| **Prepared by**: | Virginia Department of Environmental Quality (“DEQ”)  1111 East Main Street, Suite 1400  Richmond, Virginia 23219  (804) 698-4000 |
| --- | --- |
| **Grantor:** | [*Current Site Owner*] |
| **Grantee:** | [*Current Site Owner*] |
| **Tax Map Number(s):** | [*Identify*] |

# **COMMONWEALTH OF VIRGINIA**

# **VOLUNTARY REMEDIATION PROGRAM (“VRP”)**

# **CERTIFICATION OF SATISFACTORY COMPLETION OF REMEDIATION**

|  |  |
| --- | --- |
| **VRP Participant (“Participant”):** | [*Name(s) of Participant(s)*] |
|  |  |
| **Site Owner:** | [*Name(s) of Current Site Owner(s)*] |
|  |  |
| **Site Name (“Site”):** | [*Site Name*] |
|  |  |
| **Site Location:** | [*Site Address*] |
|  |  |
| **VRP Site Identification Number:** | [*Site ID Number*] |
|  |  |
| **Deed Book Number:**  **Deed Book Page Number:**  **Instrument Number:** | Deed Book No.\_\_\_\_\_\_\_  Deed Book Page No.\_\_\_  Instrument No.\_\_\_\_\_\_\_\_ |
|  |  |
| **Locality of Record:** | [*City or County where the Site is located*] |
|  |  |
| **Description of Property (“Property”):** | [*Insert a legal description or include it as an attachment with a plat, site map, or survey that includes the acreage and boundaries of the VRP Site. If the site is a portion of a larger property, then the plat, site map, or survey shall show the approximate boundaries of both the site and the associated larger property.*] |
|  |  |
| **Acreage:** | [*Identify*] |
|  |  |
| **Current Zoning:** | [*Identify*] |
| **Proposed Use of Property:** | [*For example: Residential, Commercial, or Industrial*] |
|  |  |
| **Conditions of Issuance:** | [*If there are no conditions, state,* “None.”]  [*If there are conditions, state the following, with appropriate modifications: “Institutional controls, for example, deed restrictions incorporated in the Declaration of Restrictive Covenants (“Declaration”) (please see Attachment\_\_), to ensure that: [Enumerate conditions, such as the following examples] (1) groundwater beneath the Site shall not be used for any purpose other than environmental monitoring and testing, or de-watering in compliance with all applicable federal, state, and local laws and regulations and (2) the Site shall not be used for residential purposes or for children’s (under the age of 16) daycare facilities, schools, or playgrounds (although hotels and motels are not prohibited).”*]  [*If applicable, insert: “In addition, the Participant or its successors-in-interest shall conduct sampling as defined in the Post-certification Monitoring Plan dated [Date], on file at the Office of Remediation Programs at the Virginia Department of Environmental Quality.”*] |
| **Encumbrances:** | [*List all deeds of trust and encumbrances on the Property that are affected by the use restrictions, such as easements or rights of access. For example: “(1) Deed of Trust made [Date], by and among \_\_\_\_\_(Grantor), \_\_\_\_\_ (Trustee), and \_\_\_\_\_ (Bank) (Deed Book \_\_\_, Page\_\_).” Trustees, holders of rights of way, and* ***other parties with a property interest must be a party to and execute the Declaration****.* *If there are no deeds of trust or encumbrances on the Property* ***that are affected by the use restrictions****, state, “None”.*] |

**AUTHORITY**

PURSUANT to the Code of Virginia (“Va. Code”), Va. Code §§ 10.1-1230 *et seq*., and the Virginia Administrative Code (“VAC”) 9VAC20-160-10 *et seq.*, the Participant submitted an application on [*Date*] to enroll the Participant and the Site into the VRP. By letter dated [*Date*], the Waste Management Board, acting on behalf of the Director of the DEQ, deemed the Participant and Site eligible and notified the Participant that the Site was enrolled into the VRP. The VRP provides for the Participant’s voluntary remediation of releases of hazardous substances, hazardous waste, solid waste, or petroleum from the Site that is the subject of this Certification of Satisfactory Completion of Remediation (“Certificate”), in accordance with 9VAC20-160-110.

**DETERMINATION**

Pursuant to the authority granted under Va. Code §§ 10.1-1230 *et seq.*, the Director, or their Designee, has reviewed and deems the Voluntary Remediation Report (“Report”) complete and adequate as stated in 9VAC20-160-80, has determined that the environmental impacts identified at the Site, as made known at this time, do not present an unacceptable risk to human health and the environment [*if the institutional controls mentioned above are implemented correctly*], and hereby issues this Certificate. No further action is required at the Site [*except for monitoring and the imposition of institutional controls as noted above*].

As a result of the issuance of this Certificate, the Participant, current and future owners of the Site, and their successors-in-interest are accorded immunity from an enforcement action under the Virginia Waste Management Act (Va. Code §§ 10.1-1400 *et seq*.), the State Water Control Law (Va. Code §§ 62.1-44.2 *et seq*.), the Air Pollution Control Law (Va. Code §§ 10.1-1300 *et seq*.), or other applicable Virginia law. The immunity accorded by the Certificate shall apply to the Participant, current and future owners of the Site, and their successors-in-interest and shall run with the land identified as the Site.

**RESERVATION OF RIGHTS**

The immunity granted by issuance of this Certificate shall be limited to Site conditions at the time of issuance as those conditions are described in the documentation submitted by the Participant pursuant to participation in the VRP. The immunity is further conditional upon satisfactory performance by the Participant of all obligations required by the Director according to the VRP and upon the veracity, accuracy, and completeness of the information submitted to the Director by the Participant relating to the Site.

The immunity granted by this Certificate does not pertain to any matter other than that expressly specified in the section, above, entitled “Determination.” The Director reserves, and this immunity is without prejudice to, the right to revoke or amend the Certificate (1) in the event conditions at the Site, unknown at the time of issuance of the Certificate, pose a risk to human health or the environment; or (2) in the event that the Certificate was based on information that was false, inaccurate, or misleading. The Director further reserves, and this Certificate and immunity are without prejudice to, the right to pursue any and all claims for liability for failure to meet a requirement of the VRP, criminal liability, or liability arising from future activities at the Site which may cause contamination by pollutants. By issuance of this Certificate, the Director does not waive sovereign immunity.

This Certificate is not and shall not be interpreted to be a permit or a modification of an existing permit or administrative order issued pursuant to state law, nor shall it in any way relieve the Participant of their obligation to comply with any and all applicable federal, state, or local laws, regulations, or administrative orders. This Certificate and the Declaration may be amended, revoked, or terminated only in accordance with 9VAC20-160-65, 9VAC20-160-100, or 9VAC20-160-110 and with the consent of the Director. Any new permit or administrative order, or modification of an existing permit or administrative order, must be conducted in accordance with all applicable federal, state, or local laws and regulations.

**DISCUSSION OF RELEVANT INFORMATION**

[*As required by 9VAC20-160-110,* *provide the site address, acreage, and a brief Site history, including relevant information about current and past owners. Describe the industrial/commercial uses and the suspected or known sources of contamination and operations. Briefly describe relevant components of the Site Characterization Report, Risk Assessment, Remedial Action Plan, Demonstration of Completion, and Documentation of Public Notice that formed the basis for the issuance of this Certificate. Include a description of the contaminants of concern; impacted media; pathways of exposure; limits on exposure; location and extent of contamination; and remedy/corrective action undertaken, if applicable. Describe any restrictions on the future use of the Site, explaining the nature and purpose of each restriction, for example: “The risk assessment concluded that contamination in the soil and groundwater at the Site does not present an unacceptable risk to human health or the environment, provided that the impacted groundwater at the Site is not used for drinking water purposes.” Also describe any required engineering controls and their maintenance. Describe or list the components or actual reports of the Voluntary Remediation Report with their associated dates of submittal as required by 9VAC20-160-70. For the public notice, provide the date submitted to DEQ as required by 9VAC20-160-120.*]

In consideration of the [*“above” or “implementation of the above-noted monitoring and institutional controls”*], the Director has deemed the Report complete and adequate.

***(Signature pages follow)***

[*If there are no institutional controls include this paragraph and delete the following paragraph*:]

**This Certificate is conditional upon the signatures of the Participant and the Site Owner. Because this Certificate does not include any use restrictions, recordation is at the option of the Participant. If this Certificate is recorded in the land records of [*Name of County or City*], Virginia, a certified copy of the Certificate as recorded is requested to be submitted electronically or mailed to the Virginia Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, ATTN: Voluntary Remediation Program, within 90 days of the execution of the Certificate by the Virginia Department of Environmental Quality. Please note that according to 9VAC20-160-65, amendments to a Site’s Certificate or the associated Declaration issued by the DEQ pursuant to 9VAC20-160-110 shall be subject to registration fees based on the amendments requested. In addition, the reissuance and signature of a Certificate is considered an amendment and a registration fee may be imposed as such.**

[*If there are institutional controls include the paragraph below and delete the paragraph above*:]

**This Certificate is conditional upon the signatures of the Participant and the Site Owner and its being recorded within 90 days of the execution of the Certificate by the Virginia Department of Environmental Quality, in the land records of [*Name of County or City*], Virginia. A certified copy of the Certificate as recorded must be submitted electronically or mailed to the Virginia Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, ATTN: Voluntary Remediation Program. Please note that according to 9VAC20-160-65, amendments to a Site’s Certificate or the associated Declaration of Restrictive Covenants issued by the DEQ pursuant to 9VAC20-160-110 shall be subject to registration fees based on the amendments requested. In addition, the reissuance and signature of a Certificate is considered an amendment and a registration fee may be imposed as such.**

Michael S. Rolband, PE, PWD, PWS Emeritus

Director

Virginia Department of Environmental Quality

Date: \_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Brett Fisher, P.G.

Office of Remediation Programs Manager

COMMONWEALTH OF VIRGINIA

CITY OF RICHMOND

The foregoing instrument was acknowledged before me this \_\_\_\_day of \_\_\_\_\_\_\_\_, \_\_\_\_\_, by Brett Fisher, who is personally known to me. Brett Fisher voluntarily acknowledged this instrument as the Office of Remediation Programs Manager, authorized representative of the Virginia Department of Environmental Quality.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Notary Registration Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*If the Site Owner and Participant are the same, use only the following signature block:*]

Date: ­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Name of Participant*]

[*Name of Participant’s Representative*]

[*Title of* *Participant or Representative*]

State of \_\_\_\_\_\_\_\_\_\_\_\_\_, County of \_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me this [*Date*] by [*Name of person who signed*].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Notary Registration Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*If the Site Owner and Participant are not the same, add the following signature block:*]

Date: ­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Name of Site Owner*]

State of \_\_\_\_\_\_\_\_\_\_\_\_\_, County of \_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me this [*Date*] by [*Name of person who signed*].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Notary Registration Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# **DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants (“Declaration”) made as of this \_\_\_\_ day of [*Month, Year*], pursuant to the Code of Virginia (“Va. Code”), Va. Code §§ 10.1-1230 *et seq*., and the Virginia Administrative Code (“VAC”) 9VAC20-160-10 *et seq.*, by [*Name of Site Owner*], owner of the fee simple title to the property hereinafter described, GRANTOR, [*If there are trustees, add* “and by *[Name(s) of Trustee(s)]*, Trustee(s),”] as follows:

ALL THAT certain tract, piece or parcel of land containing a total [*Amount of acres*] acres, lying and being in the City or County of [*Name of City or County*], Virginia, and [*Metes-and-bounds description of property and/or reference to attached plat*].

WHEREAS, [*Name of Site Owner*] is the fee simple owner of said property (please see deed recorded in Deed Book \_\_, Page \_\_ or Instrument Number:\_\_\_\_\_\_\_ ); and

[*If the property is subject to a Deed of Trust, delete the preceding “and,” and insert the following paragraph:*]

WHEREAS, this Property is subject to a Deed of Trust of record at Deed Book \_\_, Page \_\_, to \_\_\_\_\_\_\_ and \_\_\_\_\_\_\_, [*name of Trustee*], to secure a note dated \_\_\_\_\_\_\_\_\_\_\_ in the amount of \_\_\_\_\_\_\_\_ made to [*name of Trustee*]. [*Name of Trustee*] hereby consents to the terms, conditions, and restrictions of this Declaration and to all of Grantee's rights hereunder, agrees that the lien represented by said Deed of Trust shall be held subject to this Declaration.

[*If the property is subject to a further encumbrance, delete the preceding “and,” and insert the following paragraph:*]

WHEREAS, this Property is subject to a [*name of encumbrance, for example, “Easement”*] at Deed Book \_\_, Page \_\_, [*name of encumbrance holder*] joins this Declaration to the end that the [*name of encumbrance*] shall be subordinate to this Declaration and its terms; and

WHEREAS, in consideration of certain concessions made by the Director of the Virginia Department of Environmental Quality, the Grantor has agreed to establish certain irrevocable restrictive covenants limiting the use of certain portions of said Property in order to protect human health and the environment;

NOW THEREFORE, for the consideration referred to above, the receipt and legal sufficiency of which is hereby acknowledged by the undersigned, and in order to protect human health and the environment, the undersigned do hereby irrevocably dedicate, declare, and impose the following restrictive covenants to run with the land on the above-described Property as follows:

[*Insert institutional controls here, for example*:

1. *The groundwater beneath the Property shall not be used for any purpose other than environmental monitoring and testing or de-watering in compliance with all applicable federal, state, or local laws and regulations.*
2. *The Property shall not be used for residential purposes, or for children’s (under the age of 16) daycare facilities, schools, or playground purposes (although hotels and motels are not prohibited)*.]

This Declaration may be amended only in accordance with 9VAC20-160-65 and with the consent of the Director of the Virginia Department of Environmental Quality, upon a demonstration of circumstances sufficient to justify an amendment.

***(Signature pages follow)***

Given under my hand and seal at [*Name of City*], Virginia, on the \_\_\_\_\_ day of [*Month, Year*],

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Name of Site Owner*]

By: [*Name*]

State of \_\_\_\_\_\_\_\_\_\_\_\_\_, County of \_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me this [*Date*] by [*Name of person who signed*].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Notary Registration Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*If there is a deed of trust, add the following signature block:*]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Name*], Trustee

State of \_\_\_\_\_\_\_\_\_\_\_\_\_, County of \_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me this [*Date*] by [*Name of person who signed*].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Notary Registration Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*If there are encumbrances listed on the Certificate, add a signature block for each party:*]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Name and title of encumbrance holder*]

State of \_\_\_\_\_\_\_\_\_\_\_\_\_, County of \_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me this [*Date*] by [*Name of person who signed*].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Notary Registration Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_