intrusion mitigation measures necessary prior to occupancy should be provided to the Agencies.
- (e) Fencing and Security. Fences and signs to secure the Property shall be maintained until the written consent of the EPA is obtained to modify such features.

Access Agreement. Owner agrees that EPA, Ohio EPA, and Rutgers, its successors and assigns, and its respective officers, employees, agents, contractors and its other invitees (collectively, "Access Parties") shall have an unrestricted right of access to the Property to undertake the Permitted Activities described below. The right of access shall be irrevocable while this Environmental Covenant remains in effect.

Permitted Activities. At all reasonable times, the Access Parties shall have access to the Property for the purpose of conducting any activity related to the Consent Decree including, but not limited to, the following activities:

- a) Monitoring the Remedial Work;
- b) Verifying any data or information submitted to the EPA or Ohio EPA;
- c) Conducting investigations relating to contamination at or near the Property;
- d) Obtaining samples;
- e) Assessing the need for, planning, or implementing response actions at or near the Property;
- f) Assessing implementation of quality assurance and quality control practices as defined in the approved construction quality assurance plan (CQAP);
- g) Implementing the Remedial Work pursuant to the Consent Decree;
- h) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Owner or its agents, consistent with Section XXIX (Access to Information) of the Consent Decree;
- i) Assessing Rutgers's compliance with the Consent Decree;

- j) Determining whether the Property or other property is being used in a manner that is prohibited or restricted or that may need to be prohibited or restricted under the Consent Decree; and,
- k) Implementing, monitoring, maintaining, reporting on, and enforcing any Institutional Controls and the requirements of the Institutional Control Implementation and Assurance Plan (ICIAP).

EXHIBIT D  
Soil Management Plan

The procedures required by the current version of the USEPA-approved Soil Management Plan apply to this property. The original May 2020 Soil Management Plan is included in this Exhibit but reference should be made to the Administrative Record for the site (as detailed in paragraph 12) for any subsequent approved revisions.



**GOLDER**

**REPORT**

# Soil Management Plan

*Former Nease Chemical Site Salem, Ohio*

Submitted to:

**US Environmental Protection Agency**

77 West Jackson Boulevard

Chicago, Illinois 60604

Submitted by:

**Golder Associates Inc.**

200 Century Parkway, Suite C, Mt. Laurel, New Jersey, USA 08054

On Behalf of:

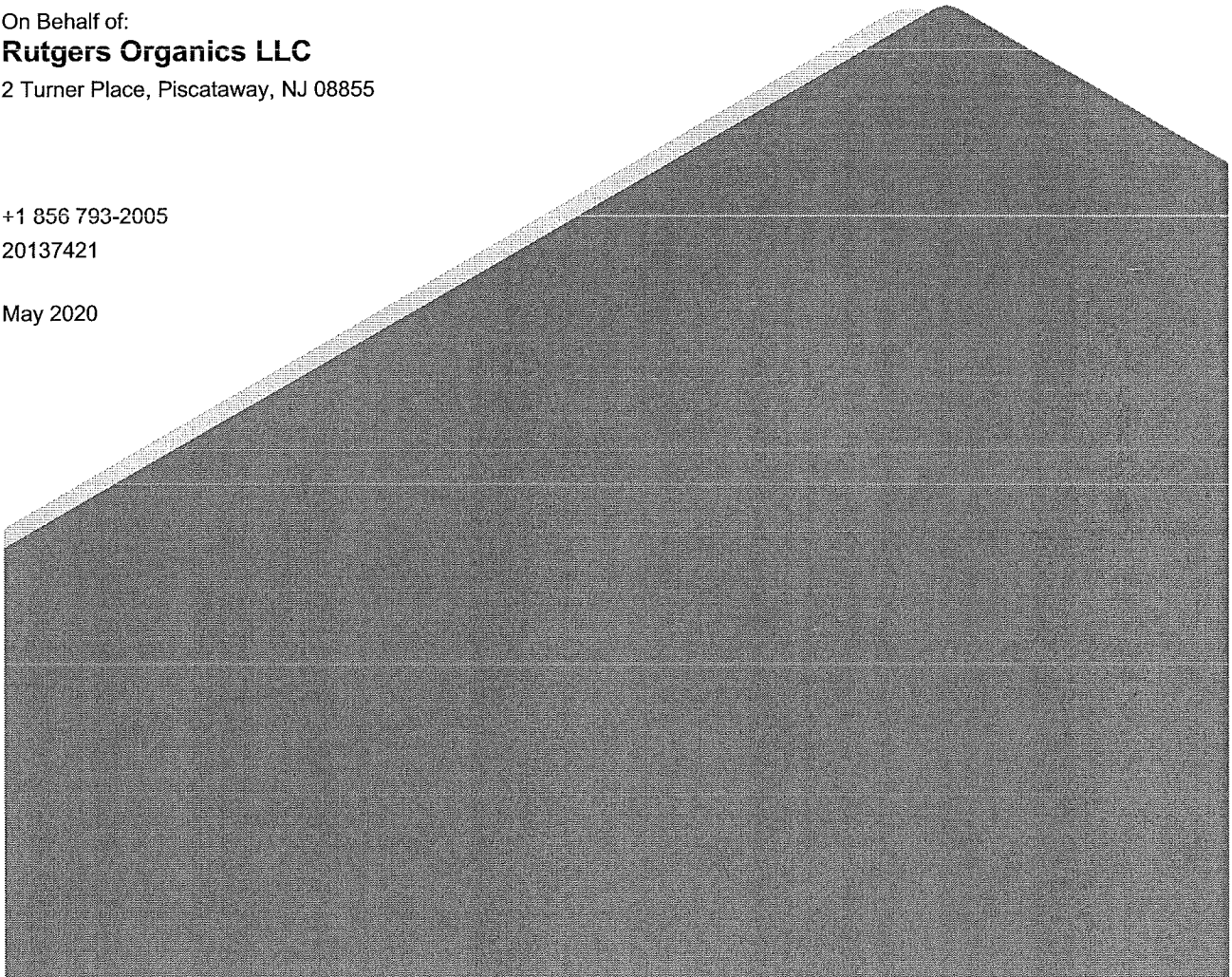
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May 2020



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Figure 1: Cover Systems – Soil/Sediment

## ACRONYMS

AOC	area of concern
BRM	Blue Racer Midstream
CFR	code of federal regulations
COCs	contaminant of concern
DNAPL	dense non-aqueous phase liquid
DOT	Department of Transportation
E&S	erosion and sedimentation
FRDR	Final Remedial Design Report
GPR	ground penetrating radar
GWTS	Groundwater treatment system
HASP	Health and safety plan
HAZWOPER	Hazardous Waste Operations and Emergency Response
ICIAP	Institutional Controls Implementation and Assurance Plan
ISS	in-situ soil stabilization
O&M	Operations and maintenance
RDWP	Remedial Design Workplan
ROD	Record of Decision
ROW	Right of way
SMP	Soil management plan
SVOCs	Semivolatile organic compounds
TCLP	Toxicity Characteristic Leaching Procedure
OSHA	Occupational Safety and Health Administration
OU-2	Operable Unit 2
OU-3	Operable Unit 3
OUPS	Ohio Utilities Protection Service (One Call)
PPE	Personal Protective Equipment
USEPA	United States Environmental Protection Agency
VOCs	Volatile Organic Compounds
ZVI	Zero Valent Iron

## 1.0 INTRODUCTION

This Soil Management Plan (SMP) has been prepared by Golder Associates Inc. (Golder) on behalf of Rutgers Organics LLC (Rutgers) for the Former Nease Chemical Site (Site). This SMP was prepared in accordance with the Consent Decree entered on December 22, 2016 (the Effective Date), for the implementation of the Operable Unit Two (OU-2) and Operable Unit Three (OU-3) Remedial Actions at the Site. This SMP is a companion to the activity and use limitations established under the Institutional Controls Implementation and Assurance Plan (ICIAP), to which this SMP is attached.

As required by the Consent Decree, this SMP identifies the process for ensuring that future land use at the Site, including utility installation and repair and foundation installation, is protective of human health and the environment. This SMP establishes standardized procedures for any future construction at the Site including the importation of fill and procedures for handling and disposing of impacted soil/sediment. This SMP also address health and safety requirements for construction workers that may handle impacted media. The OU-2 Remedial Actions included soil barrier and low permeability cover systems installed over portions of the Site and pre-remediation cover systems. Pre-remediation cover systems include soil barriers, pavement, and building slabs that were installed prior to the Remedial Actions. The OU-3 Remedial Actions included a cover system installed over impacted sediments in Feeder Creek, which includes the engineered stream banks and erosion control features constructed to protect the cover. This SMP addresses how these cover systems should be protected and repaired if they are disturbed during future Site activities. Groundwater monitoring wells and treatment infrastructure are also present at the Site and must be protected during any soil disturbance activities.

The activities covered in this SMP include but are not limited to the following:

- Excavation
- Drilling
- Utility installation or removal
- Utility maintenance
- Drainage improvements
- Road construction
- Foundation and building construction
- Importation of soil
- Off-Site disposal of soil, sediment, and other impacted media.

The nature and history of this facility make each soil, sediment, or cover system disturbance project unique. Therefore, the general management procedures established in this SMP are not a “one-size” solution. Activities that disturb soils, sediments, or cover systems need to be well-planned events, taking into account location-specific conditions. Regardless of the procedures established in this SMP, all activities that disturb soils, sediments, or cover systems at any location within the boundaries of the Site, except for emergency repairs to existing infrastructure, are subject to review by Rutgers prior to implementation and require written approval from United States Environmental Protection Agency (USEPA). Except for emergency repairs to existing infrastructure, a written plan (“Soil Disturbance Plan”) shall be developed and provided first for review by Rutgers and once

Rutgers' input is received and its comments are addressed, then provided to USEPA for approval prior to disturbing soils at the Site. If emergency repairs are necessary, USEPA and Ohio EPA shall be notified consistent with the requirements of the Consent Decree as set out in Section 3.2.

Soil, sediment, or cover system disturbance activities will likely be performed by outside contractors. The guidelines provided in this SMP shall be in addition to (not in place of) safe procedures to be utilized by the contractor. The party engaging in activities that disturb soils at the Site is responsible for the health and safety of their personnel and is required to develop a written Health and Safety Plan (HASP) per the requirements of 29 CFR 1910.120 Hazardous Waste Operations and Emergency Response (HAZWOPER) prior to the start of work.

## **2.0 BACKGROUND**

### **2.1 User and Work**

Parties operating under this SMP may include owners, purchasers, lessees, or developers of portion(s) of the Site, utility workers, or contractors working on the Site, and are referred to generally herein as the "USER". The USER is the party performing the actual work on the Site under this SMP. The "WORK" is the soil, sediment, or cover system disturbance activity to be performed by the USER.

### **2.2 Site History**

The former Nease facility covers approximately 44 acres located northwest of the City of Salem, Ohio, in northern Columbiana County, near the southern border of Mahoning County. For purposes of this SMP, the Site consists of a property on the north side of State Route 14 (also referred to as Benton Road), and a property on the west side of Allen Road as shown in Figure 1. The nominal street address of the Site is 1224 Benton Road. Railroad tracks divide the two properties and a natural gas pipeline cross the property. The CERCLIS Identification number for the Site is OHD980610018.

From 1961 until 1973, Nease Chemical Company produced chemicals at the Site such as household cleaning compounds, pesticides (including mirex), and chemical intermediates. In 1973, Nease Chemical Company ceased operations at the Site. In 1977, the Ruetgers Chemical Company acquired the Nease Chemical Company and formed the Ruetgers-Nease Chemical Company, which later changed its name to Rütgers Organics Corporation and then to Rutgers Organics LLC. Ruetgers Chemical Company and its successors never conducted manufacturing operations at the Site.

The primary contaminants of concern (COCs) for the Site are mirex in soil/sediment, and volatile organic compounds (VOCs) in groundwater. VOCs that have been detected at the Site include tetrachloroethene, trichloroethene, cis-1,2-dichloroethene, vinyl chloride, 1,1,2,2-tetrachloroethane, 1,2-dichloroethane, benzene, 1,2-dichlorobenzene, and chlorobenzene. Dense non-aqueous phase liquid (DNAPL) containing VOCs and semivolatile organic compounds (SVOCs) has also been identified in certain Site wells. Additional information regarding the COCs and potential risk exposure pathways is available in USEPA's Records of Decision for OU-2 and OU-3.

### **2.3 Remedial Action**

Construction of the soil/sediment remedy selected for the Site was completed in October 2019 in accordance with the Final Remedial Design Reports (FRDR) dated May 2017 and the Remedial Action Work Plan (RAWP), dated October 2018 and will be documented in the forthcoming Construction Completion Report. While the cleanup included removal of certain mirex contaminated soils/sediments, mirex concentrations in soil/sediment beneath cover systems remain above the Site-specific remediation goal of 1,000 ug/kg. Cover systems include low

permeability cover system and soil barriers cover systems that were constructed as part of the Remedial Action. In addition, they include soil barriers, pavement, and building slabs that were installed prior to the Remedial Action. These areas of the Site cover systems were installed over soil/sediment that exceeded the remediation goal are shown in Figure 1. Additional information regarding the Remedial Action, including the cover systems and groundwater monitoring and treatment infrastructure constructed at the Site, are available in the FRDR and RAWP. Additional information, including as-built drawings and Construction Specifications, will be documented in the forthcoming Construction Completion Report.

## 2.4 Cover Systems

This SMP addresses soil/sediment disturbances throughout the Site. However, the SMP has more stringent requirements for soil/sediment disturbances that affect cover systems. The locations of the cover systems are shown on Figure 1. A general description of each cover system is provided in Table 1. Additional information, including surveyed locations, and detailed specifications for the cover systems installed during Remedial Action are available in the FRDR and will be provided in the forthcoming the Construction Completion Report.

**Table 1: Cover System Types**

Cover System Type	Cover Description
Low Permeability Cover System	<ul style="list-style-type: none"> <li>■ 6-inches vegetative support layer</li> <li>■ 18-inches of fill</li> <li>■ 10 oz/sy nonwoven geotextile layer</li> <li>■ 50-mil combination drainage layer/ geomembrane</li> </ul>
Low Permeability Cover System – within stormwater features	<ul style="list-style-type: none"> <li>■ 18- to 24-inch riprap channel lining</li> <li>■ 10 oz/sy nonwoven geotextile layer</li> <li>■ 50-mil combination drainage layer/ geomembrane</li> </ul>
Feeder Creek Cover System	<ul style="list-style-type: none"> <li>■ 24-inch aggregate layer</li> <li>■ 8 oz/sy nonwoven geotextile demarcation layer</li> </ul>
18-Inch Soil Barrier Cover	<ul style="list-style-type: none"> <li>■ 6-inches vegetative support layer</li> <li>■ 12-inches of fill</li> <li>■ 8 oz/sy nonwoven geotextile demarcation layer</li> </ul>
Pre-Remedial Action Soil Barrier Cover	<ul style="list-style-type: none"> <li>■ 12 to 24-inches of soil</li> </ul>
Paved Areas	<ul style="list-style-type: none"> <li>■ Concrete pavement and slabs (unknown thickness)</li> </ul>
GWTS Building	<ul style="list-style-type: none"> <li>■ Concrete building slab (unknown thickness), concrete block foundation</li> </ul>

In the area of Former Ponds 1 and 2, to the west of the railroad, in-situ solidification/stabilization (ISS) was conducted and so a stabilized cement/bentonite/soil mass is present beneath the low permeability cover. In addition, DNAPL has been detected in certain monitoring wells constructed within the area of Low Permeability Cover west of the railroad; soils beneath the cover system in this area may contain residual DNAPL.

The soil barrier constructed over the southeastern portion of Former Pond 3 includes the components of the 18-inch Soil Barrier Cover System noted above; however, biaxial geogrid reinforcement was placed below the southeastern portion of the former Pond 3 soil barrier. The geogrid reinforcement was placed to aid the Remedial Action construction and is not a required component of the barrier system. USERS should be aware of its presence during excavations and take care to expose and cut the geogrid at excavation locations in this area. The geogrid reinforcement does not need to be repaired or replaced when the Soil Barrier Cover System is repaired.

As described in the OU-2 Pre-Design Investigation Report and the OU-2 Preliminary Design Report, the northeastern portion of Former Pond 3 and the area of Former Pond 4 were previously covered with at least 2 feet of soil that met the Site-specific remediation goal for mirex (1,000 µg/kg). These existing soil covers were incorporated as part of the remedy. The exact extent and thickness of these areas has not been surveyed and exact specifications are not available; USERS should exercise appropriate caution in these areas and ensure that soil cover systems are properly reinstated to at least a thickness of 2 feet.

## **3.0 PROJECT PLANNING**

### **3.1 Project Scoping**

Prior to the start of any project involving the disturbance of soils within the Site, the USER planning the WORK must determine whether the WORK will affect a cover system, what institutional controls and use limitations apply to the project area, and what hazards might be encountered by the workers implementing the activity. At a minimum the USER should consult this SMP, the ICIAP, and the Construction Completion Report during project scoping. If additional information is necessary, the User should consult the Site document repository (at USEPA's offices or the Salem Public Library) or contact Rutgers.

Before beginning the WORK, the USER must develop a written Soil Disturbance Plan and written Health & Safety (H&S) procedures.

### **3.2 Agency Approvals/Notifications**

#### **3.2.1 Planned Activities**

Before beginning WORK, the USER will develop a written Soil Disturbance Plan and H&S procedures that will be provided to Rutgers for review and comment two weeks prior to the USER's submission to the USEPA for approval. With the exception of emergency repairs to existing infrastructure, USEPA approval must be received prior to starting WORK.

In addition, permits for construction, excavation, storm water management, and other activities may be required by federal, state, or local agencies. The USER is required to identify and obtain the necessary permits, and no WORK may be performed by the USER until required permits, clearances and approvals are received from applicable regulatory and permitting authorities.

### 3.2.2 Emergency Repairs

If emergency repairs are needed to any public or private utilities or remedial systems to stabilize emergency situations or address an immediate threat to public health, welfare or the environment, the USER shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release.

In addition, the USER shall immediately notify the USEPA Project Coordinator and the Ohio EPA Project Coordinator or their alternates and Rutgers (see Table 2) via telephone. If none of these named persons are available, the USER shall notify the USEPA Region 5 Emergency Response Branch 24-hour telephone number and Ohio EPA's Spill Hotline.

For these emergency repairs, the USER may provide a Soil Disturbance plan via email that includes hand-drawn sketches that is transmitted to Rutgers, USEPA, and Ohio EPA simultaneously. Final updated drawings/figures showing the area of disturbance should be provided within 10 days of completion of the repair or other timeframe as approved by USEPA.

### 3.3 Soil Disturbance Plan

Prior to conducting any soil disturbance at the Site, during the planning stage, the USER must prepare a written Soil Disturbance Plan, and must include the following information related to the WORK and as further described in this SMP:

- Anticipated start date
- Exact location of the proposed soil disturbance
- Anticipated volume of soil, sediment, or cover system to be disturbed, including the quantity of underlying impacted soil to be disturbed, and approximate amount of soil which will not be returned to its original location
- Means and methods for completing the WORK, as applicable, but not limited to, proposed underground utility location procedures, dust control procedures, and erosion and sediment control procedures
- Means and methods for repairing and restoring the cover system, if the WORK will disturb a cover system
- Proposed temporary soil stockpile location and protection measures, including run-on and wash-off protections
- Characterization procedures for disturbed soil that will not be returned to the original location
- Source for soils to be imported, where applicable, and associated characterization information
- Proposed off- Site disposal facility, if necessary
- Safe excavation procedures that will be utilized to ensure the stability of the excavation and safety of all workers and the general public in connection with the excavation activity, if applicable

### 3.4 Site Access

Access to the Site is restricted by perimeter fencing with padlocked access gates. The main portion of the Site can be accessed via a gravel driveway and gate located at 1224 Benton Road (Ohio State Route 14) in Salem, Ohio. Access to the property to the south and west of the railroad is coordinated through Rutgers or their selected O&M contractor. Contact information for Rutgers and the current O&M contractor are provided in Table 2.

The eastern portion of the Site is located north of the railroad that bisects the property. The eastern portion of the Site can be accessed from Allen Road through the 1453 Allen Road property, currently operated by MAC Trailer Manufacturing Inc. (MAC Trailer). The access gate is located south of the 1453 Allen Road building along the western property line. Rutgers has permission to access the MAC Trailer property; however, notifications must be made prior to transiting through the MAC Trailer property. Contact information is provided in Table 2.

### **3.5 Coordination with Remedial Action Operations and Maintenance**

Activities by any USER must also be consistent with current Operation and Maintenance (O&M) activities at the Site. The USER must coordinate construction and soil handling activities with Rutgers and with the company selected by Rutgers to perform O&M at the Site. Contact information for the current O&M Contractor is provided in Table 2.

## **4.0 HEALTH AND SAFETY**

The impacted soils and the VOCs contained in soil and groundwater below the cover systems present a potential hazard to the USER and workers performing intrusive activities on the Site. All USERS and their subcontractors are responsible for the health and safety of their own personnel and should prepare a written Site-specific Health and Safety Plan (HASP) per the requirements of 29 CFR 1910.120 Hazardous Waste Operations and Emergency Response (HAZWOPER) prior to beginning work. USER and their subcontractors shall comply with all State, Federal and local health and safety requirements.

### **4.1 Training**

All personnel involved in intrusive activities at the Site must be 40-hour trained in accordance with OSHA regulations found at 29 CFR 1910.120 covering Hazardous Waste Operations and Emergency Response (HAZWOPER). In addition, all workers involved in excavation work must receive formal training on the hazards and protective measures involved with this type of work. Written documentation of current training must be provided as requested by USEPA, Ohio EPA and Rutgers.

### **4.2 Air Monitoring**

Air monitoring for VOCs should be performed during all intrusive tasks. USERS must develop a monitoring schedule and action levels for upgrading personal protective equipment (PPE) based on VOC concentrations and OSHA guidance.

### **4.3 Dust**

Nuisance dust must be avoided during intrusive activities such as drilling and excavation. Mirex and other organic compounds are present in Site soils and may be present in dust generated during Site activities. USER must develop a dust control plan to avoid dust generation during intrusive activities as part of its Soil Disturbance Plan.

### **4.4 Utilities**

The Site contains known gas lines, water lines, and electric lines. At a minimum, prior to the start of any excavation USER shall contact Ohio Utilities Protection Service (OUPS) One Call System (8-1-1) to locate and mark out all utilities. Ground disturbance activities shall not occur until One Call confirmation is concluded. When excavation operations approach the estimated location of underground installations, the exact location of the installations shall be determined by safe and acceptable means, such as ground penetrating radar (GPR) or soft-dig procedures. While the excavation is open, underground utilities shall be protected, supported, or removed

as necessary to safeguard employees. Additional procedures to protect the Blue Racer Midstream (BRM) gas line are provided in Section 4.4.1

All overhead lines are to be treated as if they are energized unless de-energized by the local utility.

#### 4.4.1 Blue Racer Midstream Gas Line

The Blue Racer Midstream (BRM) gas pipeline is a high-pressure natural gas transmission pipeline present at the Site that runs below cover systems and the Site access road, at various depths. The gas pipeline corridor is bounded by a 30-foot easement (approximately) on each side from centerline of the pipeline. The gas pipeline is marked by above ground signs (similar to the image the below) on yellow posts, to provide an indication of the presence, location, product carried and the name and contact information of the company that operates the pipeline.

In addition to the One Call submittal, the USER must notify BRM a minimum of 48 hours prior to any disturbance within the easement. BRM contact information is included on Table 2.

No excavation within the BRM easement shall be performed without a BRM representative present, or without prior permission granted. BRM representatives may require additional procedures to protect the gas transmission pipeline.

## 4.5 Rail Safety

USER shall be aware of the dangers of working near railways. USER shall not access the railroad right-of-way (ROW) or stand or walk on the railroad tracks. User shall not cross tracks except at designated public crossing areas. If any WORK activities are proposed to occur within 50 feet of the track, railroad-specific safety practices are to be employed including, but not limited to, provisions of qualified flag persons acceptable to the Railroad.

USER shall contact the Norfolk Southern Office of the Chief Engineer prior to relevant-construction projects, and no activities shall be performed within the railroad ROW without prior permission granted. Contact information for Norfolk Southern is provided in Table 2.



## 4.6 Other On-Site Features

USER shall be aware of and should avoid any disturbance of groundwater monitoring wells and groundwater treatment infrastructure (above and below grade). They should also be aware of the presence of VOCs and DNAPL in groundwater and take appropriate actions to protect workers and the environment from any potential exposure to groundwater contaminants.

## 5.0 SOIL MANAGEMENT PROCEDURES

### 5.1 Surveying

USER shall perform surveying prior to and following any proposed soil, sediment, or cover system disturbance to verify established grades and contours. Surveying shall be performed by a surveyor licensed in the State of Ohio. Locations will be surveyed to establish State Plane Coordinates and North American Vertical Datum elevations in accordance with the Construction Specifications.

## 5.2 Protection of Existing Features

USER shall plan and execute the WORK so as to prevent damage to existing structures, minimize traffic inconvenience, minimize disturbance of high-value habitats such as wetlands, and provide safe working conditions. Any unavoidable disturbance (including but not limited to landscaping, vegetation, etc.) shall be fully restored to Rutgers satisfaction.

## 5.3 Erosion and Sediment Control

Prior to the start of any soil disturbance activities, USER shall install any temporary soil erosion and sediment controls required. USER shall provide all materials and shall promptly take all actions necessary to achieve effective erosion and sediment control in accordance with all applicable local, State, and Federal agency guidelines.

## 5.4 Clearing and Grubbing

If any clearing and grubbing is required prior to soil disturbance activities, USER shall observe all required prohibition periods so as to not disturb the natural riparian habitat of the local Indiana Bat and Northern Long-eared Bat and any other protected species. Cleared vegetative debris shall be transported and disposed off-Site at a disposal facility pre-approved by Rutgers.

## 5.5 Excavation/Drilling

USER shall review the Construction Completion Report to determine the cover system type and any groundwater or other remediation infrastructure in proximity to the proposed soil disturbance. For excavation/drilling in cover system areas, the USER shall segregate soil encountered above the demarcation and/or geotextile layer, as applicable. These soils shall be assumed suitable for reuse as backfill above the demarcation and/or geotextile layer.

If the excavation/drilling is proposed to advance deeper than the cover system including any demarcation and/or geotextile layer, USER shall excavate down to and cut the underlying geosynthetic layers. Soils encountered below the cover system, shall be removed and stockpiled on sheeting so as to prevent cross-contamination of clean areas. Stockpiled materials not proposed to be re-used under the reinstated cover system, shall be covered and secured until they are characterized, and transported and disposed of off-site. These soils may also be placed in an approved DOT shipping container.

Following completion of the below cover system WORK, USER shall backfill the area and fully reinstate the cover system including geosynthetic materials. New materials and installation methods used to repair cover systems shall meet the original specifications provided in the Construction Specification. Repairs to low-permeability geosynthetic liner systems shall be completed by a qualified liner contractor/installer and certified by the USER or their qualified liner contractor/installer. Materials above the geosynthetics shall be replaced to original grades and vegetation shall be restored to the conditions depicted in the as-built drawings.

Any disturbance to the pre-Remedial Action soil covers in Former Ponds 3 and 4 shall adhere to the same principles to ensure at least 2 feet of soil cover over all potentially impacted materials, and paved areas shall be re-paved with equivalent materials.

## 5.6 Soil Importation

If additional soil/fill is required to complete any WORK at the Site, all soils imported to the Site will come from a clean source and meet Ohio DOT backfill requirements. For all WORK, the soil/fill will undergo appropriate geotechnical and chemical testing as described in the Construction Specifications. The USER will submit the source of the soil/fill and soil/fill results to Rutgers for review and comment prior to sending to USEPA for approval. Prior to Agency approval, the USER will not be permitted to bring the imported soil/fill to the Site.

## 5.7 Liquids Management

USER shall take precautions to minimize water accumulation in any excavated and/or open area, using diversions or other drainage controls. Any liquids generated during soil disturbance should be managed to prevent contact with ground surface. Discharge of any potentially contaminated groundwater or other liquids to adjacent surface waters or ground surface will not be allowed.

Liquids removed from the subsurface shall be contained in approved DOT shipping containers and shall be characterized, transported, and treated/disposed off-Site in accordance with Section 5.9 and all applicable federal, state, and local requirements.

## 5.8 Decontamination

Equipment, tools, and personnel associated with excavation, drilling, stockpiling, and/or conveyance of potentially impacted soil, liquids, construction debris and other materials shall undergo decontamination. The details of decontamination activities shall be tailored to the planned activity and specific location on-Site and shall be described in the Soil Disturbance Plan provided to Rutgers for review and USEPA for approval.

Any liquid generated during decontamination, such as water resulting from equipment decontamination, shall be containerized, and then characterized, transported, and treated/disposed off-Site in accordance with Section 5.9 and all applicable federal, state, and local requirements.

## 5.9 Waste Management and Disposal

Environmental media at the Site, particularly those located beneath cover systems, may contain COCs. In particular, DNAPL and groundwater should be managed as a characteristically hazardous waste until analytical data demonstrating that the waste is non-hazardous has been obtained. Characterizations based solely on Site knowledge must be fully documented by the USER.

Potentially contaminated wastes generated during soil disturbance activities, including but not limited to excess soil, containerized liquids, and personal protective equipment, shall be characterized and classified prior to off-Site disposal. If the wastes cannot be classified based on existing data, at a minimum, the following analyses will be performed:

- Toxicity Characteristic Leaching Procedure (TCLP) VOCs
- TCLP SVOCs
- TCLP metals
- Total mirex

Other analyses may be necessary, as required by the proposed disposal facility. USER shall be fully responsible as generator and arranger for all waste materials temporarily managed onsite and disposed off-site and shall

properly prepare and execute all associated waste profiles, manifests, and transportation and disposal documentation. This requirement includes obtaining a USEPA ID number for offsite disposal of any applicable waste. Rutgers shall be informed of all proposed disposal facilities prior to use and USEPA's written approval of all proposed disposal facilities shall be obtained prior to waste leaving the Site. Rutgers has no obligation to reply to any notice of disposal location, and any "no reply" should not be taken as approval of the disposal practices or disposal facility.

## 6.0 RECORDS/REPORTING

Following completion of the WORK, the USER will document the final condition of the Site and provide a written summary of the WORK to Rutgers for review and comment. For WORK involving cover system disturbance, the written summary will be provided to Rutgers for review and comment, and Rutgers' comments shall be addressed prior to the USER's submission to the USEPA. The summary will include as-built drawings of the completed WORK, including survey information, as appropriate. The summary will also include the quantity of impacted soil below cover systems that was disturbed, photographs documenting soil disturbance activities and the final condition at the completion of the WORK. If low permeability liner systems are disturbed, the summary will include appropriate certification of the repair work.

## 7.0 REFERENCES

Golder 2007. Baseline Conditions Technical Memorandum, Operable Unit Two (OU-2), RUTGERS Organics Corporation, Nease Chemical Site, Salem, Ohio – Revision 1. Golder Associates, June 2007.

Golder 2011. Preliminary Remedial Design Report, Operable Unit Two (OU-2), Former Nease Chemical Site, Salem, Ohio. Golder Associates, October 2011.

Golder, 2017a. Final Remedial Design Report, Operable Unit 2 (OU-2), Former Nease Chemical Site, Salem Ohio, Golder Associates Inc., May 2017.

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Golder, 2018. Remedial Action Work Plan (RAWP) Phase 2 Activities Operable Unit 2 (OU-2) and Operable Unit 3 (OU-3), Former Nease Chemical Site, Salem Ohio, Golder Associates Inc., October 2018.

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<sup>1</sup> The reference for the forthcoming Construction Completion Report will be updated following USEPA approval.

**Table 2: Contact Information**

Company	Individual	Address	Phone Number
Rutgers Organics LLC	Andrew Kruczek	2 Turner Place Piscataway, New Jersey 08855, USA <a href="mailto:andrew.kruczek@evonik.com">andrew.kruczek@evonik.com</a>	(732) 735-0204
O&M Contractor: Golder Associates Inc.	Joseph Gormley	200 Century Parkway, Suite C Mt. Laurel, New Jersey, 08034 <a href="mailto:Joseph_Gormley@golder.com">Joseph_Gormley@golder.com</a>	(856) 793-2005
MAC Trailer	Ron Marling	1453 Allen Road Salem, Ohio 44460	(330) 933-8207
Norfolk Southern Emergency Number			(800) 453-2530
Norfolk Southern Corporation	Office of Chief Engineer Bridges & Structures	Norfolk Southern Corporation 1200 Peachtree Street NE Internal Box #142 Atlanta, Georgia 30309	
USEPA Project Coordinator	Dion Novak	<a href="mailto:Novak.dion@epa.gov">Novak.dion@epa.gov</a> USEPA Region 5 77 West Jackson Boulevard Chicago, Illinois	(312) 886-4737
Ohio EPA Project Coordinator	Michael Bolas	Northeast District Office 2110 E. Aurora Road Twinsburg, OH 44087-1924 <a href="mailto:Michael.Bolas@epa.ohio.gov">Michael.Bolas@epa.ohio.gov</a>	(330) 963-1109
Ohio EPA Alternate Project Coordinator	Sheila Abraham	Northeast District Office 2110 E. Aurora Road Twinsburg, OH 44087-1924 <a href="mailto:Sheila.Abraham@epa.ohio.gov">Sheila.Abraham@epa.ohio.gov</a>	(330) 963-1290
<b>Utilities Contacts</b>			
Ohio Utilities Protection Service (OUPS) One Call System			(800) 362-2764
Blue Racer Midstream Gas Control			(800) 300-3333
Columbia Gas of Ohio Emergency Number			(800) 344-4077
Local Electric Utility: FirstEnergy Corp			888-LIGHTSS (888) 544-4877
Local Water Utility: Salem Utilities Dept			(330) 337-7267
<b>Additional Emergency Contacts</b>			
Perry Township Police			(330) 332-1000
Perry Township Fire Department			(330) 332-3000

Company	Individual	Address	Phone Number
Salem County Sheriff			(330) 424-7255
Ohio State Highway Patrol			(330) 424-7783
USEPA Region 5 Regional Duty Officer (Emergency Response)			(312) 353-2318
Ohio EPA (Emergency Response)			(800) 282-9378
Ohio EPA Twinsburg (District Office)			(330) 963-1200
Salem County Health Department			(330) 332-1618

[https://golderassociates.sharepoint.com/sites/125697/project files/6 deliverables/fciap/soil mgmt/nease final soil management plan epa approved\\_052620.docx](https://golderassociates.sharepoint.com/sites/125697/project%20files/6%20deliverables/fciap/soil%20mgmt/nease%20final%20soil%20management%20plan%20epa%20approved_052620.docx)





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