



THE MEMPHIS DEPOT TENNESSEE

ADMINISTRATIVE RECORD COVER SHEET


AR File Number 992



Tom Leatherwood

Shelby County Register

As evidenced by the instrument number shown below, this document
has been recorded as a permanent record in the archives of the
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06/11/2009 - 03:56 PM	
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EATMY 000001-000000	
VALUE	5.00
MORTGAGE TAX	2.00
TRANSFER TAX	0.00
RECORDING FEE	100.00
OF FEE	0.00
REGISTER'S FEE	0.10
WALK THRU FEE	0.00
TOTAL AMOUNT	107.10
TOM LEATHERWOOD	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

THIS INSTRUMENT PREPARED BY:

James A. Wagoner, III
 Assistant District Counsel
 U.S. Army Corps of Engineers, Mobile District
 P.O. Box 2288
 Mobile, AL 36628-0001

STATE OF TENNESSEE)

COUNTY OF SHELBY)

NOTICE OF LAND USE RESTRICTIONS

THIS NOTICE OF LAND USE RESTRICTIONS is made and recorded in the Shelby County Register of Deeds office by the **UNITED STATES OF AMERICA**, being the lawful owner of certain real property located in the City of Memphis, Shelby County, Tennessee, acting by and through the United States Army's property disposal agent, under and pursuant to the requirements of Tennessee Code, Section 68-212-225.

WITNESSETH THAT:

WHEREAS, Tennessee Code, Section 68-212-225 provides that upon a determination by the Commissioner of the Tennessee Department of Environment and Conservation (TDEC) that land use restrictions are the appropriate remedial action at any remediation, contamination, cleanup, closure or Brownfield project, the Commissioner shall, with the consent of the owner of the site file or cause to be filed, a notice of land use restrictions (hereinafter referred to as a Notice) in the register of deeds office in the appropriate county; and

WHEREAS, the former Defense Distribution Center (Memphis) (hereafter referred to as the Memphis Depot) is a National Priorities Listed site under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA) 42 U.S.C. 6901 et seq. and is undertaking response actions to address the environmental contamination pursuant to a Federal Facilities Agreement for the Defense Depot Memphis Tennessee between the U.S. Environmental Protection Agency (EPA), the TDEC and the Defense Logistics Agency (DLA); and

WHEREAS, the TDEC (along with EPA and the DLA) identified in the Memphis Depot Dunn Field (Dunn Field) CERCLA Record of Decision (ROD) [CH2MHILL, March 2004] land use controls (LUCs) as part of the selected remedy to protect human health and the environment by preventing unrestricted access and unacceptable exposure to residual contamination; and

WHEREAS, the LUCs for Dunn Field are, along with the LUC monitoring requirements, described in a Land Use Controls Implementation Plan (LUCIP) that is part

of the Off Depot Groundwater Remedial Design (RD) [CH2MHILL, September 2008] for Dunn Field and are being implemented as part of the remedial action; and

WHEREAS, the LUCIP provides that the Army's property disposal agent will prepare a Notice in compliance with Tennessee Code, Section 68-212-225 and record it in the Shelby County Register of Deeds office.

NOW THEREFORE, pursuant to the LUCIP and in compliance with Tennessee Code, Section 68-212-225, the UNITED STATES OF AMERICA, as owner of the subject property, by and through the United States Army's property disposal agent, provides **NOTICE OF LAND USE RESTRICTIONS** as follows on the hereinafter-described real property.

LAND USE RESTRICTIONS

The land use restrictions for Dunn Field are as follows:

1. No residential land use or other child-occupied facilities, including daycare on Dunn Field [depicted in Map 1 attached hereto].
2. No production/consumptive use of groundwater or drilling groundwater wells* on Dunn Field [depicted in Map 1 attached hereto].

*Note: The prohibition of drilling groundwater wells does not apply to monitoring or underground injection wells installed as part of the CERCLA remedial action.

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in the Second Civil District of Shelby County, Memphis, Tennessee, more particularly described as follows:

Commencing at the intersection of the existing centerline of Dunn Avenue (85.5' R/W in this area) and the proposed centerline of Hays Road (60' R/W);

Thence S 89° 17' 58" W along the centerline of said Dunn Avenue a distance of 744.28 feet;

Thence N 00° 42' 02" W a distance of 49.50 feet to a point which is on the existing northern right-of-way line of said Dunn Avenue and the **POINT OF BEGINNING**;

Thence continue S 89° 17' 58" W along the northern right-of-way line of said Dunn Avenue a distance of 391.83 feet;

Thence N 01° 04' 31" W a distance of 964.82 feet;

Thence N 89° 20' 38" E a distance of 26.94 feet;

Thence N 02° 08' 16" W a distance of 922.09 feet, more or less, to the southern right-of-way line of Breckenridge Avenue;

Thence N 89° 15' 39" E along the southern right-of-way line of said Breckenridge Avenue a distance of 29.97 feet, more or less, to the eastern right-of-way line of Kyle Street;

Thence N 01° 04' 31" W along the eastern right-of-way line of said Kyle Street a distance of 348.36 feet, more or less, to the southeastern right-of-way line of the Canadian National Railroad;

Thence N 51° 27' 16" E along the southeastern right-of-way line of said railroad a distance of 1,054.20 feet, more or less, to the southern right-of-way line of Person Avenue;

Thence N 89° 59' 34" E along the southern right-of-way line of said Person Avenue a distance of 155.51 feet;

Thence Southeasterly along a curve to the right with a radius of 30.00 feet, a delta angle of 88° 55' 21", an arc distance of 46.56 feet, the chord of which bears S 45° 32' 46" E a distance of 42.03 feet to the proposed western right-of-way line of Hays Road;

Thence S 01° 05' 05" E along the proposed western right-of-way line of said Hays Road a distance of 115.67 feet;

Thence S 55° 03' 05" W a distance of 721.59 feet;

Thence S 04° 34' 04" E a distance of 293.42 feet;

Thence S 57° 17' 24" E a distance of 161.59 feet;

Thence S 51° 05' 24" W a distance of 252.61 feet;

Thence S 00° 20' 01" E a distance of 1,790.36 feet, more or less, to the point of beginning.

Containing 25.89 acres, more or less, and being a part of Tract 3 of the Defense Depot Memphis, Military Reservation as described in a deed to the United States of America from Abe Goodman and Ben Goodman, jointly, composing the firm of Goodman Brothers, dated 22 May 1941 and recorded in Deed Book 1675, page 334 of the records in the Register's Office of Shelby County, Tennessee.

LOCATION AND DESCRIPTION OF CONTAMINATION

A general approximation of the location of the residual contamination in groundwater on Memphis Depot with respect to surveyed benchmarks for Dunn Field land is depicted in Map 1 attached hereto. A summary of the environmental contamination of the property relevant to this Notice follows:

1. Groundwater Contamination - Portions of the groundwater (shallow or fluvial aquifer) underlying Dunn Field are contaminated with volatile organic compounds (VOCs). The contaminants of concern (COCs) include the following VOCs: 1,1,2,2-tetrachloroethane, trichloroethene (TCE), tetrachloroethene (PCE), cis-1,2-Dichloroethene (cis-1,2-DCE), 1,1-dichloroethene, carbon tetrachloride, and chloroform. The nature and extent of the contamination is described in the Dunn Field Source Areas Remedial Design (CH2MHill, April 2007).

Map 1 (attached hereto) shows a broad area of groundwater contamination (i.e., plume) outlined with a green line, which includes the northern and west-central portions of Dunn Field. The northern plume results primarily from an off-site contamination source which is being investigated by EPA and TDEC. On-site sources of groundwater contamination in the northwest and west-central portions of Dunn Field are being remediated as described in the RD. The contour line depicts approximate extent of the plume boundary based upon a concentration of total VOCs greater than or equal to five (5) micrograms per liter ($\mu\text{g/L}$), which is the most stringent maximum contaminant level (MCL) for individual CVOs. An MCL is based on the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*) National Revised Primary Drinking Water Regulations at 40 *CFR* Part 141.61. MCLs were determined by the DLA, EPA and TDEC as the relevant and appropriate cleanup level. The outlined areas of groundwater contamination may be subject to further investigation and active remediation (i.e. in-situ treatment) as part of the CERCLA selected remedy described in the Dunn Field ROD and the Source Areas RD.

2. Solid Waste Management Units (SWMUs)/Areas of Concern (AOCs) - There are 42 named SWMUs and or AOCs located within the boundaries of the Dunn Field property [See Map 1 attached hereto]. The terms 'SWMU' and 'AOC' are defined by the EPA for purpose of identifying units/areas that are potential sources of environmental contamination and require further investigation and when necessary, corrective action (i.e., remedial action). The SWMUs/AOCs on Dunn Field have been evaluated as part of the RCRA Facility Investigation performed by EPA and/or the CERCLA response action process under the FFA.

In the event disturbance of any SWMU or AOC is planned, it is recommended that any waste materials generated (e.g. demolition material or excavated soil) be characterized (i.e., sampled and analyzed) to ensure proper management, especially if off-site disposal is anticipated.

Point of contact regarding this Notice of Land Use Restrictions is as follows:

U.S. Army Corps of Engineers, Mobile District
Real Estate Division
P.O. Box 2288
Mobile, AL 36628-0001
251-690-2547

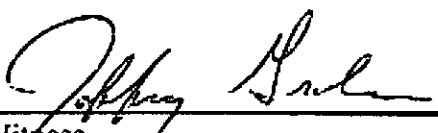
IN WITNESS WHEREOF, I have hereunto set my hand by the authority of the Secretary of the Army and have executed this Notice of Land Use Restrictions this 10th day of June, 2009.

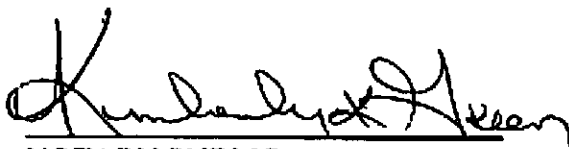
UNITED STATES OF AMERICA

By: 

WILLIE L. PATTERSON
Chief, Real Estate Division
U.S. Army Engineer District, Mobile District

STATE OF ALABAMA
COUNTY OF MOBILE DISTRICT
Signed, sealed and delivered
In the presence of:


Witness


NOTARY PUBLIC
State-at-Large

My Commission Expires. MY COMMISSION EXPIRES JAN. 17, 2010

(SEAL)

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ADMINISTRATIVE RECORD

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