

Exhibit B. Decision Document

Exposure of Inaccessible Soil Restriction Form

In accordance with Section 22a-133k-2(b)(3) of the Regulations of Connecticut State Agencies (RCSA) **the Direct Exposure Criteria for substances other than polychlorinated biphenyls (PCBs) do not apply to inaccessible soil** at a release area provided that if such inaccessible soil is less than fifteen (15) feet below the ground surface an Environmental Land Use Restriction is in effect with respect to the subject Property or portion of such Property containing such release area, which ensures that such soils will not be exposed as a result of excavation, demolition or other activities and that any pavement which is necessary to render such soil inaccessible is maintained in good condition.¹

In accordance with Section 22a-133k-2(b)(3) of the RCSA **inaccessible soil containing PCBs** (as indicated below) may be left in place at a release area provided that if such inaccessible soil is less than (15) feet below the ground surface an Environmental Land Use Restriction is in effect with respect to the subject Property or portion of such Property containing such release area, which ensures that such soils will not be exposed as a result of excavation, demolition or other activities and that any pavement which is necessary to render such soil inaccessible is maintained in good condition.

For inaccessible soil polluted with PCBs, the following Direct Exposure Criteria apply:

- An alternative criterion, as approved in accordance with Section 22a-133k-2(d)(7); or
- Ten (10) ppm PCBs by weight; or
- Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an other restricted access location, as defined in 40 Code of Federal Regulations Part 761.123 (40 CFR 761.123); or
- Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123; or
- Fifty (50) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123, and a label or notice is visibly placed in the area in accordance with 40 CFR Part 761.

Purpose:

The purpose of this Environmental Land Use Restriction (ELUR) is to ensure that polluted soil that is inaccessible (as defined in RCSA Section 22a-133k-1(32)) at the Subject Area(s) ("Subject Area") designated below will not be exposed as a result of excavation, demolition or other activities and that any pavement which is necessary to render such soil inaccessible is maintained in good condition.

Check the applicable box(es) to identify the Property-specific approach(es) taken to render the polluted soil inaccessible pursuant to RCSA Section 22a-133k-1(32), 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

Pursuant to RCSA Section 22a-133k-1(32):

The inaccessible soil is polluted soil which is more than four (4) feet below the ground surface.

or

NA

Restrictions Applicable to the Subject Area:

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(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)

Option A – No Disturbance or **NA**
(Check applicable boxes.)

The polluted soil rendered inaccessible at Subject Area [] will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited below the ground surface (“No Disturbance”).

and

The ground surface at Subject Area [] will be repaired when necessary to maintain the elevation and topography that existed prior to any disturbance caused by natural occurrences (such as erosion and frost heaves).

Option B – Allowable Limited Disturbance or **NA**
(Check applicable boxes.)

The polluted soil rendered inaccessible at Subject Area [] is at a depth of insert depth (feet) below the ground surface and will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths below the ground surface (“Allowable Limited Disturbance”).

and

The ground surface at Subject Area [] will be repaired when necessary to maintain the elevation and topography that existed prior to any Allowable Limited Disturbance or any disturbances by natural occurrences (such as erosion and frost heaves).

and/or

Declaration of Environmental Land Use Restriction and Grant of Easement

Pursuant to RCSA Section 22a-133k-1(32):

The inaccessible soil is polluted soil which is more than two (2) feet below a paved surface comprised of a minimum of three (3) inches of bituminous concrete or concrete, which two (2) feet may include the depth of any material used as sub-base for the pavement.

or

NA

Restrictions Applicable to the Subject Area:

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(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)

Option A – No Disturbance or **NA**
(Check all boxes.)

The polluted soil rendered inaccessible at Subject Area [redacted] will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited below the paved surface (“No Disturbance”).

and

The pavement at Subject Area [redacted] will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date: [redacted]

and, in addition

The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any disturbance caused by natural occurrences (such as erosion and frost heaves).

Option B – Allowable Limited Disturbance or **NA**
(Check all boxes.)

The polluted soil rendered inaccessible at Subject Area [redacted] is at a depth of insert depth (feet) below a paved surface and will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths below the paved surface (“Allowable Limited Disturbance”).

and

The pavement at Subject Area [redacted] will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date: [redacted]

and, in addition

The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences (such as erosion and frost heaves).

and/or

Declaration of Environmental Land Use Restriction and Grant of Easement

Pursuant to RCSA Section 22a-133k-1(32):

- 1) The inaccessible soil is polluted soil which is polluted fill beneath a bituminous concrete or concrete surface comprised of a minimum of three (3) inches of bituminous concrete or concrete if such fill is (i) polluted in excess of applicable Direct Exposure Criteria only by semi-volatile substances or petroleum hydrocarbons that are normal constituents of bituminous concrete, (ii) polluted by metals in concentrations not in excess of two (2) times the applicable Direct Exposure Criteria, or (iii) any combination of the substances or limits identified in clause (i) or (ii).

or

NA

Restrictions Applicable to the Subject Area:

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(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)

Option A – No Disturbance or **NA**
(Check all boxes.)

- The polluted soil rendered inaccessible at Subject Area [redacted] will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited below the paved surface (“No Disturbance”).

and

- The pavement at Subject Area [redacted] will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date: [redacted]

and, in addition

- The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any disturbance caused by natural occurrences (such as erosion and frost heaves).

Option B – Allowable Limited Disturbance or **NA**
(Check all boxes.)

- The polluted soil rendered inaccessible at Subject Area [redacted] is at a depth of insert depth (feet) below a paved surface and will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths below the paved surface (“Allowable Limited Disturbance”).

and

- The pavement at Subject Area [redacted] will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date: [redacted]

and, in addition

- The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences (such as erosion and frost heaves)

and/or

Declaration of Environmental Land Use Restriction and Grant of Easement

Pursuant to RCSA Section 22a-133k-1(32):

2) The inaccessible soil is polluted soil which is beneath an existing building.

or

NA

Restrictions Applicable to the Subject Area:

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(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)

Option A – No Disturbance or **NA**

(Check applicable boxes.)

The polluted soil rendered inaccessible at Subject Area [redacted] will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3). The concrete building slab or foundation shall not be disturbed in any manner by activities such as demolition, excavation or other intrusive activities (“No Disturbance”).

and

The concrete building slab or foundation at Subject Area [redacted] will be repaired when necessary to maintain the conditions that existed prior to any disturbance caused by natural occurrences.

and, in addition

(Check box that applies.)

Demolition of the **building at the Subject Area** is not permitted.

or

Demolition of the **entire building** (including portions outside the Subject Area) is not permitted.

Option B – Allowable Limited Disturbance or **NA**

(Check applicable boxes.)

The polluted soil rendered inaccessible at Subject Area [redacted] is at a depth of insert depth (feet) beneath the concrete building slab or foundation and will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths beneath the concrete building slab or foundation (“Allowable Limited Disturbance”).

and

The concrete building slab or foundation at Subject Area [redacted] will be repaired when necessary to maintain the conditions that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences.

and, in addition

(Check box that applies.)

Demolition of the **building at the Subject Area** is not permitted.

or

Demolition of the **entire building** (including portions outside the Subject Area) is not permitted.

and/or

Declaration of Environmental Land Use Restriction and Grant of Easement

Pursuant to RCSA Section 22a-133k-1(32):

- 3) The inaccessible soil is polluted soil which is beneath an existing permanent structure provided written notice that such structure will be used to prevent human contact with such soil has been provided to the Commissioner.

Description of permanent structure: _____

Date of notice submitted to Commissioner for use of permanent structure: _____

or

NA

Restrictions Applicable to the Subject Area:

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(es) for Option A and Option B as applicable; enter Subject Area(s) designation.)

Option A – No Disturbance or **NA**
(Check applicable boxes.)

- The polluted soil rendered inaccessible at Subject Area _____ will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3). The permanent structure shall not be disturbed in any manner by activities such as demolition, excavation or other intrusive activities (“No Disturbance”).

and

- The permanent structure at Subject Area _____ will be repaired when necessary to maintain the conditions that existed prior to any disturbance caused by natural occurrences.

and, in addition

(Check box that applies.)

- Demolition of the **permanent structure at the Subject Area** is not permitted.

or

- Demolition of the **entire permanent structure** (including portions outside the Subject Area) is not permitted.

Option B – Allowable Limited Disturbance or **NA**
(Check applicable boxes.)

- The polluted soil rendered inaccessible at Subject Area _____ is at a depth of insert depth (feet) beneath the permanent structure and will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths _____ beneath the permanent structure (“Allowable Limited Disturbance”).

and

- The permanent structure at Subject Area _____ will be repaired when necessary to maintain the conditions that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences.

and, in addition

(Check box that applies)

- Demolition of the **permanent structure at the Subject Area** is not permitted.

or

- Demolition of the **entire permanent structure** (including portions outside the Subject Area) is not permitted.

Declaration of Environmental Land Use Restriction and Grant of Easement

AND

Type and Location of Substances at Subject Area:

(At concentrations greater than the Direct Exposure 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.

Provided the soil is not exposed such that people may come in contact with it, such polluted soil does not pose an unacceptable risk to human health.

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 applicable boxes; enter Subject Area(s) designation.)

The Direct Exposure Criteria for substances other than polychlorinated biphenyls (PCBs) do not apply to inaccessible soil (as defined in RCSA Section 22a-133k-1(32)) at Subject Area [REDACTED].

and/or

The Direct Exposure Criteria for PCBs applied to inaccessible soil (as defined in RCSA Section 22a-133k-1(32)) at Subject Area [REDACTED] are:

(Check applicable box(es).)

An alternative criterion, as approved in accordance with Section 22a-133k-2(d)(7); or

Ten (10) ppm PCBs by weight; or

Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an other restricted access location, as defined in 40 Code of Federal Regulations Part 761.123 (40 CFR 761.123; or

Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123; or

Fifty (50) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123, and a label or notice is visibly placed in the area in accordance with 40 CFR Part 761.

and

Such soils will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Exhibit B. Decision Document

Exposure of Inaccessible Soil Restriction Form *

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 copies of tables and figures below.
- ✓ If applicable, insert electronic copy of EPA's approval of the PCBs Notification pursuant to 40 CFR Part 761.61 below.

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