

August 31, 2017

**VIA E-MAIL AND REGULAR MAIL**

Georgia Ports Authority  
c/o Mr. Christopher B. Novack, P.E.  
Director of Engineering & Facilities Maintenance  
P.O. Box 2406  
Savannah, Georgia 31402

Re: January 17, 2017 VRP Compliance Status Report  
April 29, 2016 Seventh VIRP Semi-Annual Progress Report  
Georgia Ports Authority-Bainbridge Terminal, HSI Site No. 10071  
1321 Spring Creek Road, Bainbridge, Decatur County

Dear Mr. Novack:

The Georgia Environmental Protection Division (EPD) has reviewed the Seventh Voluntary Investigation and Remediation Plan (VIRP) Semi-Annual Progress Report dated April 29, 2016, and the Compliance Status Report (CSR) and Uniform Environmental Covenant dated January 17, 2017, pursuant to the Georgia Voluntary Remediation Program Act (the Act), O.C.G.A. 12-8-100. Based upon EPD's review of these documents and information in its files, EPD concurs with the CSR compliance certification that tax parcels B0420-020-000 and B0420-021-A00 are in compliance with the Type 5 risk reduction standards for soil and groundwater upon execution of an environmental covenant. Therefore, the January 17, 2017 CSR is hereby approved subject to the execution of the environmental covenant and the following comments:

1. In previous EPD correspondence, including our February 16, 2016 letter, EPD requested that Georgia Ports Authority (GPA) include the Agrium parcels under an institutional control to restrict the use of groundwater. In order to address the constituents of concern associated with the soil removal area on what is referred to as the "northern parcel" in the CSR, a uniform environmental covenant (UEC) is needed for the Agrium property to meet the certification requirements in accordance with the Act. EPD will work directly with Agrium to facilitate the placement of this UEC; however, should our efforts fail, EPD may require GPA's assistance in this matter.
2. Previous comments by EPD have indicated that groundwater delineation requirements to the north of the site have not been met in accordance with Section 12-8-108. Based on further discussions between EPD and GPA, and considering the groundwater use deed restriction that may be placed on the Georgia Gulf Sulfur (GGS) parcel to the north of the site, EPD accepts GPA's assertion that delineation has been completed to the extent practical and meets the requirements of the Act.
3. According to the CSR, institutional controls will be used to address exposure scenarios associated with remaining impacts in soil and groundwater at the site. In order to ease the future implementation of the UEC for the site, EPD recommends that the details associated with the monitoring and

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maintenance portion of the engineering and institutional controls be submitted as a separate monitoring and maintenance plan. EPD recommends that this plan include, at a minimum, the following:

- a. Design and maintenance specifications for the engineering controls in the established area(s) of concern (AOC), including methods to control soil erosion and mobility of soil during the maintenance operations within the confines of the AOC-1 area.
  - b. Land disturbance restrictions and/or procedures for the established AOCs.
4. Comments associated with the proposed Draft UEC are included in the attached redline draft UEC.

The above listed comments may be addressed through the submittal of a revised UEC and Monitoring and Maintenance Plan, which should be submitted to EPD no later than November 15, 2017. Should you have any questions, please contact Montague McPherson at (404) 657-0483.

Sincerely,



Jason Metzger  
Program Manager  
Response and Remediation Program

Attachments: Redline Draft UEC

c: Raj Mahadevaiah – Environmental International Corporation (email)

File: HSI No. 10071 (File ID # 244-0023)

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After Recording Return to:

<Grantor Contact Address>

CROSS-REFERENCE: Deed Book:

Page:

### Uniform Environmental Covenant

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

**Fee Owner of Property/Grantor:** Georgia Ports Authority  
2 Main Street  
Garden City, GA 31408

**Grantee/Holder:** Georgia Ports Authority  
2 Main Street  
Garden City, GA 31408

**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~~ 1456 East Tower  
Atlanta, GA 30334

**Parties with interest in the Property:** None

#### Property:

The property subject to this UEC is the Georgia Ports Authority (GPA), Bainbridge Terminal (hereinafter "Property"), located at 1321 Spring Creek Road (also known as Georgia State Route 253) in Bainbridge, Decatur County, Georgia. A majority of this tract of land was conveyed from the State of Georgia to GPA on June 15, 1964 and another smaller portion was conveyed from Chevron U.S.A. Inc. to GPA on July 23, 1986. These deeds are recorded in Deed Book D-8, Pages 358-364, and Deed Book I-14, Pages 377-381, respectively, in the Decatur County Records. The area is located in Land Lot 373 of the 15<sup>th</sup> District of Decatur County, Georgia. The Property, being bounded on the north and west by State Route 253; to the east by lands, now or formerly, of Agrium U.S. Inc.; on the south by the Flint River; and on the west by lands, now or formerly, of Ergon Terminals, Inc., consists of approximately 64.6 acres. A complete legal

description of the Property with the associated warranty deeds is attached as Exhibit A and a map of the GPA and surrounding properties is attached as Exhibit B.

**Tax Parcel Number(s):**

Parcels ~~20, 21A~~B0420-020-000 and B0420-021-A00, and ~~small portions of the western areas of parcels 18 and 19,~~ Decatur County, Georgia.

**Name and Location of Administrative Records:**

The corrective action at the Property that is the subject of this Uniform Environmental Covenant is described in the following document[s]:

- Environmental International Corporation (EIC), December 2016. *Compliance Status Report*, January 17, 2017, and amendments thereof.

These documents are available at the following locations:

Georgia Environmental Protection Division  
Response and Remediation Program  
2 MLK Jr. Drive, SE, Suite ~~1462-1054~~ East Tower  
Atlanta, GA 30334  
M-F 8:00 AM to 4:30 PM excluding state holidays

Georgia Ports Authority, Main Office  
2 Main Street  
Garden City, GA 31408

Georgia Ports Authority, Bainbridge Terminal  
1321 Spring Creek Road  
Bainbridge, GA 39817

**Description of Contamination and Corrective Action:**

The Property has been listed on Georgia's hazardous site inventory since 1994 and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. On November 2, 2012, the Environmental Protection division (hereinafter "EPD") accepted the Property as a qualifying property and a participant in the Voluntary Remediation Program Act (VRP). Interested parties may contact the GPA or the EPD for further information concerning the Property. This notice is provided in compliance with the Georgia Hazardous Site Response Act.

This Declaration of a Covenant is made pursuant to the Georgia Uniform Environmental Covenants Act, O.C.G.A. § 44-16-1 *et seq.* by GPA, its successors and assigns, and the State of Georgia, Department of Natural Resources, EPD, its successors and assigns. This UEC is required because pesticides contamination, primarily that of benzenehexachloride (BHC), also

known as hexachlorocyclohexane (HCH), consisting of  $\alpha$  (alpha),  $\beta$  (beta),  $\delta$  (delta), and  $\gamma$  (gamma) isomer constituents of concern (COCs), exists on a portion of the Property. The BHC constituents are "regulated substances" as defined under 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).

In compliance with these rules, GPA initiated corrective actions for the release include soil removal, engineering controls and institutional controls to limit land use to non-residential purposes, to restrict the extraction of groundwater within the area on the Property where COCs in groundwater exist above the delineation criterion, and to restrict digging or excavating soil within two designated areas of concern (AOCs) with established COCs concentrations in soil above the delineation criterion (see Figure 1 for details). The extents of the Property subject to groundwater extraction or removal restrictions, based on the most recent September 2015 and March 2016 groundwater monitoring events, is illustrated in Figure 1. From Figure 1, the western limit of the restricted groundwater use area is defined by five monitoring wells in which concentrations of monitored COCs in groundwater have historically been below detection limits for all monitored COCs throughout the VRP groundwater sampling program. The northern, eastern, and southern boundary for the restricted groundwater use area is defined by the legal Property extents in each respective direction, as COCs in groundwater above the delineation criterion have been established throughout the area of the property east of the western limit defined above. Additional details and associated with the investigations and corrective action are included in the January 17, 2017 compliance status report (CSR). Specifications and requirements of the nonengineering controls and institution controls are included in the Monitoring and Maintenance Plan.

~~The extents of the Property that are subject to soil removal or disturbance restrictions are illustrated in Figure 2. The soil disturbance/removal restricted areas are defined based on soil sampling conducted prior to and during the VRP. A perimeter chain-link security fence is installed around the boundary of AOC 1, such that the fence line is at least 20 feet outward from the nearest boundary of AOC 1 in all directions, the only exception being where the AOC 1 boundary lies adjacent to an impermeable asphalt paved surface. The entirety of soils with COC concentrations within AOC 2 lies beneath an impermeable asphalt or concrete surface, limiting exposure.~~

~~A more detailed description of the soil and groundwater restrictions at the Property is included in the Activity and/or Land Use Restrictions section of this UEC. Corrective Action for the prevailing COCs contamination in groundwater and soil consists of the installation and maintenance of engineering controls (consisting of maintained impermeable and permeable cover and security fencing) and institutional controls (consisting of a use or activity limitation to non-residential activities and a maintenance and monitoring plan) to protect human health and the environment.~~

The Grantor, GPA, hereby binds its successors and assigns to the activity and use restriction(s) for the Property identified herein and grants such other rights under this UEC in favor of the GPA and EPD. EPD shall have full right of enforcement of the rights conveyed under this UEC pursuant to HSRA, O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder. Failure to

timely enforce compliance with this UEC 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 UEC shall restrict EPD from exercising any authority under applicable laws.

GPA 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 UEC has been amended or revoked, then said UEC shall be binding on the transferee(s) or purchaser(s).

The UEC shall insure to the benefit of GPA, EPD, and their respective successors and assigns and shall be enforceable by the Director or his agents or assigns, GPA 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 Land Use Limitation(s):**

##### **1. Registry**

Pursuant to O.C.G.A. § 44-16-12, this UEC and any amendment or termination thereof, may be contained in EPD's registry for UECs.

##### **2. Notice**

The Owner of the Property must give a thirty (30)-day 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 Corrective Action. 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 established AOCs identified in Figure 1 within the boundaries of the Property, apply for building permit(s), or propose conduct any land disturbing activities work that would affect these AOCs Property.

##### **3. Notice of Limitation in Future Conveyances**

Each instrument hereafter conveying an interest in the Property subject to this UEC shall contain a notice of the activity and use limitations set forth in this UEC and shall provide the recorded location of the UEC.

##### **4. Monitoring**



~~A Monitoring and Maintenance Plan has been implemented to ensure that contaminated soil poses no hazards to occupants, contractors, or visitors. Two years of groundwater monitoring will be conducted in accordance with the specifications, or as amended. Annual inspections of the facility are to be conducted to ensure that the activity and use limitations in this UEC are being abided by. At a minimum, the annual inspections will include the tasks detailed in the [Placeholder for Date] Monitoring and Maintenance Plan listed on the Annual Inspection Form in Exhibit C.~~

5. Periodic Reporting

~~A Monitoring and Maintenance Plan has been implemented to ensure that contaminated soil poses no hazards to occupants, contractors, or visitors. The monitoring report should include Figures and Exhibit C an Annual Inspection Report Form. Annually, by no later than 365 days December 30th following the effective date of this UEC, the Owner Georgia Ports Authority shall submit to EPD an Annual Report in accordance with the form attached hereto as Exhibit C detailed within the Monitoring and Maintenance Plan, certifying that the Activity and Use Limitations in this UEC are being abided by. as specified in the EPD approved Maintenance and Monitoring Plan including, but not limited to: maintenance and inspection activities, certification of non-residential use of the Property, and documentation stating whether or not the activity and use limitations in this UEC are being abided by.~~

6. 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 as defined in and allowed under the Decatur County's zoning regulations as of the date of this UEC. Any residential use on the Property shall be prohibited. Any land disturbing activities conducted y on the Property that may result in the release of the regulated substances that were contained as part of the Corrective Action is prohibited in the Areas of Concern AOCs identified in Exhibit B Figure 1 are to be conducted in accordance with the procedures detailed within the [placeholder for date] Maintenance and Monitoring Plan, or as amended. These activities include, but are not limited to the following: drilling, digging, excavation, demolition, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability. All AOC engineering controls must be maintained as specified in the [placeholder for date] Monitoring and Maintenance Plan, or as amended. The UEC associated with AOC 2 should be maintained in accordance with the maintenance and monitoring plan and includes the following activities in addition to the ones above: piercing the surface with a rod, spike or similar item.~~

~~With the exception of work necessary for the maintenance, repair, or replacement of engineering controls, activities that are prohibited within the designated restricted areas of the Property illustrated Figure 2 include, but are not limited to the following: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or~~

~~similar item, bulldozing or other earthwork, extraction of groundwater from pits or new groundwater extraction well installation(s). As the engineering control for AOC 2 is a concrete/asphalt impermeable layer, any disturbance/removal of this impermeable layer through regular activities or Property redevelopment activities is prohibited unless proper precautions are taken to limit short term exposure and to replace the impermeable layer once the activities are completed. The placement of additional impermeable material or resurfacing of the paved areas for routine maintenance is excluded from this restriction. Additionally, any Property redevelopment plans require EPD approval prior to the initiation of land disturbance activities or groundwater extraction within the designated areas of concern. Any soil or groundwater originating from the aforementioned restricted areas of the Property will be properly managed and disposed of in accordance with the [placeholder for date] Monitoring and Maintenance Plan, or as amended. all applicable local, state, and federal rules and regulations governing the management of such materials.~~

~~As discussed in the 2016 Compliance Status Report (CSR), any construction workers contracted by the owner performing Property redevelopment, excavation, or subsurface utility work on the property, that may result in incidental contact to soil or groundwater within the contaminated soil and contaminated groundwater foot-print, are required to undergo appropriate safety training and perform the work in accordance with a Health and Safety Plan prepared by a qualified safety professional. Contractors are also required to attend a BHC awareness program to understand the potential exposure routes and exposure symptoms of BHC.~~

## 7. Groundwater Limitation

The use or extraction of groundwater beneath the Property for drinking water or other potable uses shall be prohibited. The use or extraction of groundwater for any other purpose besides site characterization is prohibited unless conducted under a plan approved in writing by EPD.

~~Removal or extraction of groundwater within the defined foot-print illustrated in Figure 1 from open pits, new or existing wells (except during environmental groundwater monitoring from existing monitoring wells), and any other means, is prohibited unless the extracted groundwater is managed in accordance with all applicable local, state and federal rules and regulations governing the management of such material. In addition, any groundwater extracted from the Property will not be discharged into the storm water or surface water systems.~~

## 8. Permanent Markers

Permanent engraved granite markers are installed in conspicuous areas within or near each soil AOC such that they delineate the restricted areas of the Property as specified in Section 391-3-19-.07(10) of the Rules. Disturbance or removal of such markers is prohibited.



9. Right of Access

In addition to any rights already possessed by EPD and/or the GPA, the Owner shall allow authorized representatives of EPD and/or GPA the right to enter the Property at reasonable times for the purpose of evaluating the Corrective Action; to take samples, to inspect the Corrective Action conducted at the Property, to determine compliance with this UEC, and to inspect records that are related to the Corrective Action.

10. Recording of UEC and Proof of Notification

Within thirty (30) days after the date of the Director's signature, the Owner shall file this UEC with the Records of Deeds for Decatur County, and send a file stamped copy of this UEC 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 UEC.

11. Termination or Modification

This UEC shall remain in full force and effect in accordance with O.C.G.A. § 44-5-60, unless and until the Director determines that the Property is in compliance with the Type 1, 2, 3, or 4 Risk Reduction Standards, as defined in Georgia Rules of Hazardous Site Response (Rules) Section 391-3-19-.07 and removes the Property from the Hazardous Site Inventory, whereupon the UEC 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.*

12. Severability

If any provision of this UEC 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.

13. No Property Interest Created in EPD

This UEC does not in any way create any interest by EPD in the Property that is subject to the UEC. Furthermore, the act of approving this UEC 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:

1. That the Grantor has the power and authority to enter into this UEC, to grant the rights and interests herein provided and to carry out all obligations hereunder;
2. That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered;
3. 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 UEC;
4. That this UEC 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;
5. That the Grantor has served each of the people or entities referenced in Activity 10 above with an identical copy of this UEC in accordance with O.C.G.A. § 44-16-4(d);
6. That this UEC will not materially violate or contravene any zoning law or other law regulating use of the Property; and
7. That this UEC does not authorize a use of the Property that is otherwise prohibited by a recorded instrument that has priority over the UEC.

**Notices:**

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

Georgia Environmental Protection Division  
Branch Chief  
Land Protection Branch  
2 Martin Luther King Jr. Drive SE  
Suite 1054 East Tower  
Atlanta, GA 30334

Georgia Ports Authority  
c/o Griffith Lynch  
Executive Director  
2 Main Street  
Garden City, GA 31408

Grantor has caused this UEC to be executed pursuant to The Georgia Uniform Environmental Covenants Act, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**GEORGIA PORTS AUTHORITY AS GRANTOR**

\_\_\_\_\_  
Griffith Lynch  
Executive Director

Dated: \_\_\_\_\_

**GEORGIA PORTS AUTHORITY AS HOLDER**

\_\_\_\_\_  
Griffith Lynch  
Executive Director

Dated: \_\_\_\_\_

**STATE OF GEORGIA  
ENVIRONMENTAL PROTECTION DIVISION**

\_\_\_\_\_  
[Name of Person Acknowledging Receipt]  
[Title]

Dated: \_\_\_\_\_

**[CORPORATE ACKNOWLEDGMENT]**

STATE OF Georgia  
COUNTY OF Deeatur

\_\_\_\_\_ On this 9th day of January, 2017, I certify that ~~Griffin Lynch~~ personally appeared before me, acknowledged that he is the ~~Executive Director~~ 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  
Georgia, residing at \_\_\_\_\_.  
My appointment expires \_\_\_\_\_.

Grantor has caused this Environmental Covenant to be executed pursuant to the Georgia Uniform Environmental Covenants Act on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed, sealed, and delivered in the presence of:

**For the Grantor:**

\_\_\_\_\_  
Unofficial Witness (*Signature*)

\_\_\_\_\_  
Name of Grantor (*Print*)

\_\_\_\_\_  
Unofficial Witness Name (*Print*)

\_\_\_\_\_  
Grantor's Authorized Representative (*Seal*)  
(*Signature*)

\_\_\_\_\_  
Unofficial Witness Address (*Print*)

\_\_\_\_\_  
Authorized Representative Name (*Print*)

\_\_\_\_\_  
Notary Public (*Signature*)

\_\_\_\_\_  
Title of Authorized Representative (*Print*)

My Commission Expires: \_\_\_\_\_

Dated: \_\_\_\_\_  
(NOTARY SEAL)

Grantee has caused this Environmental Covenant to be executed pursuant to the Georgia Uniform Environmental Covenants Act on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed, sealed, and delivered in the presence of:

**For the Grantee:**

\_\_\_\_\_  
Unofficial Witness (*Signature*)

\_\_\_\_\_  
Name of Grantee (*Print*)

\_\_\_\_\_  
Unofficial Witness Name (*Print*)

\_\_\_\_\_  
Grantee's Authorized Representative  
(*Signature*) (Seal)

\_\_\_\_\_  
Unofficial Witness Address (*Print*)

\_\_\_\_\_  
Authorized Representative Name (*Print*)

\_\_\_\_\_  
Notary Public (*Signature*)

\_\_\_\_\_  
Title of Authorized Representative (*Print*)

My Commission Expires: \_\_\_\_\_

Dated: \_\_\_\_\_  
(NOTARY SEAL)



Signed, sealed, and delivered in the presence  
of:

**For the State of Georgia**  
**Environmental Protection Division:**

\_\_\_\_\_  
Unofficial Witness (*Signature*)

\_\_\_\_\_  
(*Signature*) (Seal)  
Richard Dunn

\_\_\_\_\_  
Unofficial Witness Name (*Print*)

Director

\_\_\_\_\_  
Unofficial Witness Address (*Print*)

Dated: \_\_\_\_\_

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public (*Signature*)

My Commission

Expires: \_\_\_\_\_

Exhibit A

Exhibit B

Exhibit C

