

Land Use Covenant Implementation and Enforcement Plan

Former Pure-Etch Company Site 1031 Industrial Way Salinas, California 93906 EPA ID # CAD 783 650 490

1.0 Land Use Restrictions

Daniel T. O'Brien and Linda C. O'Brien, Trustees of O'Brien Trust dated 12/30/2002 and Carl D. Stroub and Diane L. Stroub, Trustees of the Stroub Family Trust dated 7/6/2000 ("Land Owner") currently own the property at 1031 Industrial Way, Salinas, California. The "Land Owner" will enter into a Covenant ("Land Use Covenant" or LUC) with the Department of Toxic Substances Control (DTSC) to impose restrictions on the use of the property known as the former Pure-Etch Company site at 1031 Industrial Way, Salinas, California 93906 (hereafter, the "Site"). These land use restrictions are the institutional controls required to limit exposure to current and future landowners(s) and/or user(s) and/or occupants, and to maintain the effectiveness of the corrective action.

The "Land Owner" and future land owners will conduct annual inspections to ensure that the following land use restrictions are being complied with:

- **Prohibited Uses:**
 - A residence, including any mobile home or factory-built housing, constructed or installed for use as residential human habitation.
 - A hospital or hospice for humans.
 - Park and recreational use.
 - A public or private school for persons under 21 years of age.
 - A day care center for children.

- **Prohibited Activities:**
 - Raising of cattle, food crops, or agricultural products.
 - Drilling for water, oil, or gas.
 - Extraction of groundwater for purposes other than site remediation, groundwater monitoring, or construction dewatering.
 - Any activities that may interfere with the selected remedy or operation and maintenance activities required for the Site.

Restricted Uses and Improvements:

- The use of the Site shall be restricted to commercial, industrial, research and development, retail and office purposes only, any other use permitted by the Zoning Ordinance (Salinas Municipal Code Chapter 37), and any other use permitted by any

amendment to the aforementioned Zoning Ordinance, provided that the use is consistent with the prohibited uses and prohibited activities listed above.

- **Soil Management.** Activities that will disturb the soil at or below the level of shallow groundwater, such as excavation, grading, removal, trenching, filling, earth movement or mining, shall only be permitted on the Site pursuant to a Soil Management Plan and a Health and Safety Plan approved by DTSC. Any contaminated soils brought to the surface by any such activities shall be managed in accordance with all applicable laws and regulations.
- **Non-Interference with Groundwater Monitoring Wells and Remediation Wells on the Property at 1031 Industrial Way, Salinas, California.** Activities that may disturb the groundwater monitoring wells and remediation wells (e.g., excavation, grading or removal of soil; trenching; filling; earth movement; or mining) shall not be permitted on the property without prior review and approval by DTSC. All uses and development of the property shall preserve the integrity and physical accessibility of the groundwater monitoring wells and remediation wells.

2.0 Access, Transference, and Notice Provisions

- **Access to DTSC.** DTSC shall have reasonable right of entry and access to the Site for inspection and other activities consistent with the purposes of implementing and enforcing the LUC as deemed necessary by DTSC in order to protect public health and the environment.
- **Access for Implementing Operation and Maintenance.** The entity or person responsible for implementing the operation and maintenance of the corrective action remedy shall have reasonable right of entry and access to the property at 1031 Industrial Way, Salinas, California, for the purpose of implementing the operation and maintenance requirements for the remedy until such time as DTSC determines that no further operation and maintenance is required.
- All owners or occupants of any portion of the property at 1031 Industrial Way, Salinas, California, by their purchase, leasing, or possession of such property, are bound by the LUC and agree that the restrictions in the LUC must be adhered to for the benefit of future owners and occupants and that their interest in the property shall be subject to the restrictions contained in the LUC.
- The "Land Owner" or future land owner of the property at 1031 Industrial Way, Salinas, California, shall provide notice to DTSC no later than thirty (30) days after the conveyance of any ownership interest in the property at 1031 Industrial Way, Salinas, California (except for building space leases, mortgages, liens, and other non-possessory encumbrances).

3.0 Compliance with Land Use Restrictions

The "Land Owner" and future land owner shall submit an annual certification, prepared pursuant to California Code of Regulations, title 22, section 66270.11(d), to DTSC by January 31st of each year to certify that the land use and any activities at the site are in full compliance with the LUC requirements and restrictions. In addition, DTSC will have access to inspect the property at 1031 Industrial Way, Salinas, California, annually to assess compliance with the LUC. The "Land Owner" or the future owner(s) of the property at 1031 Industrial Way, Salinas, California, shall reimburse DTSC for DTSC's costs incurred in implementing and enforcing the LUC. Any violations of the LUC shall be grounds for DTSC to take enforcement action in accordance with applicable law.