

BEFORE THE MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

Order No.

VS.

HERCULES INCORPORATED
Hercules Plaza
1313 North Market Street
Wilmington, DE 19894-0001

RESPONDENT

RESTRICTIVE USE AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission) and Hercules Incorporated (Respondent) in the above captioned cause agree as follows:

1. The purpose of this Restrictive Use Agreed Order is to protect human health and the environment by restricting the use and activities on the Site described below.
2. The Respondent owns a tract of land located in Hattiesburg, MS, known as the "Hercules Incorporated Plant" and hereafter referred to as the "Site." Exhibit A is a survey plat depicting the boundaries of the Site. A legal description of the Site is attached as Exhibit B.
3. Soils and ground water on the Site contain Benzene (CAS #71432), Chlorobenzene (CAS #108907), Carbon Tetrachloride (CAS #56235), Chloroform (CAS #67663), 1,2-Dichloroethane (CAS #107062) and Toluene (CAS #105553) at levels in excess of the Target Remediation Goals (TRGs) as established by the Mississippi Department of Environmental Quality (MDEQ).
4. The staff of the Commission has evaluated this Restrictive Use Agreed Order and believes once the requirements of it have been completed that (1) the Site will be protective of the public health and the environment and (2) no further corrective action will be required at this time.
5. The following is a description of all restrictions and requirements relating to the Site:

- (a) There shall be no excavating, drilling, or other activities that could create exposure to contaminated media without prior approval from MDEQ.
- (b) The groundwater at the Site shall not be used without prior approval from MDEQ;
- (c) Monitoring wells at the Site shall be protected and maintained. In the event that a monitoring well is destroyed or damaged or is no longer necessary, a plan for repair, reinstallation or abandonment of the well(s) must be submitted to MDEQ for approval within 30 days after a well is destroyed or damaged; or proposed for abandonment.
- (d) No wells shall be installed without prior approval from MDEQ;
- (e) All required groundwater monitoring shall be conducted as described in the approved Compliance Monitoring Plan, page 12 of the Corrective Action Plan Revision 01 dated January 20, 2005, unless otherwise approved by MDEQ;
- (f) All required corrective action shall be conducted as described in the approved Corrective Action Plan Revision 01, dated January 20, 2005, unless otherwise approved by MDEQ;
- (g) Any necessary corrective action required following completion of the Corrective Action Plan Revision 01 in (f) above shall be implemented as described in the approved Contingency Plan, page 15 of the Corrective Action Plan Revision 01 dated January 20, 2005, unless otherwise approved by MDEQ;
- (h) A sign of a size, shape, construction, and layout approved by MDEQ, shall be posted at the physical location of the Site and shall read as follows:

STOP – CALL BEFORE YOU DIG
(601) 961-5171

Request to Speak with Someone in Assessment Remediation Branch
Regarding Site 40470039

- (i) All required institutional controls shall be implemented;
- (j) Continuous Financial Assurance in an amount sufficient, and in a form acceptable to the MDEQ to implement the Contingency Plan, page 15 of the Corrective Action Plan Revision 01 dated January 20, 2005, shall be available, unless waived by MDEQ. Cost estimates and duration may be adjusted on a periodic basis with the approval of MDEQ; and

- (k) Beginning on October 31, 2008, and annually thereafter, Respondent shall submit certification in a form required by MDEQ that all the requirements listed in #5 (a) through (j) have been maintained. The annual certification must include a list of all surface owners and leaseholders of the Site.
6. The Respondent shall restrict the Site to non-residential use which would also exclude schools, parks, day care facilities, or similar facilities where children are present. Hercules may petition the MDEQ to remove or modify the restrictions upon showing satisfactory to the MDEQ that it has satisfied the applicable requirements, and the MDEQ may impose conditions upon its approval as may be necessary to protect the public health and the environment in light of the proposed change in use.
 7. Respondent shall retain responsibility for the requirements listed in #5 above, until the Commission approves the transfer of those responsibilities to another party (e.g., the prospective purchaser) by entering into an Agreed Order with the other party.
 8. Prior to any change in use of the Site or any portion of the Site, written notice shall be given to and approval obtained from the MDEQ.
 9. Written notice must be provided to MDEQ 30 days prior to any property transaction involving the Site. Any conveyance must contain as covenants the requirements listed in #5 and 6 with a statement that the covenants run with the land and continue into perpetuity unless otherwise ordered by the Commission.
 10. Within thirty (30) days after execution of this Restrictive Use Agreed Order, Respondent shall file the Restrictive Use Notice, as approved by MDEQ, in the office of the Chancery Clerk of Forrest County for recording onto the land deed records in the appropriate sectional index. The Restrictive Use Notice can be amended by consent of the Parties as necessary to meet the filing requirements of the county.
 11. Within thirty (30) days after return by the Chancery Clerk of the Restrictive Use Notice after filing, the Respondent is required to submit to MDEQ certification signed by the Chancery Clerk of Forrest County that the Restrictive Use Notice has been filed, which indicates the date of such filing.
 12. Nothing in this Restrictive Use Agreed Order shall be construed to convey or determine any interest in property.
 13. Nothing in this Restrictive Use Agreed Order shall be construed to be an allocation of costs or an indemnification by the State, MDEQ, or the Commission.

Restrictive Use Agreed Order
Hercules, Inc.
Page 4 of 5

14. Nothing in this Restrictive Use Agreed Order shall limit the rights of the MDEQ or the Commission in the event Respondent fails to comply with this Restrictive Use Agreed Order. The Restrictive Use Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.
15. Nothing contained in this Restrictive Use Agreed Order shall limit the rights of Complainant to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations, nor shall Respondent be limited in any way in its response to any such enforcement or other actions by Complainant.
16. This Restrictive Use Agreed Order does not resolve any issues regarding liability and/or penalties for any violation of any federal and/or state order, permit, law, rule and/or regulation. The Commission specifically reserves any such action and Respondent reserves all defenses and counter claims relating to any such action.
17. Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Section 49-17-31 (Rev. 2003), and that it has made an informed waiver of that right.

So ORDERED and AGREED, this the _____ day of _____, 2007.

Trudy D. Fisher
Executive Director
Mississippi Commission on
Environmental Quality

AGREED, this the _____ day of _____, 2007.

BY: _____

TITLE: _____

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, on this the _____ day of _____, 2007 within my jurisdiction, the within named _____ acknowledged that (he)(she) is _____ of Hercules Incorporated, a Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed (he)(she) executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

SWORN TO AND SUBSCRIBED BEFORE ME, this the _____ day of _____, 2007.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

Exhibit A

Survey plat depicting the boundaries of the Site

Exhibit B

Legal description of the Site

Legal description of Site

A description for a parcel situated in Sections 4 and 5, Township 4 North, Range 13 West Forrest County, Mississippi; said parcel being illustrated as parcel 1 on survey plat for Hercules Incorporated by Land Management Services & Mapping, LLC and being more particularly described by metes and bounds as follows:

Commencing at a Railroad Spike Found at the NW Corner of Said Section 4 said point having a Mississippi NAD 83 State Plane Coordinate of North: 671932.60' East: 834200.91' and thence run S01°48'08"W 243.97', to a metal pipe found on the south right-of-way line of Mississippi Highway 42 for the Point of Beginning; thence leaving said south right of way line run S01°32'45"W 1,065.16', to a wood fence post found; thence run N88°48'08"W 1,318.98', to a wood fence post found; thence run S01°48'01"W 796.25', to a concrete monument found; thence run S89°40'54"E 1,422.86', to a concrete monument found; thence run S00°21'17"W 129.67', to a concrete monument found; thence run S89°39'18"E 144.76', to a concrete monument found; thence run S00°14'56"W 429.44', to a concrete monument found; thence run S89°52'14"E 1,237.65', to a metal fence post found; thence run S00°54'06"W 1,298.93', to an X-Cut set in concrete on the north right-of-way line of West 7th Street, said street having a 40' right-of-way as per the City of Hattiesburg; thence run along said north right-of-way N89°54'34"E 267.43', to a PK nail set, thence leaving said north right-of-way run; N00°03'00"E 190.92', to a PK nail set; thence run S89°02'44"E 189.42', to a PK nail set; N00°03'00"E 51.37', to a PK nail set; thence run S89°02'44"E 469.81', to an iron pin set; thence run S00°01'08"W 230.27', to an X-Cut set in concrete on the north right-of-way of said 7th street; thence run along said north right-of-way N89°54'34"E 654.88', to a PK nail set at the intersection of the said north right-of-way line and the west right-of-way line of Providence Street, said Providence Street having a 60' right-of-way as per the City of Hattiesburg; thence leaving said north right-of-way line run along said west right-of-way line N00°03'42"W 1,290.00', to an iron pin set; thence continue along said west right-of-way line N89°54'34"E 10.00', to an iron pin set; thence continue along said west right-of-way N00°04'39"W 817.15', to a PK nail set at the intersection of the west right-of-way of said Providence street and the south right-of-way line of Mississippi Highway 42 as per FAP U-008-2(1); thence leaving said west right-of-way line run along said south right-of-way N78°17'33"W 366.13', to an iron pin set; thence continue along said south right-of-way as per PWS Docket # 1043R-71A-EXT S11°42'03"W 10.00' to a concrete right-of-way marker marking the point of curve of a non tangent curve to the right, having a chord bearing of N74°51'58"W, 233.23', and a radius of 1947.42'; thence continue along said south right-of-way westerly along the arc, through a central angle of 06°51'58", a distance of 233.38, to an iron pin set; thence leaving said south right-of-way run S00°00'01"W 103.94', to a fence corner found; thence run West 100.00', to an iron pin set;

thence run N00°31'30"W 113.09', to a metal pipe found; thence run East 74.46' to a PK nail set on the aforementioned south right-of way of Highway 42, said point marking the point of curve of a non tangent curve to the right, having a chord bearing of N68°09'32"W, 166.32', and a radius 1,947.42'; thence run along said south right-of-way westerly along the arc, through a central angle of 04°53'41", a distance of 166.37', to an iron pin set; thence leaving said south right-of-way run South 42.85', to an iron pin set; thence run West 50.00', to an iron pin set; thence run North 50.00', to an iron pin set; thence run West 75.00', to a concrete monument found; thence run North 54.74', to an iron pin set on the south right-of-way line of said Highway 42, said point marking the point of curve of a non tangent curve to the right having a chord bearing of N58°38'21"W, 201.65', and a radius of 1,947.42'; thence run along said south right-of-way northwesterly along the arc, through a central angle of 05°56'08", a distance of 201.74', to a right-of-way marker found; thence continue along said south right-of-way N55°42'47"W 145.58', to an iron pin set; thence continue along said south right-of-way S34°06'38"W 20.11', to an iron pin set; thence continue along said south right-of-way thence run N55°40'42"W 230.37'; thence continue along said south right-of-way S34°19'18"W 20.00', to an iron pin set; thence continue along said south right-of-way N55°40'37"W 570.29', to a right-of-way marker found; thence continue along said right-of-way N55°41'30"W 500.40', to a right-of-way marker found; thence continue along said north right-of-way N33°58'28"E 29.85', to a right-of-way marker found; thence continue along said north right-of-way N55°46'04"W 245.07', to a right-of-way marker found marking the point of curve of a non tangent curve to the left, having a chord bearing of N61°50'00"W, 603.00', and a radius of 2,808.94'; thence continue along said south right-of-way northwesterly along the arc, through a central angle of 12°19'25", a distance of 604.16' back to the Point of Beginning; containing 168.81 acres, more or less; all bearings, coordinates, and distances herein described are grid and are referenced to the west property line and are based on the Mississippi NAD 83 East Zone state plane coordinate system and are referenced to the national spatial reference system through the national geodetic survey's online positioning user service (opus) and are derived from a global positioning system observation. (combined grid factor: 0.99997116; convergence: -0°14'45").

Mississippi Department of Environmental Quality

NOTICE OF LAND USE RESTRICTIONS

A Restrictive Use Agreed Order has been developed with regard to property located at 613 West 7th Street, Hattiesburg, MS as shown as Parcel 1 in the attached survey plat, Exhibit "A". This property, hereafter referred to as the "Site," is situated in Sections 4 and 5, Township 4, Range 13 West, Forrest County, Mississippi, and being more particularly described by metes and bounds as follows, to-wit:

"A description for a parcel situated in Sections 4 and 5, Township 4 North, Range 13 West Forrest County, Mississippi; said parcel being illustrated as parcel 1 on survey plat for Hercules Incorporated by Land Management Services & Mapping, LLC and being more particularly described by metes and bounds as follows: Commencing at a Railroad Spike Found at the NW Corner of Said Section 4 said point having a Mississippi NAD 83 State Plane Coordinate of North: 671932.60' East: 834200.91' and thence run S01°48'08"W 243.97', to a metal pipe found on the south right-of-way line of Mississippi Highway 42 for the Point of Beginning; thence leaving said south right-of-way line run S01°32'45"W 1,065.16', to a wood fence post found; thence run N88°48'08"W 1,318.98', to a wood fence post found; thence run S01°48'01"W 796.25', to a concrete monument found; thence run S89°40'54"E 1,422.86', to a concrete monument found; thence run S00°21'17"W 129.67', to a concrete monument found; thence run S89°39'18"E 144.76', to a concrete monument found; thence run S00°14'56"W 429.44', to a concrete monument found; thence run S89°52'14"E 1,237.65', to a metal fence post found; thence run S00°54'06"W 1,298.93', to an X-Cut set in concrete on the north right-of-way line of West 7th Street, said street having a 40' right-of-way as per the City of Hattiesburg; thence run along said north right-of-way N89°54'34"E 267.43', to a PK nail set, thence leaving said north right-of-way run; N00°03'00"E 190.92', to a PK nail set; thence run S89°02'44"E 189.42', to a PK nail set; N00°03'00"E 51.37', to a PK nail set; thence run S89°02'44"E 469.81', to an iron pin set; thence run S00°01'08"W 230.27', to an X-Cut set in concrete on the north right-of-way of said 7th street; thence run along said north right-of-way N89°54'34"E 654.88', to a PK nail set at the intersection of the said north right-of-way line and the west right-of-way line of Providence Street, said Providence Street having a 60' right-of-way as per the City of Hattiesburg; thence leaving said north right-of-way line run along said west right-of-way line N00°03'42"W 1,290.00', to an iron pin set; thence continue along said west right-of-way line N89°54'34"E 10.00', to an iron pin set; thence continue along said west right-of-way N00°04'39"W 817.15', to a PK nail set at the intersection of the west right-of-way of said Providence street and the south right-of-way line of Mississippi Highway 42 as per FAP U-008-2(1); thence leaving said west right-of-way line run along said south right-of-way N78°17'33"W 366.13', to an iron pin set; thence continue along said south right-of-way as per PWS Docket # 1043R-71A-EXT S11°42'03"W 10.00' to a concrete right-of-way marker marking the point of curve of a non tangent curve to the right, having a chord bearing of N74°51'58"W, 233.23', and a radius of 1947.42'; thence continue along said south right-of-way westerly along the arc, through a central angle of 06°51'58", a distance of 233.38, to an iron pin set; thence leaving said south right-of-way run S00°00'01"W 103.94', to a fence corner found; thence run West 100.00', to an iron pin set; thence run N00°31'30"W 113.09', to a metal pipe found; thence run East 74.46' to a PK nail set on the aforementioned south right-of-way of Highway 42, said point marking the point of curve of a non tangent curve to the right, having a chord bearing of N68°09'32"W, 166.32', and a radius 1,947.42'; thence run along said south right-of-way westerly along the arc, through a central angle of 04°53'41", a distance of 166.37', to an iron pin set; thence leaving said south right-of-way run South 42.85', to an iron pin set; thence run West 50.00', to an iron pin set; thence run North 50.00', to an iron pin set; thence run West 75.00', to a concrete monument found; thence run North 54.74', to an iron pin set on the south right-of-way line of said Highway 42, said point marking the point of curve of a non tangent curve to the right having a chord bearing of N58°38'21"W, 201.65', and a radius of 1,947.42'; thence run along said south right-of-way northwesterly along the arc, through a central angle of 05°56'08", a distance of 201.74', to a right-of-way marker found; thence continue along said south right-of-way N55°42'47"W 145.58', to an iron pin set; thence continue along said south right-of-way S34°06'38"W 20.11', to an iron pin set; thence continue along said south right-of-way thence run N55°40'42"W 230.37'; thence continue along said south right-of-way S34°19'18"W 20.00', to an iron pin set; thence continue along said south right-of-way N55°40'37"W 570.29', to a right-of-way marker found; thence continue along said right-of-way N55°41'30"W 500.40', to a right-of-way marker found; thence continue along said north right-of-way N33°58'28"E 29.85', to a right-of-way marker found; thence continue along said north right-of-way N55°46'04"W 245.07', to a right-of-way marker found marking the point of curve of a non tangent curve to the left, having a chord bearing of N61°50'00"W, 603.00', and a radius of 2,808.94'; thence continue along said south right-of-way northwesterly along the arc, through a central angle of 12°19'25", a distance of 604.16' back to the Point of Beginning; containing 168.81 acres, more or less; all bearings, coordinates, and distances herein described are grid and are referenced to the west property line and are based on the Mississippi NAD 83 East Zone state plane coordinate system and are referenced to the national spatial reference system through the national geodetic survey's online positioning user service (opus) and are derived from a global positioning system observation. (combined grid factor: 0.99997116; convergence: -0°14'45")."

STATE OF MISSISSIPPI

COUNTY OF FORREST

Soil and groundwater on the Site contains Benzene (CAS #71432), Chlorobenzene (CAS #108907), Carbon Tetrachloride (CAS #56235), Chloroform (CAS #67663), 1,2-Dichloroethane (CAS #107062) and Toluene (CAS #105553) at levels in excess of the Target Remediation Goals (TRGs) as established by the Mississippi Department of Environmental Quality (MDEQ). Other substances are present in the soil and groundwater that do not exceed TRGs have also been identified. In order to protect public health and the environment, certain restrictions are hereby placed on the Site.

The following is a listing of all restrictions for the Site:

1. There shall be no excavating, drilling or other activities to depths that could create exposure to contaminated media without approval from MDEQ;
2. The groundwater at the Site shall not be used, unless otherwise approved by MDEQ;
3. Monitoring wells shall be protected and maintained. In the event that a monitoring well is destroyed or damaged or is no longer needed, a plan for repair, reinstallation or abandonment of the well(s) must be submitted to MDEQ for approval; and
4. No wells shall be installed without prior approval from MDEQ.

Prior to executing any deed or other instrument conveying an interest in the Site, the following conditions must be met:

1. Any conveyance of the property, or any portion thereof, must contain as covenants the restrictions listed above with a statement that the covenants run with the land and continue into perpetuity unless otherwise ordered by the Mississippi Commission on Environmental Quality;
2. Notice must be provided to MDEQ at least 30 days prior to any property transaction involving the Site; and
3. Prior to any change in use of the Site or any portion thereof, notice shall be given to the MDEQ.

This Notice may be executed in counterparts.

The parties that have a legal or equitable surface interest in the Site follow:

1. Hercules Incorporated

Executed, this the _____ day of _____, 2007.

BY: _____

TITLE: _____

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, on this the _____ day of _____, 2007 within my jurisdiction, the within named _____ acknowledged that (he)(she) is _____ of Hercules Incorporated, a Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed (he)(she) executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

SWORN TO AND SUBSCRIBED BEFORE ME, this the _____ day of _____, 2007.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

Exhibit A

Survey plat depicting the boundaries of the Site



RWilliams@Herc.com
09/25/2007 09:12 AM

To Trey_Smith@deq.state.ms.us
cc CJordan@Herc.com, JFaulstich@Herc.com,
THassett1@Herc.com, Willie_McKercher@deq.state.ms.us,
KKendrick@Herc.com

bcc

Subject Re: Hercules - Hattiesburg, MS - Steps to wrap up the Order
and Notice

Trey:

We understand that Safeco is OK with the bond as we have modified it. We were trying to figure out what the next steps were.

I think all that is left is to take one more look at the Order and the Deed Notice and make sure they are satisfactory.

I have made a few minor changes to the drafts you last saw to include the property description from the survey and other identifying information.

My understanding is that the Notice and Order apply to the main plant site and not the office building (parcel 2 on the survey) or the property holding the large tank across the street (which is not on the survey).

I will send the electronic files for the Notice and Order separately since they are big files and may have trouble getting through on your email. Please let me know if you don't receive them.

I am available if you have any questions, comments or suggestions about how better to bring this matter to conclusion.

Best regards,

Rich

Richmond L. Williams
Chief Counsel, SHERA
Hercules Incorporated
Office: 302-594-7020
Fax: 302-594-7038 or 302-594-7315
Cell: 302-598-9258

Trey_Smith@deq.state.ms.us

08/20/2007 02:35 PM

To RWilliams@Herc.com
cc CJordan@Herc.com, JFaulstich@Herc.com, THassett1@Herc.com,

Willie_McKercher@deq.state.ms.us
Subject Re: Hercules - Hattiesburg, MS - Call this AM 10:00 EST

The changes are consistent with our discussion. Thanks for your help. We look forward to hearing about Safeco's position.

Thanks

Trey

RWilliams@Herc.com
m

08/20/2007 01:16
PM

Trey_Smith@deq.state.ms.us

To

cc

CJordan@Herc.com,
JFaulstich@Herc.com,
THassettl@Herc.com,
Willie_McKercher@deq.state.ms.us
Subject
Re: Hercules - Hattiesburg, MS -
Call this AM 10:00 EST

Trey:

Thank you for calling me today. Attached is the document that I believe reflects the changes we discussed. If this document is acceptable, please let me know and we will send the document on to Safeco for its reaction.

Best regards,

Rich

Richmond L. Williams

Chief Counsel, SHERA
Hercules Incorporated
Office: 302-594-7020
Fax: 302-594-7038 or 302-594-7315
Cell: 302-598-9258

Trey_Smith@deq.st
ate.ms.us

08/09/2007 11:49
AM

RWilliams@Herc.com

To

cc

CJordan@Herc.com, JFaulstich@Herc.com,
THassett1@Herc.com,
Willie_McKercher@deq.state.ms.us

Subject

Re: Hercules - Hattiesburg, MS - Call this
AM 10:00 EST

Rich:

We are in the process of reviewing the language and I am guardedly optimistic that these changes will be approved by all on my end. It is my hope to have this thing finalized by tomorrow, if not the first of next week.

Thanks

Trey

RWilliams@Herc.co
m

08/06/2007 02:33
PM

Trey_Smith@deq.state.ms.us

To

cc

CJordan@Herc.com,
JFaulstich@Herc.com,
THassett1@Herc.com,
Willie_McKercher@deq.state.ms.us

Subject

Re: Hercules - Hattiesburg, MS -
Call this AM 10:00 EST

Trey:

Here is the Safeco Bond with the Hercules proposed changes in it. I tried to make them consistent with our prior conversation. (Please note that this is a scanned in version of the document so it is not in exactly the same format at the document we originally sent for your consideration. The proposed additions are inserted in red and the proposed deletions are in the margin. Also, we looked at the RCRA bond in deciding what other things to add to this bond.)

Please note that this document has not been reviewed by Safeco, but we will be submitting it to them for review concurrent with our sending this to you.

Please call me if you have any questions or comments..

Best regards,

Rich

Richmond L. Williams
Chief Counsel, SHERA
Hercules Incorporated
Office: 302-594-7020
Fax: 302-594-7038 or 302-594-7315
Cell: 302-598-9258

Trey_Smith@deq.st
ate.ms.us

07/27/2007 11:36
AM

RWilliams@Herc.com

To

cc

CJordan@Herc.com, JFaulstich@Herc.com,
THasset1@Herc.com,
Willie_McKercher@deq.state.ms.us

Subject

Re: Hercules - Hattiesburg, MS - Call this
AM 10:00 EST

Go ahead and send it. As I previously have indicated, I do not have the final word so it will have to be ok'd by the higher ups.

Trey

RWilliams@Herc.com
m

07/27/2007 09:56
AM

Trey_Smith@deq.state.ms.us

To

cc

CJordan@Herc.com,
JFaulstich@Herc.com,
THassett1@Herc.com,
Willie_McKercher@deq.state.ms.us

Subject

Re: Hercules - Hattiesburg, MS -
Call this AM 10:00 EST

You are right.. I lost track of this matter. Assuming you are OK with the thoughts expressed in my email, I will revise the document and sent it to those on this distribution.

Rich

Richmond L. Williams
Chief Counsel, SHERA
Hercules Incorporated
Office: 302-594-7020
Fax: 302-594-7038 or 302-594-7315
Cell: 302-598-9258

Trey_Smith@deq.st
ate.ms.us

07/27/2007 09:38
AM

THassett1@Herc.com

To

cc

CJordan@Herc.com, JFaulstich@Herc.com,
RWilliams@Herc.com,
Willie_McKercher@deq.state.ms.us

Subject

Re: Hercules - Hattiesburg, MS - Call this
AM 10:00 EST

It was my understanding that Rich was writing up the proposed changes.

THasset1@Herc.com

07/27/2007
07:22 AM

RWilliams@Herc.com, CJordan@Herc.com,
JFaulstich@Herc.com,
Trey_Smith@deq.state.ms.us,
Willie_McKercher@deq.state.ms.us

To

cc

Subject

Re: Hercules - Hattiesburg, MS - Call this AM
10:00 EST

Let's keep this movingwho has the ball ?

Richmond L.
Williams/Plaza/NA/Her
c

07/12/2007 11:29 AM

Trey_Smith@deq.state.ms.us

To

cc

CJordan@Herc.com, JFaulstich@Herc.com,
THasset1@Herc.com,
Willie_McKercher@deq.state.ms.us

Subject

Re: Hercules - Hattiesburg, MS - Call
this AM 10:00 ESTLink

Trey:

There was some confusion on our part as well because in our conversation we had agreed upon 9 CST.

In any event, this gave us an opportunity to discuss the bond and order further.

We understand your concern about the Safeco bond and would like to suggest that we revise it to address your concerns in the following way:

1. Define the "obligation" that the bond is covered in a clearer (and more enforceable) manner.
2. Make the bond automatically renew unless specifically terminated or modified according to the proper procedures.
3. Require longer notice prior to termination or modification of the bond (rather than the 45 days) in the Safeco bond.

On the order, upon further reflection we recognize the state's desire for language requiring the financial assurance to appear in the order even though it is also covered by regulation. However, we would like to tighten up the language.

It would be our intent to write up these proposed changes in the next few days and send them to you. If you have any questions or concerns, please give me a call.

Best regards,

Richmond L. Williams
Chief Counsel, SHERA
Hercules Incorporated
Office: 302-594-7020
Fax: 302-594-7038 or 302-594-7315
Cell: 302-598-9258

Trey_Smith@deq.st
ate.ms.us

07/12/2007 11:02
AM

THasset1@Herc.com

To

cc

CJordan@Herc.com, JFaulstich@Herc.com,
RWilliams@Herc.com,
Willie_McKercher@deq.state.ms.us

Subject

Re: Hercules - Hattiesburg, MS - Call this
AM 10:00 EST

Gentlemen:

Please accept my apology. I intended for the call to take place at 10 CST and thought that my reply yesterday indicated that. I am in the office and available now and this afternoon. Again, I am sorry for the mistake. I look forward to speaking with you all at your convenience.

THassett1@H
erc.com

07/12/2007
07:39 AM

To
Trey_Smith@deq.state.ms.us, CJordan@Herc.com,
JFaulstich@Herc.com, RWilliams@Herc.com,
Willie_McKercher@deq.state.ms.us

cc

Subject
Re: Hercules - Hattiesburg, MS - Call this AM
10:00 EST

My apologies..the meeting tool may have got the best of me. The call this morning is 10:00 AM EST (9:00 AM CST).

For US Use Toll Free: 866-618-6746
Leader/Host passcode is: 1645
Participant access code 9984495

Tim Hassett
SHERA
Hercules Incorporated
Hercules Research Center
500 Hercules Road
Wilmington, Delaware 19808-1599
thassett1@herc.com
(302) 995-3456 phone
(302) 379-0512 cell
(302) 995-3485 fax

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070806Hercules -Safeco- Financial Assurance.pdf 070820Hercules -Safeco- Financial Assurance.pdf

**Safeco Insurance Company of America
Remedial Action Plan Bond**

BOND #

KNOW ALL MEN BY THESE PRESENTS: That Hercules Incorporated (hereinafter called the Principal), and Safeco Insurance Company of America (hereinafter called the Surety), are held and firmly bound unto the State of Mississippi (hereinafter called the Obligee), in the full and just sum of _____ Dollars (\$), the payment of which sum, well and truly to be made, the said Principal and Surety bind themselves, and each of their heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a Corrective Action Plan Agreement with the Obligee at the Principal's site located at 617 West 7 Street, Hattiesburg, Mississippi. In such agreement, the Principal has agreed to undertake certain actions (hereinafter the "Corrective Action Plan Work").

WHEREAS, in accordance with Mississippi Commission on Environmental Quality Regulation, HW-2, Subpart I, Chapter 2, Section 201 Part (H), the Obligee has agreed to accept this bond as financial assurance to guarantee performance of the Corrective Action Plan Work under the supervision of the Office of Pollution Control pursuant to the above referenced regulations governing brownfield voluntary cleanup and redevelopment in Mississippi (the "State").

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NOW, THEREFORE, THE CONDITIONS OF THE SURETY'S OBLIGATION HEREUNDER IS SUCH, that if the Principal shall well and truly perform the Corrective Action Plan Work at the time and in the manner specified by the State during the term of this bond or, if upon failure to perform the Corrective Action Work and demand by the State the Principal shall

establish a remediation trust in amount of this bond or such lesser amount that the State shall require, then Surety shall have no obligation under this Bond, otherwise to remain in full force and effect. The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the State that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into a standby trust fund as directed by the State.

PROVIDED, HOWEVER, That this bond is subject to the following conditions:

1. This bond shall be effective from _____, 2007 to _____, 2008. This is an annually renewable bond which shall automatically renew unless terminated in accordance with the provisions of this bond. The bond may be extended for additional terms at the option of the Surety, by continuation certificate executed by the Surety. Surety's liability under said bond shall not be cumulative and shall in no event exceed the penal amount as set forth in this bond. The Surety has no obligation to perform any remediation work and no responsibility involving any hazardous waste at the site. The Surety's obligation under this bond consists of the payment of sums found to be due the Obligee and no other obligation.
2. In the event of a default by the Principal in the performance of the contract during the term of this bond, the Surety shall be liable only for the loss to the Obligee due to actual costs of performance for the failure to perform that occurred during the effective period of the bond, up to the maximum penalty of this bond.
3. No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless same be brought

or instituted upon the Surety within one year from termination or expiration of the bond term.

4. Neither non-renewal by the surety, nor failure, nor inability of the Principal to file a replacement bond shall constitute loss to the Obligee recoverable under this bond.

5. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrator or successors of Obligee.

6. This bond may be canceled or modified by the Surety at any time by giving one hundred twenty (120) days written notice to the Obligee and Principal, in which event, the Surety's liability at the expiration of said one hundred twenty (120) days shall terminate or be modified as specified in the notice, except as to such liability of the Principal as may have accrued prior to the expiration of said one hundred twenty (120) days.

7. The Principal may or modify terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the State.

Signed and sealed this _____ day of _____, 2007.

Safeco Insurance Company of America (seal)
(name & title) Attorney-In-Fact

Acknowledged and Accepted by the Obligee:
By:

Printed Name and Title
Date:

**Safeco Insurance Company of America
Remedial Action Plan Bond**

BOND #

KNOW ALL MEN BY THESE PRESENTS: That Hercules Incorporated (hereinafter called the Principal), and Safeco Insurance Company of America (hereinafter called the Surety), are held and firmly bound unto the State of Mississippi (hereinafter called the Obligee), in the full and just sum of _____ Dollars (\$), the payment of which sum, well and truly to be made, the said Principal and Surety bind themselves, and each of their heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a Corrective Action Plan Agreement with the Obligee at the Principal's site located at 617 West 7 Street, Hattiesburg, Mississippi. In such agreement, the Principal has agreed to undertake certain actions (hereinafter the "Corrective Action Plan Work").

WHEREAS, in accordance with Mississippi Environment Codified Regulations Subpart I, Chapter 2, section 201 Part (H), the Obligee has agreed to accept this bond as financial assurance to guarantee performance of the Corrective Action Plan Work under the supervision of the Office of Pollution Control-Regulations Governing Brownfield Voluntary Cleanup and Redevelopment in Mississippi (the "State").

NOW, THEREFORE, THE CONDITIONS OF THE SURETY'S OBLIGATION HEREUNDER IS SUCH, that if the Principal shall well and truly perform the Corrective Action Plan Work at the time and in the manner specified by the State during the term of this bond or, if upon failure to perform the Corrective Action Work and demand by the State the Principal shall establish a remediation trust in amount of this bond or

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Deleted: in said agreement

such lesser amount that the State shall require, then Surety shall have no obligation under this Bond, otherwise to remain in full force and effect. The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the State that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into a standby trust fund as directed by the State.

Deleted: this obligation

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PROVIDED, HOWEVER, That this bond is subject to the following conditions:

1. This bond shall be effective from _____, 2007 to _____, 2008. This is an annually renewable bond which shall automatically renew unless terminated in accordance with the provisions of this bond. The bond may be extended for additional terms at the option of the Surety, by continuation certificate executed by the Surety. Surety's liability under said bond shall not be cumulative and shall in no event exceed the penal amount as set forth in this bond. The Surety has no obligation to perform any remediation work and no responsibility involving any hazardous waste at the site. The Surety's obligation under this bond consists of the payment of sums found to be due the Obligee and no other obligation.

Deleted: ,2007

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2. In the event of a default by the Principal in the performance of the contract during the term of this bond, the Surety shall be liable only for the loss to the Obligee due to actual costs of performance for the failure to perform that occurred during the effective period of the bond, up to the maximum penalty of this bond.

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3. No claim, action, suit or proceeding; except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless same be brought or instituted upon the Surety within one year from termination or expiration of the bond term.

4. Neither non-renewal by the surety, nor failure, nor inability of the Principal to file a replacement bond shall constitute loss to the Obligee recoverable under this bond.

5. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrator or successors of Obligee.

6. This bond may be canceled or modified by the Surety at any time by giving one hundred twenty (120) days written notice to the Obligee and Principal, in which event, the Surety's liability at the expiration of said one hundred twenty (120) days shall terminate or be modified as specified in the notice, except as to such liability of the Principal as may have accrued prior to the expiration of said one hundred twenty (120) days.

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7. The Principal may or modify terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the State.

Signed and sealed this _____ day of _____, 2007.

(seal)
Safeco Insurance Company of America (seal)
(name & title) Attorney-In-Fact

Acknowledged and Accepted by the Obligee:
By:
Printed Name and Title
Date:



RWilliams@Herc.com
09/25/2007 09:15 AM

To Trey_Smith@deq.state.ms.us, CJordan@Herc.com,
JFaulstich@Herc.com, THassett1@Herc.com,
Willie_McKercher@deq.state.ms.us, KKendrick@Herc.com

cc

bcc

Subject Draft Order

Trey and all:

Attached is the draft order that I believe reflects our discussion to this point. It has been updated to include the survey and property description. Please advise if you have any comments.

Richmond L. Williams
Chief Counsel, SHERA
Hercules Incorporated
Office: 302-594-7020
Fax: 302-594-7038 or 302-594-7315
Cell: 302-598-9258

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070925hattiesburg order(Redline).doc

BEFORE THE MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

Order No. **DRAFT**

VS.

~~HERCULES, INC. INCORPORATED~~
~~ATTENTION: MR. TIM HASSETT~~
Hercules Plaza
1313 North Market Street
Wilmington, DE 19894-0001

RESPONDENT

RESTRICTIVE USE AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission) and ~~Hercules, Inc. Incorporated~~ (Respondent) in the above captioned cause agree as follows:

1. The purpose of this Restrictive Use Agreed Order is to ~~restrict~~protect human health and the environment by restricting the use and activities on the Site described below to insure protection of human health and the environment.
2. The Respondent ~~has an interest in~~owns a tract of land located in Hattiesburg, MS, known as the "~~Hercules, Inc. Restricted Area~~" Incorporated Plant" and hereafter referred to as the "Site." ~~Attachment I~~Exhibit A is a survey plat on which Parcel 1 depicting depicts the boundaries of the Site and showing areas of the site to which restrictions will apply ("Restricted Use Areas"). A legal description of the Site ~~follows~~is attached as Exhibit B.

~~[SITE LEGAL DESCRIPTION]~~

3. ~~The Site is contaminated with~~Soils in the Restricted Use Areas and ground water on the Site contain Benzene (CAS #71432), Chlorobenzene (CAS #108907), Carbon Tetrachloride (CAS #56235), Chloroform (CAS #67663), 1,2-Dichloroethane (CAS #107062) and Toluene (CAS #105553) at levels in excess of the Target Remediation Goals (TRGs) as established by the Mississippi Department of Environmental Quality (MDEQ).
4. The staff of the Commission has evaluated this Restrictive Use Agreed Order and believes once the requirements of it have been completed that (1) the Site

will be protective of the public health and the environment and (2) no further corrective action will be required at this time.

5. The following is a description of all restrictions and requirements ~~for~~ relating to the Site:
- (a) There shall be no excavating, drilling, or other activities that could create exposure to contaminated media without prior approval from MDEQ.
 - (b) The groundwater at the Site shall not be used without prior approval from MDEQ;
 - (c) ~~All monitoring~~ Monitoring wells at the Site ~~shown on Exhibit I~~ shall be protected and maintained. In the event that a monitoring well is destroyed or damaged or is no longer necessary, a plan for repair, reinstallation or abandonment of the well(s) must be submitted to MDEQ for approval within 30 days after a well is destroyed or damaged; or proposed for abandonment.
 - (d) No wells shall be installed without prior approval from MDEQ;
 - (e) All required groundwater monitoring shall be conducted as described in the approved Compliance Monitoring Plan, page 12 of the Corrective Action Plan Revision 01 dated January 20, 2005, unless otherwise approved by MDEQ;
 - (f) All required corrective action shall be conducted as described in the approved Corrective Action Plan Revision 01, dated January 20, 2005, unless otherwise approved by MDEQ;
 - (g) Any necessary corrective action required following completion of the Corrective Action Plan Revision 01 in (f) above shall be implemented as described in the approved Contingency Plan, page 15 of the Corrective Action Plan Revision 01 dated January 20, 2005, unless otherwise approved by MDEQ;
 - (h) A sign of a size, shape, construction, and layout approved by MDEQ, shall be posted at the physical location of the ~~site~~ Site and shall read as follows:

STOP – CALL BEFORE YOU DIG
(601) 961-5171
Request to Speak with Someone in Assessment Remediation Branch
Regarding Site 40470039
 - (i) All required institutional controls shall be implemented;

- Contingencies*
- (j) Financial Assurance in an amount sufficient, and in a form acceptable, to the MDEQ to implement the Contingency Plan, page 15 of the Corrective Action Plan Revision 01 dated January 20, 2005, shall be available, unless waived by MDEQ. Cost estimates and duration may be adjusted on a periodic basis with the approval of MDEQ; and
- (k) Beginning on October 31, 2006, and annually thereafter, Respondent shall submit certification in a form required by MDEQ that all the requirements listed in #5 (a) through (j) have been maintained. The annual certification must include a list of all surface owners and leaseholders of the Site.
6. The Respondent shall restrict the ~~entire facility Site~~ to non-residential use which would also exclude schools, parks, day care facilities, or similar facilities where children are present, ~~without additional sampling and prior approval from MDEQ, which approval shall not be unreasonably withheld.~~ Hercules may petition the MDEQ to remove or modify the restrictions upon showing satisfactory to the MDEQ that it has satisfied the applicable requirements, and the MDEQ may impose conditions upon its approval as may be necessary to protect the public health and the environment in light of the proposed change in use.
7. Respondent shall retain responsibility for the requirements listed in #~~565~~ above, until the Commission approves the transfer of those responsibilities to another party (e.g., the prospective purchaser) by entering into an Agreed Order with the other party.
8. Prior to any change in use of the Site or any portion of the Site, written notice shall be given to and approval obtained from the MDEQ.
9. Written notice must be provided to MDEQ 30 days prior to any property transaction involving the Site. Any conveyance must contain as covenants the requirements listed in #5 and 6 with a statement that the covenants run with the land and continue into perpetuity unless otherwise ordered by the Commission.
10. Within ~~fifteen (15)~~ ~~thirty (30)~~ days after execution of this Restrictive Use Agreed Order, Respondent shall file the Restrictive Use Notice, as approved by MDEQ, in the office of the Chancery Clerk of the Forrest County in which the Site is located for recording onto the land deed records in the appropriate sectional index. The Restrictive Use Notice can be amended by consent of the Parties as necessary to meet the filing requirements of the county.
11. Within ~~forty five (45)~~ ~~sixty (60)~~ thirty (30) days after execution of this Restrictive Use Agreed Order, return by the Chancery Clerk of the Restrictive Use Notice after filing, the Respondent is required to submit to MDEQ certification signed by the Chancery Clerk of the Forrest County in which the Site is located that the

~~requirements under paragraph 10 of this Restrictive Use Agreed Order have been completed~~Restrictive Use Notice has been filed, which indicates the date of such filing.

12. Nothing in this Restrictive Use Agreed Order shall be construed to convey or determine any interest in property.
13. Nothing in this Restrictive Use Agreed Order shall be construed to be an allocation of costs or an indemnification by the State, MDEQ, or the Commission.
14. Nothing in this Restrictive Use Agreed Order shall limit the rights of the MDEQ or the Commission in the event Respondent fails to comply with this Restrictive Use Agreed Order. The Restrictive Use Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.
15. Nothing contained in this Restrictive Use Agreed Order shall limit the rights of Complainant to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations, nor shall Respondent be limited in any way in its response to any such enforcement or other actions by Complainant.
16. This Restrictive Use Agreed Order does not resolve any issues regarding liability and/or penalties for any violation of any federal and/or state order, permit, law, rule and/or regulation. The Commission specifically reserves any such action and Respondent reserves all defenses and counter claims relating to any such action.
17. Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Section 49-17-31 (Rev. 2003), and that it has made an informed waiver of that right.

Restrictive Use Agreed Order
Hercules, Inc.
Page 5 of 5

So ORDERED and AGREED, this the _____ day of _____, 2006.

Charles H. Chisolm
Executive Director
Mississippi Commission on
Environmental Quality

AGREED, this the _____ day of _____, 2006.

BY: _____

TITLE:

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, on this the _____ day of _____, 2006 within my jurisdiction, the within named _____ acknowledged that (he)(she) is _____ of Hercules, ~~Inc.~~ Incorporated, a _____ Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed (he)(she) executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

SWORN TO AND SUBSCRIBED BEFORE ME, this the _____ day of _____, 2006.

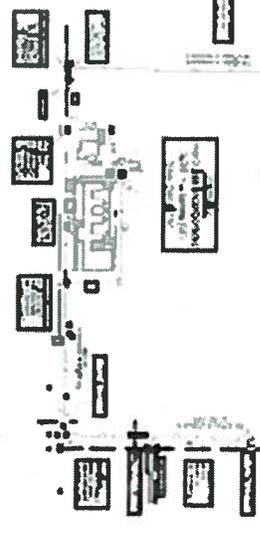
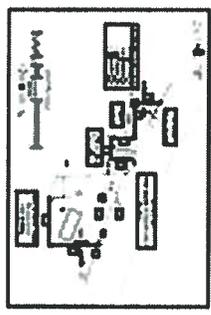
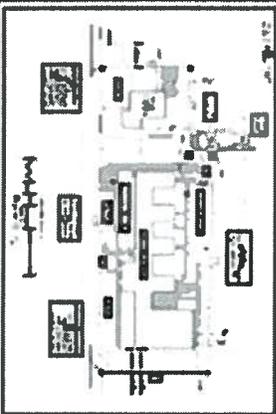
NOTARY PUBLIC

MY COMMISSION EXPIRES:

Restrictive Use Agreed Order
Hercules, Inc.
~~Page 6 of 5~~

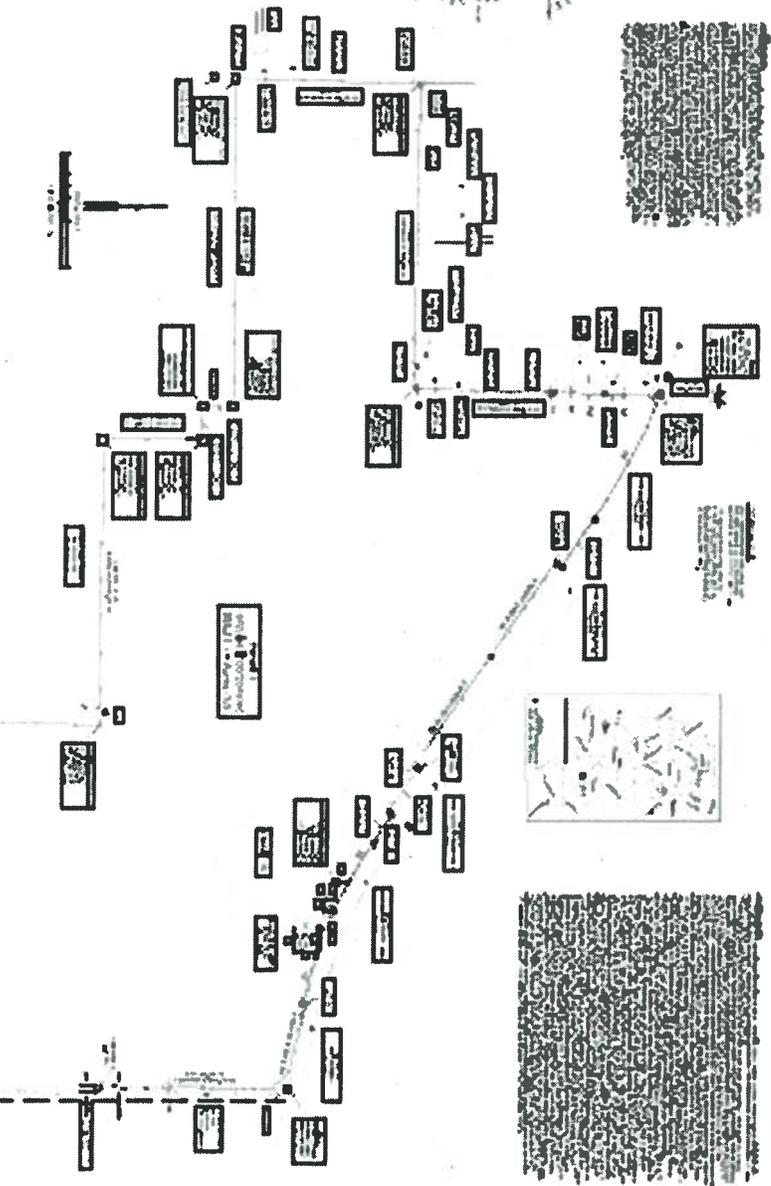
Exhibit A

|
|



Room No.	Room Name	Area (sq. ft.)	Notes
101	Office	120	
102	Office	120	
103	Office	120	
104	Office	120	
105	Office	120	
106	Office	120	
107	Office	120	
108	Office	120	
109	Office	120	
110	Office	120	
111	Office	120	
112	Office	120	
113	Office	120	
114	Office	120	
115	Office	120	
116	Office	120	
117	Office	120	
118	Office	120	
119	Office	120	
120	Office	120	

This is a site plan showing the layout of the building complex. The plan includes the following information:
 - Building footprints and room layouts.
 - Access roads and parking areas.
 - Utility lines and service connections.
 - Landscaping and site improvements.
 - A north-south orientation.
 - A scale bar for reference.



This is a detailed site plan showing the layout of the building complex. The plan includes the following information:
 - Building footprints and room layouts.
 - Access roads and parking areas.
 - Utility lines and service connections.
 - Landscaping and site improvements.
 - A north-south orientation.
 - A scale bar for reference.

QUARRY, JOHN NEWELL & SONS, INC.
 12345 MAIN STREET, SUITE 100
 FORT WORTH, TEXAS 76102
 PHONE: (817) 555-1234
 FAX: (817) 555-5678
 WWW: WWW.QJNS.COM

QUARRY, JOHN NEWELL & SONS, INC.
 12345 MAIN STREET, SUITE 100
 FORT WORTH, TEXAS 76102
 PHONE: (817) 555-1234
 FAX: (817) 555-5678
 WWW: WWW.QJNS.COM

Exhibit B

Description Parcel 1

A description for a parcel situated in Sections 4 and 5, Township 4 North, Range 13 West Forrest County, Mississippi; said parcel being illustrated as parcel 1 on survey plat for Hercules Incorporated by Land Management Services & Mapping, LLC and being more particularly described by metes and bounds as follows:

Commencing at a Railroad Spike Found at the NW Corner of Said Section 4 said point having a Mississippi NAD 83 State Plane Coordinate of North: 671932.60 East: 834200.91' and thence run S01°48'08"W 243.97', to a metal pipe found on the south right-of-way line of Mississippi Highway 42 for the Point of Beginning; thence leaving said south right-of-way line run S01°32'45"W 1,065.16', to a wood fence post found; thence run N88°48'08"W 1,318.98', to a wood fence post found; thence run S01°48'01"W 796.25', to a concrete monument found; thence run S89°40'54"E 1,422.86', to a concrete monument found; thence run S00°21'17"W 129.67', to a concrete monument found; thence run S89°39'18"E 144.76', to a concrete monument found; thence run S00°14'56"W 429.44', to a concrete monument found; thence run S89°52'14"E 1,237.65', to a metal fence post found; thence run S00°54'06"W 1,298.93', to an X-Cut set in concrete on the north right-of-way line of West 7th Street, said street having a 40' right-of-way as per the City of Hattiesburg; thence run along said north right-of-way N89°54'34"E 267.43', to a PK nail set, thence leaving said north right-of-way run: N00°03'00"E 190.92', to a PK nail set; thence run S89°02'44"E 189.42', to a PK nail set; N00°03'00"E 51.37', to a PK nail set; thence run S89°02'44"E 469.81', to an iron pin set; thence run S00°01'08"W 230.27', to an X-Cut set in concrete on the north right-of-way of said 7th street; thence run along said north right-of-way N89°54'34"E 654.88', to a PK nail set at the intersection of the said north right-of-way line and the west right-of-way line of Providence Street, said Providence Street having a 60' right-of-way as per the City of Hattiesburg; thence leaving said north right-of-way line run along said west right-of-way line N00°03'42"W 1,290.00', to an iron pin set; thence continue along said west right-of-way line N89°54'34"E 10.00', to an iron pin set; thence continue along said west right-of-way N00°04'39"W 817.15', to a PK nail set at the intersection of the west right-of-way of said Providence street and the south right-of-way line of Mississippi Highway 42 as per FAP U-008-2(1); thence leaving said west right-of-way line run along said south right-of-way N78°17'33"W 366.13', to an iron pin set; thence continue along said south right-of-way as per PWS Docket # 1043R-71A-EXT S11°42'03"W 10.00' to a concrete right-of-way marker marking the point of curve of a non tangent curve to the right, having a chord bearing of N74°51'58"W, 233.23', and a radius of 1947.42'; thence continue along said south right-of-way westerly along the arc, through a central angle of 06°51'58", a distance of 233.38', to an iron pin set; thence leaving said south right-of-way run S00°00'01"W 103.94', to a fence corner found; thence run West 100.00', to an iron pin set; thence run N00°31'30"W 113.09', to a metal pipe found; thence run East 74.46' to a PK nail set on the aforementioned south right-of-way of Highway 42, said point marking the point of curve of a non tangent curve to the right, having a chord bearing of N68°09'32"W, 166.32', and a radius 1,947.42'; thence run along said south right-of-way westerly along the arc, through a central angle of 04°53'41", a distance of 166.37', to an iron pin set; thence leaving said south right-of-way run South 42.85', to an iron pin set; thence run West 50.00', to an iron pin set; thence run North 50.00', to an iron pin set; thence run West 75.00', to a concrete monument found; thence run North 54.74', to an iron pin set on the south right-of-way line of said Highway 42, said point marking the point of curve of a non tangent curve to the right having a chord bearing of N58°38'21"W, 201.65', and a radius of 1,947.42'; thence run along said south right-of-way northwesterly along the arc, through a central angle of 05°56'08", a distance of 201.74', to a right-of-way marker found; thence continue along said south right-of-way N55°42'47"W 145.58', to an iron pin set; thence continue along said south right-of-way S34°06'38"W 20.11', to an iron pin set; thence continue along said south right-of-way thence run N55°40'42"W 230.37'; thence continue along said south right-of-way S34°19'18"W 20.00', to an iron pin set; thence continue along said south right-of-way N55°40'37"W 570.29', to a right-of-way marker found; thence continue along said right-of-way N55°41'30"W 500.40', to a right-of-way marker found; thence continue along said north right-of-way N33°58'28"E 29.85', to a right-of-way marker found; thence continue along said north right-of-way N55°46'04"W 245.07', to a right-of-way marker found marking the point of curve of a non tangent curve to the left, having a chord bearing of N61°50'00"W, 603.00', and a radius of 2,808.94'; thence continue along said south right-of-way northwesterly along the arc, through a central angle of 12°19'25", a distance of 604.16' back to the Point of Beginning; containing 168.81 acres, more or less; all bearings, coordinates, and distances herein described are grc and are referenced to the west property line and are based on the Mississippi NAD 83 East Zone state plane coordinate system and are referenced to the national spatial reference system through the national geodetic survey's online positioning user service (opus) and are derived from a global positioning system observation, (combined grc factor: 0.99997116; convergence: -0°14'45').



RWilliams@Herc.com
09/25/2007 09:17 AM

To Trey_Smith@deq.state.ms.us, CJordan@Herc.com,
JFaulstich@Herc.com, THassett1@Herc.com,
Willie_McKercher@deq.state.ms.us, KKendrick@Herc.com

cc

bcc

Subject Draft Deed Notice

Trey and all:

Attached is the draft Deed Notice. Please let me know if you have any questions or comments. It should reflect our prior discussions and contain the property description from the survey.

Richmond L. Williams
Chief Counsel, SHERA
Hercules Incorporated
Office: 302-594-7020
Fax: 302-594-7038 or 302-594-7315
Cell: 302-598-9258

This e-mail contains information which may be privileged, confidential, proprietary, trade secret and/or otherwise legally protected. If you are not the intended recipient, please do not distribute this e-mail. Instead, please delete this e-mail from your system, and notify us that you received it in error. No waiver of any applicable privileges or legal protections is intended (and nothing herein shall constitute such a waiver), and all rights are reserved. In addition, no information or statements set forth in this e-mail shall be deemed to legally bind Hercules Incorporated (or its affiliated companies) ("Hercules") unless the intent to bind Hercules is expressly and specifically set forth herein, and other required elements to constitute a legally binding agreement are present.



070925hattiesburg notice(Redline).doc

Mississippi Department of Environmental Quality

NOTICE OF LAND USE RESTRICTIONS

A Restrictive Use Agreed Order has been developed with regard to property located at 613 West 7th Street, Hattiesburg, MS as shown as Parcel 1 in the attached survey plat Exhibit "A". This property, hereafter referred to as the "Site," is situated in Sections ~~SECTION~~ 4 and 5, Township ~~TOWNSHIP~~ 4, Range ~~RANGE~~ 13, West Forrest County, Mississippi, and being more particularly described by metes and bounds as follows, to-wit:

«LEGALDESCRIP»

A description for a parcel situated in Sections 4 and 5, Township 4 North, Range 13 West Forrest County, Mississippi said parcel being illustrated as parcel 1 on survey plat for Hercules Incorporated by Land Management Services & Mapping, LLC and being more particularly described by metes and bounds as follows:

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convergence: -0°14'45").

~~The Site is contaminated with Soil and groundwater- on the in the Restricted Use Areas Site contains Benzene (CAS #71432), Chlorobenzene (CAS #108907), Carbon Tetrachloride (CAS #56235), Chloroform (CAS #67663), 1,2-Dichloroethane (CAS #107062) and Toluene (CAS #105553) at levels in excess of the Target Remediation Goals (TRGs) as established by the Mississippi Department of Environmental Quality (MDEQ). Other contaminants substances are present in the soils that do not exceed TRGs-have also been identified. In order to protect public health and the environment, certain restrictions must be hereby placed on the use of the Restricted Areas of the Site.~~

The following is a listing of all restrictions for the Restricted Areas of the Site:

1. There shall be no excavating, drilling or other activities to depths that could create exposure to contaminated media without approval from MDEQ;
2. The groundwater at the Site shall not be used, unless otherwise approved by MDEQ;

3. ~~All monitoring~~Monitoring wells at the Site shall be protected and maintained. In the event that a monitoring well is destroyed or damaged or is no longer needed, a plan for repair, reinstallation or abandonment of the well(s) must be submitted to MDEQ for approval; and
4. No wells shall be installed without prior approval from MDEQ.

Prior to executing any deed or other instrument conveying an interest in the ~~Restricted Areas of the~~ Site, the following conditions must be met:

1. Any conveyance of the ~~Restricted Areas of the property, or any portion thereof~~, must contain as covenants the restrictions listed above with a statement that the covenants run with the land and continue into perpetuity unless otherwise ordered by the Mississippi Commission on Environmental Quality;
2. Notice must be provided to MDEQ at least 30 days prior to any property transaction involving the Site; and
3. Prior to any change in use of the Site or any portion ~~of the Site~~thereof, notice shall be given to the MDEQ.

This Notice may be executed in counterparts.

The parties that have a legal or equitable surface interest in the Site follow:

1. ~~Hercules, Inc.~~ Incorporated
~~Other?~~

Executed, this the _____ day of _____, 2006.

BY: _____

TITLE: _____

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, on this the _____ day of _____, 2006 within my jurisdiction, the within named _____ acknowledged that (he)(she) is _____ of Hercules, Inc. Incorporated, a _____ corporation, and that for and on behalf of the said corporation, and as its act and deed (he)(she) executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

SWORN TO AND SUBSCRIBED BEFORE ME, this the _____ day of _____, 2006.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

\\AIR3\Haz Waste Files\Common\Brownfields\Wmckercher\Hercules\DRAFT Hercules Deed Notice.doc

Tim,
What is the current status on the financial assurance?

Willie McKercher
Mississippi Department of Environmental Quality
Phone: (601) 961-5731
Fax: (601) 961-5300
Willie_McKercher@deq.state.ms.us

THassett1@Herc.co
m

09/29/2006 12:24
PM

To
Willie_McKercher@deq.state.ms.us
cc

Subject
Re: Comments on Restrictive Use
Agreed Order

We are targetting to get you comments next week.

----- Forwarded by Timothy D Hassett/Plaza/NA/Herc on 09/29/2006 01:23 PM

Timothy D Hassett

To:
Willie_McKercher@deq.state.ms.us
09/25/2006 09:22
AM
cc:
Subject: Re: Comments on
Restrictive Use Agreed Order(Document link: Timothy D
Hassett)

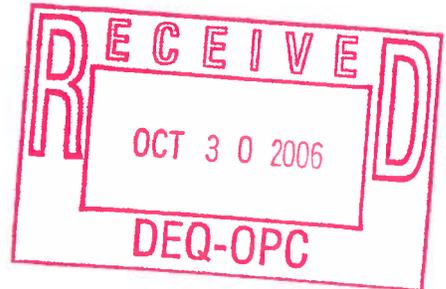
We are still working on this. - TDH

Tim Hassett
SHERA
Hercules Incorporated
Hercules Research Center



October 26, 2006

Mr. William McKercher
Environmental Engineer
Office of Pollution Control
Mississippi Department of Environmental Quality (MDEQ)
P.O. Box 10385
Jackson, Mississippi 39289-0385



**Re: Summary Data Table
Quarterly Monitoring Report
ESI Project No. HER25080**

Dear Mr. Mckercher:

It has come to my attention that copies of the Quarterly Monitoring Report for the August 2006 sampling event may have been submitted to you with portions of Table 2, Summary of VOC Analytical Results missing from the documents. If this is the case, please accept my apologies for the inconvenience. Please also accept the enclosed two copies of the complete Table 2 to be included with the reports.

If you have any questions or require additional information, please do not hesitate to call me at (601) 936-4440.

Sincerely,

Charles V. Coney, P.G.
Senior Scientist

cc: Timothy Hassett – Hercules Inc. w/ enclosure
C. S. Jordan – Hercules, Hattiesburg w/ enclosure



Eco-Systems, Inc.
Consultants, Engineers, and Scientists



October 19, 2006

Mr. William McKercher
Environmental Engineer
Office of Pollution Control
Mississippi Department of Environmental Quality (MDEQ)
P.O. Box 10385
Jackson, Mississippi 39289-0385

**Re: Report of Well Installation and
August 2006 Quarterly Sampling Results
Hercules Incorporated
Hattiesburg, Mississippi
ESI Project No. HER25080**

Dear Mr. Mckercher:

Eco-Systems, Inc. (Eco-Systems) is pleased to submit the enclosed Quarterly Groundwater Monitoring Report for the August 2006 monitoring event prepared on behalf of Hercules, Incorporated. The Quarterly Groundwater Monitoring Report also discusses well installation activities conducted in accordance with the Remedial Action Plan.

If you have any questions or require additional information, please do not hesitate to call Mr. Timothy Hassett at (302) 995-3456 or Charles Coney (Eco-Systems) at (601) 936-4440.

Sincerely,

Charles V. Coney, P.G.
Senior Scientist

cc: Timothy Hassett – Hercules Inc. w/ enclosure
C. S. Jordan – Hercules, Hattiesburg w/ enclosure



STATE OF MISSISSIPPI
HALEY BARBOUR
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHARLES H. CHISOLM, EXECUTIVE DIRECTOR

MEMORANDUM

TO: Hercules, Inc – To File

FROM: William McKercher *WM*

DATE: September 11, 2006

RE: Site Visit – August 29-30, 2006

On August 29, 2006, I went to the Hercules, Inc. facility to observe the fifth quarterly groundwater-sampling event. When I arrived on-site, I signed in with security and then met with Charlie Jordan in his office. Jordan wanted to discuss the draft copies of the Restrictive Use Agreed Order and the Notice of Land Use Restrictions. We walked through the comments Jordan had and I explained the reasoning behind different aspects of the documents. Jordan also stated that Hercules would most likely be interested in trying to restrict only the portions of the facility that would be restricted. I explained that would be fine, but that based upon the historical data MDEQ has on the site, Hercules would have to support the areas they wish to not have restricted with analytical data showing that those areas were "clean". Jordan stated that should not be a problem, and that Hercules would be responding to MDEQ by the September 15, 2006 deadline.

After meeting with Jordan, I drove around the facility to find the groundwater sampling crew. Chris Terrell of Eco-Systems, Inc. was again leading the groundwater sampling activities. Sampling during this event was performed for VOCs only, using EPA Method 8260 as per MDEQ approval. When I found them, Terrell and his assistant were purging MW-11. Sampling was performed with a peristaltic pump via low flow sampling techniques. Parameters were collected for temperature, pH, specific conductivity, and turbidity. Once the parameters stabilized according to low flow specifications, samples were collected. After the sample containers were filled, the crew emptied their purge water into the on-site treatment system, then moved on to MW-5. Before 5:30, Eco-Systems completed the sampling of MW-5, MW-6, MW-12 and MW-13, then left for the day.

I returned to the site on August 30, 2006, for the completion of the groundwater sampling activities. Eco-Systems began sampling at MW-18, utilizing the same procedures for sampling. They then moved to MW-19. I collected split groundwater samples from MW-19 (08:15 am) for VOC analysis by EPA Method 8260. Eco-Systems then sampled MW-16, MW-15, MW-14, MW-9 and MW-17, in that order. I also collected split groundwater samples from MW-15 (10:05 am) for VOC analysis by EPA Method 8260.

Before leaving, I drove around the site to observe the few remaining demolition operations on site. Attached are photos taken of the site:



