

After recording, please return to: ✓
 JAY, SHERRELL, SMITH & BRADY, P.C.
 P. O. BOX 308
 FITZGERALD, GA 31750

FILED & RECORDED
Bmh
 DEC 28 2012
 3:44 P.M.
Betty Lynn Johnson
 CLERK, SUPERIOR COURT, BEN HILL CO., GA.

After Recording Return to:
 Georgia Environmental Protection Division
 Response and Remediation Program
 2 Martin Luther King, Jr. Drive, SE
 Suite 1162 East
 Atlanta, Georgia 30334

ENVIRONMENTAL COVENANT

P-3068

342 Perry House Road, Fitzgerald, Ben Hill County, Georgia

After Recording Return to:

Georgia Environmental Protection Division
Response and Remediation Program
2 Martin Luther King, Jr. Drive, SE
Suite 1162 East
Atlanta, Georgia 30334

Environmental Covenant

This instrument is an Environmental Covenant executed pursuant to the Georgia Uniform Environmental Covenants Act, O.C.G.A. § 44-16-1, *et seq.* This Environmental Covenant subjects the Property identified below to the activity and/or use limitations specified in this document. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded in accordance with O.C.G.A. § 44-16-8(a).

Fee Owner of Property/Grantor: DPH-DAS LLC
5725 Delphi Drive
MC: 483-400-525
Troy, Michigan 48098
Attention: John Brooks, President

Grantee/Holder: Fitzgerald and Ben Hill County Development
Authority
302 East Central Avenue
Fitzgerald, Georgia 31750
(229) 423-9357
Attention: Mark Masee

**Grantee/Entity with
express power to enforce:** State of Georgia
Department of Natural Resources
Environmental Protection Division
2 Martin Luther King Jr. Drive, SE
Suite 1152 East Tower
Atlanta, Georgia 30334

Property:

The area subject to this Environmental Covenant is the former Delphi Energy and Chassis Systems Site located at 342 Perry House Road in Fitzgerald, Ben Hill County, Georgia (hereinafter "Property"). This tract of land was conveyed on December 10, 1998 from General Motors Corporation to Delphi Automotive Systems, LLC, recorded in Deed Book 424, Page 160, Ben Hill County Records. The property is located in Land Lot 90 of the 3rd District of Ben Hill County, Georgia, and consisting of approximately 159 acres. A complete legal description of the property is attached as Exhibit A and a map of the area is attached as Exhibit B.

Tax Parcel Numbers: Tax ID Parcel Number 7 9 5 of Ben Hill County, Georgia

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Name and Location of Administrative Records:

The land use restriction at the property that is the subject of this Environmental Covenant is described in Exhibit C (Annual Property Evaluation Form) of this covenant. Additional documentation is available at the following locations:

Georgia Environmental Protection Division
Hazardous Waste Management and Remediation Program
2 MLK Jr. Drive, SE, Suite 1162 East Tower
Atlanta, Georgia 30334
M-F 8:00 AM to 4:30 PM excluding state holidays

Georgia Environmental Protection Division
Response and Remediation Program
2 MLK Jr. Drive, SE, Suite 1462 East Tower
Atlanta, Georgia 30334
M-F 8:00 AM to 4:30 PM excluding state holidays
HSI No. 10483

Description of Contamination and Corrective Action:

This Property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this Property. This notice is provided in compliance with the Georgia Hazardous Site Response Act.

This Declaration of Covenant is made pursuant to the Georgia Uniform Environmental Covenants Act, O.C.G.A. § 44-16-1 *et seq.* by DPH-DAS LLC, its successors and assigns, and the State of Georgia, Department of Natural Resources, Environmental Protection Division (hereinafter "EPD"), its successors and assigns. This Environmental Covenant is required because a release of lead occurred on the Property. Lead is a "hazardous constituent" and/or "regulated substance" as defined under the Georgia Hazardous Waste Management Act, O.C.G.A. §12-8-60 *et seq.* and the rules promulgated thereunder (hereinafter "HWMA" and "Rules," respectively) and the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder (hereinafter "HSRA" and "Rules", respectively). Lead detected at the Property at concentrations above the site specific industrial use standard of 900 mg/kg has been removed. Contaminants at the site are present below cleanup standards applicable to industrial settings and above cleanup standards applicable to residential settings. Since the concentration of contaminants is above the residential cleanup standards, the Property is restricted by institutional controls (limits property usage to non-residential) to protect human health and the environment.

Grantor, DPH-DAS LLC (hereinafter "DPH"), hereby binds Grantor, its successors and assigns to the activity and use restrictions for the property identified herein and grants such other rights under this Environmental Covenant in favor of the Fitzgerald and Ben Hill County Development Authority (the "Development Authority") and EPD. EPD shall have full right of enforcement of the rights conveyed under this Environmental Covenant pursuant to HWMA, O.C.G.A §12-8-60 *et seq.*, and HSRA, O.C.G.A. § 12-8-90 *et seq.*, and the Rules promulgated

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thereunder. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict EPD from exercising any authority under applicable law.

DPH makes the following declaration as to limitations, restrictions, and uses to which the property may be put and specifies that such declarations shall constitute covenants to run with the land, pursuant to O.C.G.A. § 44-16-5(a); is perpetual, unless modified or terminated pursuant to the terms of this Covenant pursuant to O.C.G.A. § 44-16-9; and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the property (hereinafter "Owner"). Should a transfer or sale of the property occur before such time as this Environmental Covenant has been amended or revoked then said Environmental Covenant shall be binding on the transferee(s) or purchaser(s).

The Environmental Covenant shall inure to the benefit of the Development Authority, EPD, DPH, and their respective successors and assigns and shall be enforceable by the Director or his agents or assigns, the Development Authority or its successors and assigns, and other party(ies) as provided for in O.C.G.A. § 44-16-11 in a court of competent jurisdiction.

Activity and/or Use Limitation(s)

1. **Registry.** Pursuant to O.C.G.A. § 44-16-12, this Environmental Covenant and any amendment or termination thereof, may be contained in EPD's registry for environmental covenants.
2. **Notice.** The Owner of the Property must give thirty (30) days advance written notice to EPD of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the land use restriction. The Owner of the Property must also give thirty (30) day advance written notice to EPD of the Owner's intent to change the use of the Property, apply for building permit(s), or propose any site work that would affect the Property.
3. **Notice of Limitation in Future Conveyances.** Each instrument hereafter conveying an interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of the Environmental Covenant.
4. **Periodic Reporting.** The Owner shall inspect the property and applicable property instruments at least annually to ensure compliance with this document. Annually, by no later than June 30, following the effective date of this Environmental Covenant, the Owner shall complete and submit to EPD the Annual Property Evaluation Form attached to this document as Exhibit C. This report should include photographs of the property and will document maintenance and inspection activities and whether or not the activity and use limitations in this Environmental Covenant are being abided by.
5. **Activity and Use Limitation(s).** The Property shall be used only for non-residential uses, as defined in Section 391-3-19-.02 of the Rules and defined in and allowed under the Ben Hill County zoning regulations as of the date of this Environmental Covenant. Any residential use on the Property shall be prohibited. Any activity on the Property that may result in the release of or exposure to the regulated substance (1) that create exposures that would endanger human

health (based on constituent, concentration, and duration of exposure) or (2) in a manner inconsistent with Exhibit C, or the creation of a new exposure pathway for regulated substances is prohibited. For purposes of this Environmental Covenant, release shall have the same meaning as its definition in Section 391-3-19.02 of the Rules

6. Right of Access. In addition to any rights already possessed by EPD, the Owner shall allow authorized representatives of EPD the right to enter the Property at reasonable times for the purpose of evaluating the institutional controls in place; to take samples, to inspect the Property, to determine compliance with this Environmental Covenant, and to inspect records that are related to the institutional controls.
7. Recording of Environmental Covenant and Proof of Notification. Within thirty (30) days after the date of the Director's signature, the Owner shall file this Environmental Covenant with the Recorders of Deeds for Ben Hill County and send a file stamped copy of this Environmental Covenant to EPD within thirty (30) days of recording. Within that time period, the Owner shall also send a file-stamped copy to each of the following: (1) each person holding a recorded interest in the Property subject to the covenant, (2) each person in possession of the real property subject to the covenant, (3) each municipality, county, consolidated government, or other unit of local government in which real property subject to the covenant is located, and (4) each owner in fee simple whose property abuts the property subject to the Environmental Covenant.
8. Termination or Modification. The Environmental Covenant shall remain in full force and effect in accordance with O.C.G.A. § 44-5-60, unless and until the Director determines based on a sufficient determination that the Property meets the residential cleanup standards derived in accordance with the Georgia Environmental Protection Division Guidance for Selecting Media Remediation Level at RCRA Solid Waste Management Unit, November 1996 (or its replacement), and is in compliance with the Type 1 or 2 Risk Reduction Standards, as defined in Section 391-3-19.07 of the Rules, whereupon the Environmental Covenant may be amended or revoked in accordance with Section 391-3-19-08(7) of the Rules and O.C.G.A. § 44-16-1 *et seq.*
9. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
10. No Property Interest Created in EPD. This Environmental Covenant does not in any way create any interest by EPD in the Property that is subject to the Environmental Covenant. Furthermore, the act of approving this Environmental Covenant does not in any way create any interest by EPD in the Property in accordance with O.C.G.A. § 44-16-3(b).

Representations and Warranties.

Grantor hereby represents and warrants to the other signatories hereto:

- a) That the Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- b) That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered;
- c) That the Grantor has identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Grantor's intention to enter into this Environmental Covenant;
- d) That this Environmental Covenant will not materially violate, contravene, or constitute a material default under any other agreement, document or instrument to which Grantor is a party, by which Grantor may be bound or affected;

- e) That the Grantor has served each of the people or entities referenced in Activity 7 above with an identical copy of this Environmental Covenant in accordance with O.C.G.A. § 44-16-4(d).
- f) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property; and
- g) That this Environmental Covenant does not authorize use of the Property that is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

Notices.

Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

Georgia Environmental Protection Division
Branch Chief
Land Protection Branch
2 Martin Luther King Jr. Drive SE
Suite 1154 East Tower
Atlanta, GA 30334

Fitzgerald and Ben Hill County Development Authority
302 East Central Avenue
Fitzgerald, Georgia 31750
(229) 423-9357
Attention: Mark Masee

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Grantor has caused this Environmental Covenant to be executed pursuant to The Georgia Uniform Environmental Covenants Act, on the 31st day of October, 2012.

DPH-DAS LLC



John Brooks
President

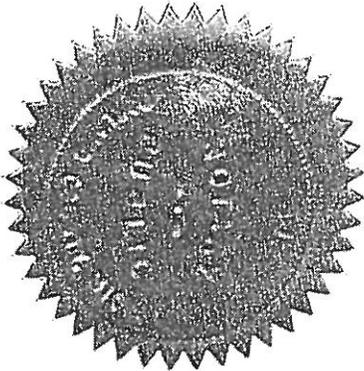
Dated: 31 OCT 2012

STATE OF Michigan
COUNTY OF OAKLAND

On this 31 day of October, 2012, I certify that JOHN BROOKS personally appeared before me, acknowledged that he is the President of the corporation that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument for said corporation.



Notary Public in and for the State of Michigan
residing at Oakland County
My appointment expires _____.



BARBARA BURNSTEEL
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Dec 15, 2016
ACTING IN COUNTY OF OAKLAND

FITZGERALD AND BEN HILL COUNTY DEVELOPMENT AUTHORITY

Mark H Masee

Mark Masee

[Title] CHAIRMAN

Dated: NOVEMBER 16TH, 2012

STATE OF GEORGIA
COUNTY OF BEN HILL

On this 16TH day of NOVEMBER, 2012, I certify that MARK MASSEE personally appeared before me, acknowledged that he signed this instrument, on oath stated that he was authorized to execute said instrument, and acknowledged it as the CHAIRMAN [type of authority] of FITZGERALD AND BEN HILL COUNTY DEVELOPMENT AUTHORITY to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

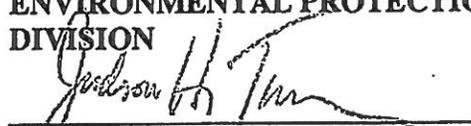
Kathy A Young

Notary Public in and for the State of Georgia,
Residing at FITZGERALD, BEN HILL CO,
My appointment expires 9/17/2013.

[NOTARY SEAL]



STATE OF GEORGIA
ENVIRONMENTAL PROTECTION
DIVISION

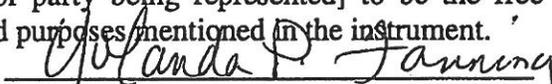


Judson H. Turner
Director

Dated: 12-13-2012

STATE OF Georgia
COUNTY OF Fulton

On this 13th day of Dec., 2012, I certify that JUDSON H. TURNER personally appeared before me, acknowledged that he signed this instrument, on oath stated that he was authorized to execute this instrument, and acknowledged it as the Director [type of authority] of the Georgia EPD [name of party being represented] to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.



Notary Public in and for the State of Georgia,
residing at Henry Co., GA
My appointment expires Sept 29, 2013



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Exhibit A
Legal Description

EXHIBIT A
Legal Description

TRACT 1 LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND CONTAINING 124.233 ACRES IN LAND LOT 90 IN THE THIRD DISTRICT OF BEN HILL COUNTY GEORGIA, AND BEING PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE POINT OF BEGINNING, COMMENCING AT THE NORTHEAST LAND LOT CORNER OF LAND LOT 90 THENCE LEAVING SAID LAND LOT CORNER S 86°39'40" W A DISTANCE OF 507.76' TO POINT LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF THE SOUTH RIGHT OF WAY OF BENJAMIN H. HILL DRIVE WITH THE WEST RIGHT OF WAY LINE OF THE SEABOARD COAST LINE RAILROAD COMPANY, AND THENCE S 05°10'53" W A DISTANCE OF 2071.62' TO A CONCRETE MONUMENT, WHICH IS THE NORTHEAST CORNER OF TRACT NUMBER 1 AND THE POINT OF BEGINNING, AND THENCE FROM SAID POINT OF BEGINNING N 88°26'20" W A DISTANCE OF 2273.24' TO A CONCRETE MONUMENT AT THE EASTERN RIGHT OF WAY OF PERRY HOUSE ROAD (HAVING A 100' RIGHT OF WAY); THENCE ALONG THE EASTERN RIGHT OF WAY OF PERRY HOUSE ROAD S 01°27'12" W A DISTANCE OF 279.15' TO A POINT; THENCE CONTINUING ALONG SAID RIGHT OF WAY S 01°35'34" W A DISTANCE OF 1312.31' TO A CONCRETE MONUMENT; THENCE ALONG SAID RIGHT OF WAY S 00°59'27" W A DISTANCE OF 405.29' TO A POINT; THENCE ALONG SAID RIGHT OF WAY S 00°19'23" W A DISTANCE OF 551.46' TO A POINT AT THE NORTHERN RIGHT OF WAY OF ED WARD ROAD (HAVING A N 80' RIGHT OF WAY); THENCE LEAVING SAID PERRY HOUSE ROAD RIGHT OF WAY AND CONTINUING ALONG NORTHERN RIGHT OF WAY OF ED WARD S 88°40'19" E A DISTANCE OF 1817.73' TO A CONCRETE MONUMENT AT THE WESTERN RIGHT OF WAY OF SEABOARD COAST LINE RAILROAD COMPANY (HAVING AN 150' R/W); THENCE LEAVING SAID ED WARD RIGHT OF WAY AND CONTINUING ALONG WESTERN RIGHT OF WAY OF SEABOARD COAST LINE RAILROAD COMPANY N 20°05'29" E A DISTANCE OF 835.52' TO A POINT; THENCE ALONG SAID RAILROAD RIGHT OF WAY N 13°06'40" E A DISTANCE OF 347.33' TO A POINT; THENCE ALONG SAID RAILROAD RIGHT OF WAY N 05°48'49" E A DISTANCE OF 1412.06' TO A CONCRETE MONUMENT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 5411583.36 SQUARE FEET, 124.233 ACRES.

TRACT 2 LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND CONTAINING 35.094 ACRES IN LAND LOT 90 IN THE THIRD DISTRICT OF BEN HILL COUNTY GEORGIA, AND BEING PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE POINT OF BEGINNING, COMMENCING AT THE NORTHEAST LAND LOT CORNER OF LAND LOT 90 THENCE LEAVING SAID LAND LOT CORNER S 86°39'40" W A DISTANCE OF 507.76' TO POINT LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF THE SOUTH RIGHT OF WAY OF BENJAMIN H. HILL DRIVE WITH THE WEST RIGHT OF WAY LINE OF THE SEABOARD COAST LINE RAILROAD COMPANY, AND THENCE S 05°10'53" W A DISTANCE OF 2071.62' TO A CONCRETE MONUMENT, WHICH IS THE NORTHEAST CORNER OF TRACT NUMBER 1, THENCE FROM SAID CONCRETE MONUMENT N 88°26'20" W A DISTANCE OF 1473.24' TO A POINT, WHICH IS THE SOUTHEAST CORNER OF TRACT NUMBER 2, AND BEING THE POINT OF BEGINNING THENCE N 88°26'20" W A DISTANCE OF 800.00' TO A CONCRETE MONUMENT FOUND AT THE EASTERN RIGHT OF WAY LINE OF PERRY HOUSE ROAD (HAVING A 100' RIGHT OF WAY); THENCE ALONG SAID EASTERN RIGHT OF WAY LINE N 01°33'40" E A DISTANCE OF 2015.94' TO A POINT AT THE CHAMFERED RIGHT OF WAY LINE OF BENJAMIN H. HILL DRIVE AND PERRY HOUSE ROAD; THENCE ALONG SAID CHAMFERED RIGHT OF WAY LINE N 62°12'24" E A DISTANCE OF 85.89' POINT AT THE SOUTHERN RIGHT OF WAY LINE OF BENJAMIN H. HILL DRIVE (HAVING A 80' RIGHT OF WAY); THENCE ALONG SAID SOUTHERN RIGHT OF WAY N 89°34'44" E A DISTANCE OF 215.91' TO A POINT; THENCE LEAVING SAID RIGHT OF WAY S 02°02'02" W A DISTANCE OF 282.83' TO A POINT; THENCE N 89°53'24" E A DISTANCE OF 302.03' TO A POINT; THENCE N 01°53'56" E A DISTANCE OF 83.00' TO A POINT; THENCE N 89°44'57" E A DISTANCE OF 211.06' TO A POINT; THENCE S 01°36'41" W A DISTANCE OF 1881.18' TO A POINT; WHICH IS THE SOUTHEASTERN CORNER OF TRACT NUMBER 2 AND BEING THE POINT OF BEGINNING, HAVING AN AREA OF 1527902.33 SQUARE FEET, 35.076 ACRES.

Exhibit B
Maps

Exhibit C
Annual Property Evaluation Form

342 Perry House Road, Fitzgerald, Georgia: HIS Site No. 10483

TYPE	No.	CRITERIA RESPONSE	YES	NO
Land Use	1	Does this former HSRA site meet the definition of non-residential property as defined in HSRA Rule 391-3-19.02(2)? "Non-residential property means any property or portion of a property not currently being used for human habitation or for other purposes with a similar potential for human exposure, at which activities have been or are being conducted that can be categorized in one of the 1987 Standard Industrial Classification major group..."		
	1a	If no to 1, provide a written explanation (attached) to the EPD within 30 days.		
Exposure	2	Are site workers expected to be directly exposed to soils that do not meet residential standards at this HSRA site in excess of 250 days per year?		
	2a	If yes to 2, are these same site workers expected to be exposed to soils at this HSRA site in excess of 25 years throughout their career?		
Erosion	3	Is there evidence of soil erosion in the remedial areas of the property?		
	3a	If yes to 3, is there evidence of erosion of these soils to off-property areas?		
	3b	If yes to 3a, are corrective measures being taken?		
	3c	If yes to 2, 3, 3a, and/or 3b, provide written explanation (attached) to the EPD within 30 days.		
Property Instruments	4	Do all leases or other property instruments for the site have the applicable deed notice language inserted into them.		
	4a	If no to 4, provide a written explanation (attached) to the EPD within 30 days.		
Inspection	5	Date of inspection:		
	5a	Name of inspector:		
	5b	Photographs showing current land use (attached)		

Certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NAME (Please type or print)

TITLE

SIGNATURE

DATE