

LAND USE COVENANT

This is an environmental covenant executed pursuant to the Voluntary Remediation and Redevelopment Act, West Virginia Code Chapter 22, Article 22, and the Uniform Environmental Covenants Act, West Virginia Code Chapter 22, Article 22B, to restrict the activities on, and uses of, the following described property:

That certain property, located along a portion of the petroleum pipeline operated by St. Marys Refining Company located near Creel Street Extension, St Marys, Pleasants County, West Virginia and more particularly described in a deed of record in the office of the Clerk of the County Commission of Pleasants County as City Plot 35 (portion of), Book 138, Page 370, and as depicted in the attached drawings (Figure 1- Site Location Map; Attachment 2- Tax Map; and Attachment 3- Pipeline VRP Area). The geographic location of the Site is within the Raven Rock 7.5 minute, United States Geologic Survey (USGS) Topographic Quadrangle.

Activities on and uses of the above describe property that may result in excessive human exposure or in the release of a contaminant that was contained as part of the remedial action related to this covenant are prohibited. Those activities and uses include, but are not limited to:

- **Residential land use**
- **Building occupied structures above, and excavation along, the pipeline segment demarked in Attachment 3, except for excavation done by Pennzoil Quaker State Corporation, St. Marys Refining Company or their respective contractors, successors or assigns.**

The current owners of record of the property, and their contact information, are:

**The City of St Marys
418 2nd Street
St. Marys, WV 26170**

Any person, including a person that owns an interest in the real property, the state or federal agency determining or approving the environmental response project pursuant to which an environmental covenant is created, or a municipality or other unit of local government may be a holder of an environmental covenant. The following are all of the holders of this covenant:

**The City of St Marys
418 2nd Street
St. Marys, WV 26170**

The facts regarding the remediation response project at this property are:

The St Marys Refining Company (SMRC) and Pennzoil-Quaker State Company (PQS) initiated remediation activities in the area of the pipeline. The remediation was associated with petroleum releases that may be associated with historic operation of the pipeline. Groundwater constituents of concern (Benzene, Toluene, Ethyl Benzene, Xylenes, Naphthalene, 1,2,4 Trimethylbenzene, 1,3,5 Trimethylbenzene) were remediated to WVDEP *De minimis* Values via Enhanced Anaerobic Bio-remediation.

The Site is on property owned by the City of St. Marys. The attached figure presents an outline of the area associated with this Land Use Covenant.

The Site exhibits certain concentrations of petroleum-related compounds in soil (Benzene, Toluene, Ethyl Benzene, Xylenes, Naphthalene, 1,2,4 Trimethylbenzene, 1,3,5 Trimethylbenzene). The LUC provided herein will allow for a risk-based closure of soils.

The owner(s) of the property shall provide written notice to the Secretary of the Department of Environmental Protection within 10 days following transfer of a specified interest in the property subject to this covenant, changes in use of the property, application for building permits regarding the property, or proposals for any site work affecting the contamination on the property.

The owner(s) shall conduct inspections of the property to monitor compliance with this Land Use Covenant at least one time per year, and shall submit two (2) signed copies of the inspection monitoring report to the WVDEP, DLR headquarters in Charleston, within thirty (30) days of the inspection.

This covenant relieves the applicants and subsequent successors and assigns from all civil liability to the state as provided under West Virginia Code Article 22 of Chapter 22 and shall remain in effect so long as the property complies with the applicable standards in effect at the time this covenant was issued.

This covenant shall not be amended, modified or terminated except by written instrument executed in accordance with W. Va. Code § 22-22B-10 between the Owner at the time of the proposed amendment, modification or termination, the Secretary of the West Virginia Department of Environmental Protection, and the holders of this covenant. Within 5 days of executing an amendment, modification or termination of this Land Use Covenant, the Owner shall record such amendment, modification or termination with the Clerk of the Pleasants County Commission, and within 5 days thereafter, the Owner shall provide a true copy of the

recorded amendment, modification or termination to the Secretary of the Department of Environmental Protection.

The administrative record for the environmental response project reflected in this covenant is maintained in the **West Virginia Department of Environmental Protection, Division of Land Restoration, 601 57th Street, SE, Charleston, WV 25304** and is entitled

**SMRC Pipeline – St Marys
VRRRA Project # 10011**

The West Virginia Department of Environmental Protection is granted full right of access to the property for the purpose of implementation or enforcement of this covenant.

All restrictions and other requirements described in this covenant shall run with the land and shall be binding upon all holders and their grantees, lessees, authorized agents, employees or persons acting under their direction or control.

IN WITNESS WHEREOF, the following holders have executed this covenant on the dates indicated.

<p><u>L. Paul Ingram</u> SIGNED:</p>	<p><u>4/21/10</u> Date:</p>
<p>Mr. Paul Ingram Mayor City of St. Marys, WV</p>	

I, LINDA K. WILSON, a Notary Public in and for the County of PLEASANTS, State of WEST VIRGINIA, do hereby certify that the holder(s) whose (name is) (names are) signed above, this day executed this document in my presence or this day acknowledged same to be the true act and deed of said holder(s).

Given under my hand this the 21st day of APRIL, 2010.

Notary Public

Ken Ellison

7/14/10

SIGNED:

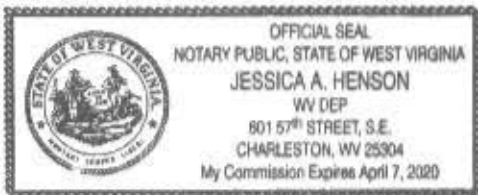
Date:

Mr. Ken Ellison
Director
WVDEP, Division of Land Restoration

I, Jessica A. Henson, a Notary Public in and for the County of Kanawha, State of West Virginia, do hereby certify that the holder(s) whose (name is) (names are) signed above, this day executed this document in my presence or this day acknowledged same to be the true act and deed of said holder(s).

Given under my hand this the 14th day of JULY, 2010.

Notary Public



Please request the Clerk of Pleasants County to return a copy of the recorded document to:

Mr. Ken Ellison, Director
WVDEP, Division of Land Restoration
601 57th Street
Charleston, WV 25304



**MALCOLM
PIRNIE**

Perrico-Quaker State Company
St. Marys, WV

April 2009

Figure 1
Site Location Map - AO Pipeline VRP



CITY OF ST. MARYS WATER WORKS

2 AC.

1.289 Ac.

OHIO R.R. CO.

ENCUTTER ADDITION

ENCUTTER ADDITION

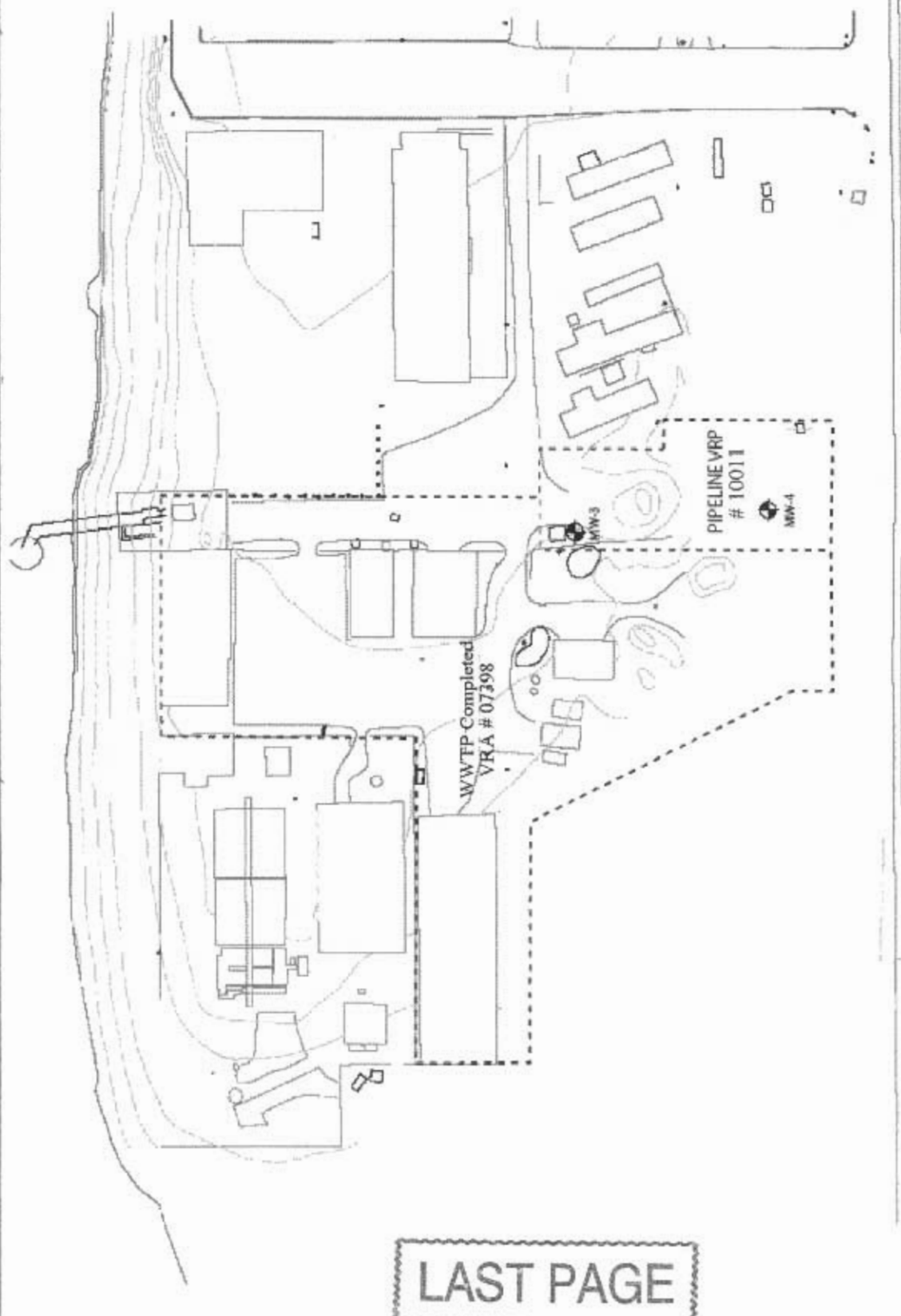
CREEL

STREET

Legend

1	REVISED TO MARCH 1965
2	11-27-65
3	

1/2" = 100'



LEGEND

- MW-4 MONITORING WELL
- LOCATION AND ID

LAST PAGE

PROPOSED AREA FOR VOLUNTARY REMEDIATION
AGREEMENT CERTIFICATE OF COMPLETION VRP

AO-PIPELINE AND WASTE WATER TREATMENT PLANT
ST. MARYS, WEST VIRGINIA

MALCOLM PIRNIE, INC.
MAY 2009

MALCOLM PIRNIE