

Exhibit B. Decision Document

Disturbance of Engineered Control and Polluted Soil Restriction Form

In accordance with Section 22a-133k-2(f)(2)(A) of the Regulations of Connecticut State Agencies (RCSA) **(Variances – Engineered Control of Polluted Soils)**, if certain conditions at a subject release area exist or are met, the requirements of RCSA Sections 22a-133k-2(a) through 22a-133k-2(e) **(the Standards for Soil Remediation) do not apply** provided that an Engineered Control of polluted soils is implemented pursuant to RCSA Section 22a-133k-2(f)(2)(B) and RCSA Section 22a-133k-2(f)(2)(C).¹

RCSA Section 22a-133k-2(f)(2)(B): A request to use an Engineered Control shall be submitted to the Commissioner and shall be accompanied by a detailed report and plan which demonstrates that, among other things, an Environmental Land Use Restriction is or will be in effect with respect to the Property at which the subject release area is located, which restriction ensures that such Property will not be used in a manner that could disturb the Engineered Control or the polluted soil;

and

RCSA Section 22a-133k-2(f)(2)(C): When the Commissioner approves a request to use an Engineered Control, he may require that such control incorporate any measures deemed necessary to protect human health and the environment and any person implementing an Engineered Control shall perform all actions specified in the approved proposal including the recordation of the Environmental Land Use Restriction and posting of the mechanism for financial assurance.

Purpose:

The purpose of this Environmental Land Use Restriction (ELUR) is to ensure such Property at which the subject release area is located will not be used in a manner that could disturb the Engineered Control or the polluted soil, as defined in Section 22a-133k-1(16) of the RCSA, at the Subject Area(s) ("Subject Area") designated below. The Engineered Control description is attached hereto as part of the Restriction Form.

Check the applicable box(es) to identify if the Engineered Control is to address exceedances of the Direct Exposure Criteria for soil only or if the Engineered Control is to address exceedances of both the Direct Exposure Criteria and the Pollutant Mobility Criteria for soil, or "NA" (not applicable), as follows:

¹ For a complete description of the rationale for the restriction, see the referenced regulatory citation.

Declaration of Environmental Land Use Restriction and Grant of Easement

Restrictions Applicable to the Subject Area:

1) Engineered Control designed to address exceedances of Direct Exposure Criteria for soil only.

or

NA

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

(Check box; enter Subject Area(s) designation.)

With respect to the Property at which the subject release area is located, the Property will not be used in a manner that could disturb the Engineered Control at Subject Area [redacted] or the polluted soil in accordance with RCSA Section 22a-133k-2(f)(2)(B).

or

Restrictions Applicable to the Subject Area:

2) Engineered Control designed to address exceedances of Direct Exposure Criteria and Pollutant Mobility for soil.

or

NA

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

(Check box; enter Subject Area(s) designation.)

With respect to the Property at which the subject release area is located, the Property will not be used in a manner that could disturb the Engineered Control at Subject Area [redacted] or the polluted soil in accordance with RCSA Section 22a-133k-2(f)(2)(B).

AND

Declaration of Environmental Land Use Restriction and Grant of Easement

Type and Location of Substances at Subject Area:

(At concentrations greater than the Direct Exposure Criteria for soil, or greater than the Direct Exposure Criteria for soil and the Pollutant Mobility Criteria for soil)

(Enter the type of substances, e.g., by substance name or category, at each Subject Area.)

Text box - enter text directly into the space provided (unlimited).

Reasons Restriction or Limitation are Necessary to Adequately Protect Human Health and the Environment:

If humans were to come into contact with the substance(s) present in such polluted soil, these substance(s) may pose an unacceptable risk to human health.

The polluted soil does not pose a risk to human health, provided the Engineered Control or the polluted soil is not disturbed such that people may come into contact with such polluted soil.

When the Engineered Control also addresses exceedances of the Pollutant Mobility Criteria for soil, if the Engineered Control or the polluted soil are disturbed such that the polluted soil is exposed to the infiltration of water, such polluted soil may pose an unacceptable risk to groundwater quality.

Such polluted soil does not pose a risk to groundwater quality provided the Engineered Control or the polluted soil is not disturbed and exposed to infiltration of water.

Restriction or Limitation is Consistent with the Remediation Standard Regulations (RSRs) Sections 22a-133k-1 through 22a-133k-3, inclusive, of the RCSA, as amended, and as follows:

(Check all boxes; enter Subject Area(s) designation and document title and date.)

The Commissioner of the Department of Energy & Environmental Protection has approved a request to use an Engineered Control at Subject Area [redacted] in accordance with 22a-133k-2(f)(2)(C). Pursuant to RCSA Section 22a-133k-2(f)(2)(A), the requirements of RCSA Section 22a-133k-2(a) through 22a-13k-2(e) (**Soil Remediation Standards**) do not apply.

Date of Commissioner's conditional approval of the Engineered Control Application: [redacted]

Pursuant to the Commissioner's conditional approval and RSRs 22a-133k-2-(f)(2)(B)(viii):

The requirements for maintenance and monitoring of the Engineered Control are specified in the plan below, as approved by the Connecticut Department of Energy & Environmental Protection.

Title and Date: [redacted]

and

A Description of the Engineered Control (As-Built) is attached.

Date the mechanism for financial assurance submitted to the Department: [redacted]

The latest Annual Report including current status of financial assurance and the most recent Inspection and Maintenance Report has been submitted to the Connecticut Department of Energy & Environmental Protection.

Title and Date: [redacted]

and

With respect to the Property at which the subject release area is located, the Property will not be used in a manner that could disturb the Engineered Control or the polluted soil in accordance with RCSA Section 22a-133k-2(f)(2)(B).

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Supplemental Information

If alternative language is proposed, complete the following:

Explain why alternative language is needed:

The proposed alternative language is:

If pertinent to the Application, enter additional information below (optional):

Text box - enter text directly or copy and paste Word Document into the space provided (unlimited).

- ✓ Insert electronic copy of Commissioner's conditional approval of the Engineered Control Application below.
- ✓ Insert electronic copy of the Description of the Engineered Control (As-Built) below. This **will be included in the final ELUR** package.
- ✓ Insert electronic copies of tables and figures below.
- ✓ Insert electronic copy of the mechanism for financial assurance.

*  This section is not locked; insert document(s) as applicable.