



December 5, 2013

North Carolina Department of Environment  
and Natural Resources  
Division of Waste Management – DSCA Program  
401 Oberlin Road, Suite 150  
Raleigh, NC 27605-1350

Att: Mr. Mike Cunningham  
DSCA Project Manager

Re: **Risk Management Plan**  
Former Swannanoa Cleaners - DSCA Site ID #11-0007  
1334 Patton Avenue  
Asheville, Buncombe County, North Carolina

Dear Mr. Cunningham:

URS Corporation – North Carolina (URS) is pleased to provide the attached Risk Management Plan (RMP) for the former Swannanoa Cleaners site located at 1334 Patton Avenue, Asheville, North Carolina. A risk assessment conducted for the site indicates that contaminant concentrations at the site do not pose an unacceptable risk. The primary purpose of this RMP is to ensure that the assumptions made in the risk assessment remain valid in the future. Based on the documentation outlined in this report, URS recommends issuance of a No Further Action letter for the site.

If you have any questions or require additional information, please do not hesitate to contact either Rob MacWilliams at 704.522.0330 or Aaron Council at 864.527.4737.

Sincerely,

**URS CORPORATION-NORTH CAROLINA**

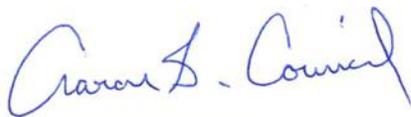
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**Risk Management Plan  
Former Swannanoa Cleaners - DSCA Site ID # 11-0007  
1334 Patton Avenue  
Buncombe County  
Asheville, North Carolina 28806**

**Submitted To:**  
**NC Department of Environment and Natural Resources**  
Division of Waste Management – DSCA Program  
401 Oberlin Road, Suite 150  
Raleigh, NC 27605-1350



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Aaron S. Council  
Project Manager



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Robert H. MacWilliams, PG  
Program Manager  
N.C. Professional Geologist #2110

**URS**

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## 1.0 INTRODUCTION

URS Corporation – North Carolina (URS) has prepared this Risk Management Plan (RMP) to address dry-cleaning solvent contamination associated with the former Swannanoa Cleaners site (DSCA Site #11-0007) on behalf of the North Carolina Department of Environment and Natural Resources (NCDENR) Dry-Cleaning Solvent Cleanup Act (DSCA) Program. The Swannanoa Cleaners site (herein after referred to as site or subject property) is located at 1334 Patton Avenue, Buncombe County, Asheville, North Carolina. Site assessment activities have confirmed that soil contamination extends onto the adjacent property to the east, Park Terrace Properties, LLC. The Park Terrace Properties parcel (herein referred to as “adjacent property”) is located at 1330 Patton Avenue, Buncombe County, Asheville, North Carolina. The site and adjacent property are shown on the attached **Figure 1**. This RMP is intended to comply with the requirements of the DSCA (N.C.G.S. 143-215.104A et seqs) and promulgated rules and follows the outline provided in the DSCA Program’s risk-based corrective action (RBCA) guidance.

## 2.0 OBJECTIVES OF RISK MANAGEMENT PLAN

URS has completed assessment activities at the site and adjacent property which indicate chlorinated solvent soil and soil gas impacts exist at both locations above unrestricted land use standards. Groundwater impacts were not identified at the site or adjacent property. The groundwater assessment resulted in the completion of one groundwater monitoring well located to the northwest of the soil source area. This well was completed to a depth of 58 feet with the presence of groundwater gauged within the well at a depth of 42.48 feet. A groundwater sample was collected from this well and submitted for laboratory analysis. Analytical results did not indicate the presence of dry-cleaning related constituents at concentrations above the laboratory method detection levels. Five additional monitoring well locations were attempted in close proximity to the soil source area and in anticipated downgradient locations to the east and southeast. Boreholes were advanced to 60 feet below ground surface (bgs) in four locations and 100 feet in another location. Groundwater was not encountered in these locations.

URS completed a Risk Assessment at the site and adjacent property in accordance with the DSCA Program’s risk assessment procedures in December 2012. The results of the Risk Assessment indicated that there are both on-site and off-site risks that do exceed target levels. However, these risks will be managed based on site-specific land-use conditions that have been selected as part of the evaluation and which require a RMP. Thus, the objective of the RMP is to ensure that those site-specific land-use conditions remain valid in the future.

### 3.0 SUMMARY OF RISK ASSESSMENT REPORT

As documented in the following reports (Prioritization Assessment Report, dated April 2009, Soil Gas Results Report, dated August 2012 and Excavation Report, dated January 2013), investigation activities completed to date have indicated the presence of soil contaminants and soil gas contaminants on both the site property (On-Site Exposure Unit) and adjacent property (Off-Site Exposure Unit #1) above unrestricted land-use standards. As such, URS performed a risk assessment to address the applicable exposure pathways based on the identified impacts. The results of the risk assessment are documented in the Risk Assessment Report for Swannanoa Cleaners, dated December 2012.

The site and adjacent property are currently zoned as commercial property. To be protective of unknown property zoning in the future, the risk assessment was completed to assume that the site and adjacent properties could be rezoned in the future as residential property. Subsequently, both residential and commercial scenarios were considered as part of the risk assessment.

The first step in the risk assessment process consisted of evaluating exposure pathways for two separate exposure units; the On-Site Exposure Unit (site), and Off-Site Exposure Unit #1 (adjacent property). The exposure model evaluation indicated the following complete exposure pathways for the On-Site Exposure Unit (site), and Off-Site Exposure Unit #1 (adjacent property):

#### **On-Site Exposure Unit**

- **Surface Soil Exposure** – Impacted surface soil is present making a complete exposure pathway. Surface soil exposure was evaluated for current conditions (commercial property), future conditions (residential and commercial properties) and construction worker.
- **Indoor Inhalation of Vapor Emissions from Soil** – Impacted soil is present making a complete exposure pathway. Indoor inhalation of vapor emissions was evaluated for future conditions (residential and commercial) only as, at the time of the risk assessment, no structures were located within the On-Site Exposure Unit.
- **Outdoor Inhalation of Vapor Emissions from Soil** - Impacted soil is present making a complete exposure pathway. Outdoor inhalation of vapor emissions was evaluated for

current conditions (commercial property), future conditions (residential and commercial properties), and construction worker.

- Exposure Pathways include: Surface soil exposure and outdoor inhalation of vapor emissions from soil for future conditions.

In lieu of representative concentrations, the most elevated soil, soil gas and/or indoor air concentrations observed at the site (Post-excavation- April 2011) were used in the risk assessment for the On-Site Exposure Unit. The On-Site Exposure Unit passed the risk evaluation for current complete exposure pathways. However, the evaluation failed for the indoor air exposure pathway for both residential and commercial exposure in the future. The indoor air exposure pathway can be addressed by warranting the imposition of land-use controls specific to the consideration of vapor mitigation measures in respect to future property development.

### **Off-Site Exposure Unit #1**

- **Surface Soil Exposure** – Impacted surface soil is present making a complete exposure pathway. Surface soil exposure was evaluated for current conditions (commercial property), future conditions (residential and commercial properties) and construction worker.
- **Indoor Inhalation of Vapor Emissions from Soil** – Impacted soil is present making a complete exposure pathway. Indoor inhalation of vapor emissions was evaluated for current conditions (commercial property), and future conditions (residential and commercial properties).
- **Outdoor Inhalation of Vapor Emissions from Soil** - Impacted soil is present making a complete exposure pathway. Outdoor inhalation of vapor emissions was evaluated for current conditions (commercial property), future conditions (residential and commercial properties), and construction worker.

In lieu of representative concentrations, the most elevated soil, soil gas and/or indoor air concentrations observed at the site (Post-excavation- April 2011) were used in the risk assessment for the Off-Site Exposure Unit #1. The Off-Site Exposure Unit #1 passed the risk evaluation for current complete exposure pathways. However, the evaluation failed for the indoor air exposure pathway for residential exposure in the future. The indoor air exposure pathway can be addressed by warranting the imposition of land-use controls specific to the

consideration of vapor mitigation measures in respect to future property development in the event that the property is rezoned to residential.

## **4.0 REMEDIAL ACTION PLAN**

### **4.1 Assessment Activities and Interim Actions**

As of August 2013, the site property (On-Site Exposure Unit) has been developed as a single level multi-tenant commercial building on a 0.814-acre parcel at the corner of Patton Avenue and Parkwood Road in the Park Terrace Business Center. At the time the risk assessment was completed in December 2012, the On-Site Exposure Unit was vacant with the only remnant of a structure on the site property being a concrete slab measuring approximately 55 feet by 45 feet, which was the location of the former dry-cleaning facility. The dates of operation of the facility are unknown. The current property representative, Mrs. Becky Martin, stated she purchased the property in February 2003, at which time the dry-cleaning facility was already abandoned. Approximately one year later, Mrs. Martin said the building was demolished and removed from the site due to lack of interest of potential clients wanting to utilize the existing building space.

A Letter Report of Soil Sampling and Analysis prepared by MACTEC (currently AMEC), and dated September 9, 2008, documented the presence of chlorinated solvents beneath the slab at the former dry-cleaning facility. Upon confirmation of a release, the property owner, Park Terrace Properties, submitted a petition on September 22, 2008, to request admittance of the site into the DSCA Program. The site was certified into the program on October 16, 2008, and an Assessment and Remediation Agreement was executed.

Initial assessment activities executed by URS were conducted January 19-20, 2009, which included the advancement of twenty-four (24) soil borings by Probe Technology, Inc., using a Geoprobe to evaluate potential contaminant source areas. The boring locations were primarily located beneath the slab of the former dry-cleaning facility. Three borings were located at the rear or south of the former dry-cleaning facility – outside the former back door – and two borings were located in an asphalt driveway just downgradient or east of the slab. Soil samples were collected and then submitted for laboratory analysis by EPA Method 8260. Tetrachloroethene (PCE) was detected in surficial soil samples with concentrations ranging from 0.0033 milligrams per kilogram (mg/kg) to 0.038 mg/kg, and in subsurface samples with concentrations ranging from 0.0031 mg/kg to 0.23 mg/kg.

On January 26-29, 2009, URS observed the attempted installation of six Type II monitoring wells by McCall Brothers, Inc. to evaluate groundwater quality beneath the subject site. Of the six proposed monitoring wells, only one monitoring well (MW-5) was installed. The background (upgradient) monitoring well MW-5, was installed to a total depth of 58 feet below ground surface (bgs) and the static water level within the monitoring well was measured at 43 feet bgs. Proposed monitoring well locations MW-1 through MW-4 were each drilled to a depth of 60 feet bgs without encountering groundwater. Additionally, proposed monitoring well MW-1A was drilled to a depth of 100 feet bgs, and left open overnight, without encountering groundwater. The boreholes for MW-1 through MW-4 and MW-1A were each abandoned in accordance with North Carolina Administrative Code 15.2C.0113. Following installation and development of monitoring well MW-5, URS collected a groundwater sample from the well and submitted the sample for laboratory analysis by EPA Method 8260. No chlorinated solvent constituents were detected in the groundwater sample collected from monitoring well MW-5.

On April 14, 2009, URS submitted a Prioritization Assessment Report (PAR) to the DSCA Program, outlining the details of the aforementioned assessment activities. Also included in the PAR were specifics related to a site reconnaissance and receptor survey. As documented in the PAR, assessment activities completed to date indicated that the extent of impacted soils was adequately delineated in respect to applicable screening levels and the primary constituent of concern at the site was PCE. As previously mentioned, groundwater impacts were not observed in the groundwater sample collected from the one monitoring well installed at the site.

On September 12, 2009, URS received approval of a proposal from the DSCA program to begin drafting closure documents for the site. In order to supplement assessment data generated to date at the site, URS personnel collected and analyzed two sub-slab vapor samples (SSV-1 and SSV-2) from beneath the floor slab of the former dry-cleaning facility on September 18, 2009. The analytical results of sub-slab vapor sample SSV-1 indicated elevated concentrations of chlorinated solvents exceeding the applicable Tier I screening levels warranting additional vapor/indoor air assessment.

On July 19, 2010, URS personnel installed twenty-five (25) sub-slab vapor screening points through the floor slab of the former Swannanoa Cleaners. Each field point was screened using a photo ionization detector (PID) capable of measuring air concentrations to a part per billion (ppb). The highest readings were located beneath the far south and southwest portions of the floor slab. In addition to the sub-slab vapor screening points, nine (9) soil gas sampling points were installed and sampled to further evaluate soil gas impacts potentially originating from PCE

impacted soil. Results of the soil gas sampling indicated elevated soil gas concentrations of PCE beneath the central portion of the floor slab and just south of the floor slab, corroborating the findings of the sub-slab screening levels.

On November 15, 2010, URS personnel collected four (4) soil gas samples around the perimeter of the former dry-cleaning facility to evaluate the horizontal extent of soil gas impacts. In addition, one (1) sub-slab vapor sample and two (2) indoor air samples were collected from inside the Avari Salon which is located on the adjacent parcel in a strip center. Elevated concentrations of chlorinated solvent constituents were detected in the sub-slab sample as well as the indoor air samples collected at the Avari Salon. The indoor air sample results were below levels requiring mitigation.

On November 30 and December 1, 2010, URS contracted with a Membrane Interface Probe (MIP) provider and installed fifteen (15) MIP locations ranging from approximately 12 to 23 feet bgs in an effort to delineate the highest levels of PCE-impacted soils in the area of the suspected “hot spot” beneath the former Swannanoa Cleaners concrete floor slab. High concentrations of volatile organic compounds (VOCs) were detected in close proximity to the rear (south) of the former dry-cleaning facility further corroborating the presence of a “hot spot” in this area of the site. On December 21, 2010, URS contracted with a direct-push drilling firm to collect confirmatory soil samples in the MIP investigation area to quantify the MIP data. Upon review of the analytical data from the confirmatory soil samples, it was confirmed that the highest concentrations of PCE impacted soil were located just off the south-southwest portion of the concrete floor slab on the site.

Between April 19-21, 2011, URS oversaw South Atlantic Environmental Drilling and Construction Company (SAEDACCO) perform excavation activities at the subject site using a track hoe excavator and skid-steer loader. The objective of the targeted excavation was to remove soil “source” areas of identified PCE contamination in an effort to decrease the overall mass of contaminated soil beneath the site. Approximately 112 tons of contaminated soil were removed from the site and disposed of in accordance with state regulations.

Following the excavation, URS personnel conducted follow-up indoor air sampling at the Avari Salon in August 2011 and January 2012. Indoor air sample RS-3 was collected using a Radiello sampler over a 5-day exposure duration between August 15 and 19, 2011 at the Avari Salon, which is located immediately adjacent to the former Swannanoa Cleaners property. The indoor air result indicated a cumulative risk below action levels. Two additional indoor air samples (RS-

4 and RS-5) were also collected using Radiello samplers over a 5-day exposure duration between January 9 and 13, 2012 at the hair salon. The indoor air results also indicated cumulative risks below action levels.

As a final follow up to excavation activities, on June 21, 2012, URS personnel collected 11 subsurface soil gas samples around the perimeter of the former Swannanoa Cleaners dry-cleaning facility. The main objective of the sampling event was to determine if soil gas concentrations were improved following the soil excavation conducted in April 2011. Based on previous soil gas concentrations across the site, conditions were much improved during the June 2012 sampling event.

To assess the potential for vapor intrusion in the new structure that was recently constructed on the On-Site Exposure Unit after the completion of the risk assessment, a series of indoor air samples were collected from the new structure on two separate dates. A set of three 8-hour indoor air samples were collected from various tenant spaces in the structure using Summa canisters on August 27, 2013. The indoor air analytical results indicated cumulative risks well below action levels. As a follow-up confirmation, a set of three additional 8-hour indoor air samples were collected in the new structure using Summa canisters on September 12, 2013. The results of the confirmatory sampling also indicated cumulative risks well below action levels.

## **4.2 Remedial Action**

According to the DSCA Program's RBCA guidance, no remedial action is necessary if the following four site conditions are met: (i) the dissolved plume is stable or decreasing; (ii) the maximum concentration within the exposure domain for every complete exposure pathway of any constituent of concern (COC) is less than ten times the representative concentration (RC) of that COC; (iii) adequate assurance is provided that the land-use assumptions used in the DSCA Program's RBCA process are not violated for current or future conditions; and, (iv) there are no ecological concerns at the site. Each of these conditions and their applicability to the subject site are summarized in the following sections.

### *4.2.1 Condition 1 – The Dissolved Plume is Stable or Decreasing*

Groundwater was only encountered on the subject site in background (upgradient) monitoring well MW-5. Attempts to install additional groundwater monitoring wells at various locations on the subject site were unsuccessful due to groundwater not being encountered. No constituents

related to dry-cleaning operations were detected in the groundwater sample collected from monitoring well MW-5. Plume stability is not considered an issue at the site. However, a figure showing attempted monitoring well locations and the location of monitoring well MW-5 is included in **Appendix A**.

*4.2.2 Condition 2 –The Maximum Concentration within the Exposure Domain for Every Complete Exposure Pathway of any COC is Less Than Ten Times the RC of that COC*

RCs were not calculated as part of the risk assessment for this site. Instead, a more conservative approach was utilized by using the maximum concentration for each COC during the risk assessment and found that this condition has been met for all COCs and exposure pathways.

*4.2.3 Condition 3 – Adequate assurance is provided that the land-use assumptions used in the DSCA Program’s RBCA process are not violated for current or future conditions.*

The risk assessment completed for the site and adjacent property was based on current land-use conditions being commercial. However, using the most conservative approach, future conditions at the site were considered to be residential. As discussed in Section 6.0, land use controls will be implemented for the source property to ensure the assumptions made in the risk assessment remain valid in the future.

*4.2.4 Condition 4 – There are no ecological concerns at the site.*

URS completed a Level I Ecological Risk Assessment for the site in accordance with the DSCA Program’s RBCA guidance. The results of the evaluation indicate that the release does not pose an unacceptable ecological risk. The completed Level I Ecological Risk Assessment Checklists A and B and associated attachments are included in **Appendix B**.

The subject site’s compliance with the four above referenced conditions confirms that the contaminant concentrations are not likely to pose an unacceptable risk either at present or in the future. The appropriate remedial action is to implement appropriate land-use controls on the site where the soil contamination is present.

## 5.0 DATA COLLECTED DURING RMP IMPLEMENTATION

No further sampling or other data collection activities are proposed for the site or adjacent property, as long as the assumptions detailed in the Notice of Dry-Cleaning Solvent Remediation (NDCSR) remain valid. As such, this section is not applicable.

## 6.0 LAND-USE CONTROLS

As discussed in detail in Section 3.0, the recommendation for closure in the risk assessment for the site was based on the following land-use conditions:

- Activities that cause or create a vapor intrusion risk may not occur on the source property without prior approval of NCDENR
- Activities that encounter, expose, remove or use groundwater may not occur on the source property without prior approval from NCDENR

The risk assessment conducted for the site and adjacent property was based on assumptions that usage of the properties is currently commercial and future use could potentially be residential. Land-use controls will be implemented to ensure that land-use conditions are maintained and monitored until the land-use controls are no longer required for the site. A NDCSR was prepared for the site and adjacent property to comply with the land-use control requirement. The NDCSR is included in **Appendix C**. Plats showing the locations and types of dry-cleaning solvent impacts on the site and adjacent property are included as exhibits to the NDCSRs. The locations of dry-cleaning solvent impacts are where contaminants have been detected above unrestricted use standards. As discussed in Section 4.1, PCE is the primary COC for the site.

## 7.0 LONG-TERM STEWARDSHIP PLAN

The NDCSRs contain a clause which requires the owner of the site and adjacent property to submit a notarized “Annual DSCA Land Use Restrictions Certification” to NCDENR on an annual basis certifying that the NDCSR remains recorded with the Register of Deeds and that land-use restrictions are being complied with. An example of such a certification is included in **Appendix D**.

## **8.0 RMP IMPLEMENTATION SCHEDULE**

Soil impacts present at the site and adjacent property are above unrestricted land-use standards; however, groundwater impacts were not found at the site or adjacent property. Possible exposure to the contamination is managed through the NDCSRs, and no additional site remediation activities are required to implement the RMP. A 30-day public comment period will be held to allow the community an opportunity to comment on this proposed strategy. **Appendix E** includes example documents used to announce the public comment period in the local newspaper and to inform local officials, nearby property owners, and interested parties. As such, upon completion of the public comment period and final approval of the RMP, the NDCSRs will be filed with the Buncombe County Register of Deeds and will complete the RMP schedule.

## **9.0 CRITERIA FOR DEMONSTRATING RMP SUCCESS**

The RMP will be successfully implemented once the required NCDSRs have been executed and recorded with the Buncombe County Register of Deeds. The NCDSR for the site property, at the request of the property owner, may be canceled by NCDENR after the risk to public health and the environment associated with the dry-cleaning solvent contamination and any other contaminants included in the dry-cleaning solvent assessment and remediation agreement has been eliminated as a result of the remediation of the property. If NCDENR is notified of a change in site conditions, per the notification requirements detailed in the NDCSRs, the RMP will be reviewed to determine if the site conditions have impacted the requirements set forth in the NDCSRs and if changes are required. Enforcement of the RMP will be maintained through receipt of the “Annual DSCA Land-Use Restrictions Certification” from the property owners as part of the NDCSR requirements.

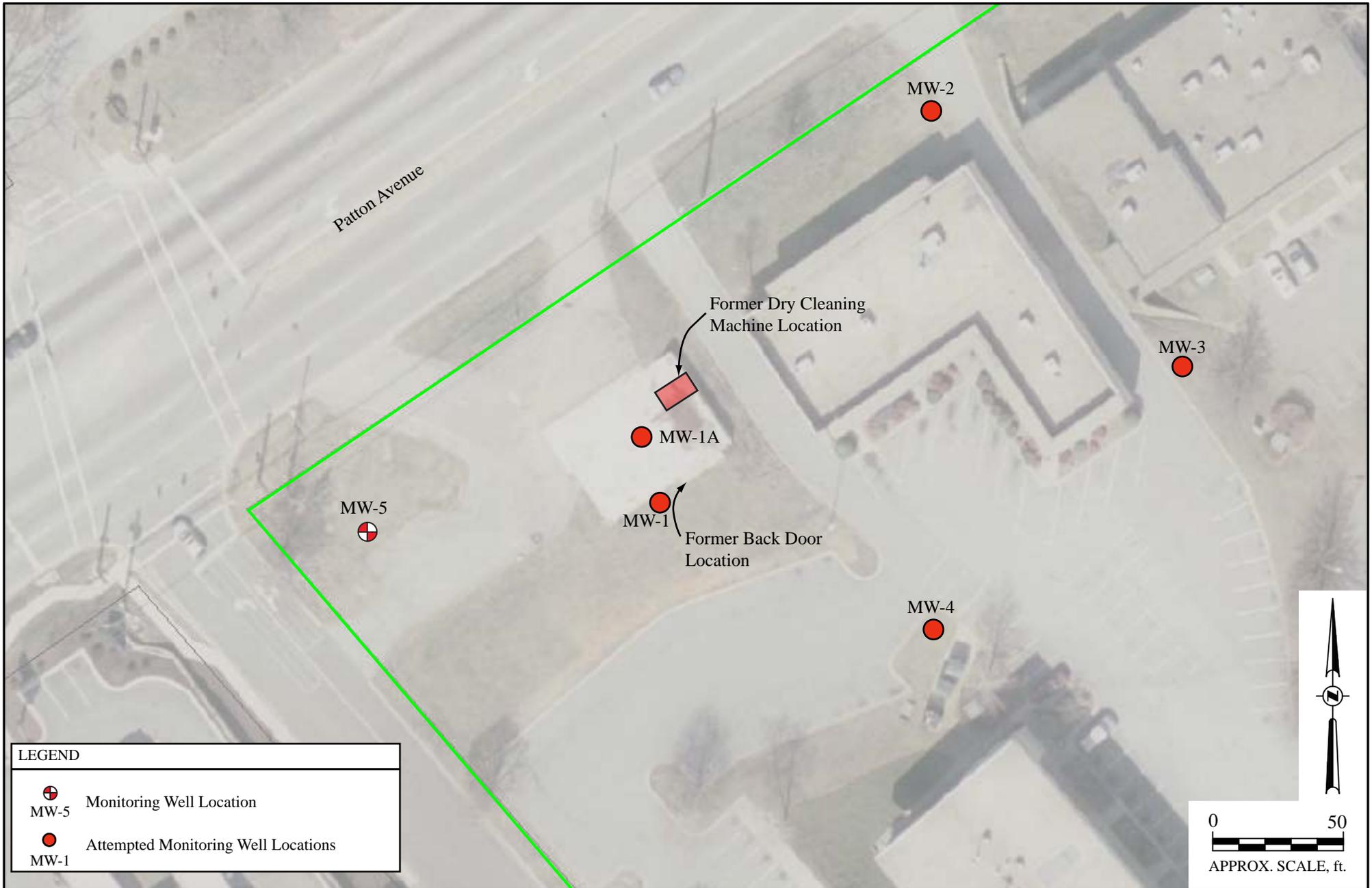
## **10.0 CONTINGENCY PLAN IF RMP FAILS**

As discussed above, unless the DSCA Program is notified of a change in land-use conditions at the subject site, per the notification requirements detailed in this plan, the RMP will remain in effect until the RMP has met its objectives and is considered a success. Pursuant to N.C.G.S. 143-215.104K, if any of the land-use restrictions (LURs) set out in the NDCSRs are violated, the owners of the properties at the time the LURs are violated, the owner’s successors and assigns, and the owner’s agents who direct or contract for alteration of the site in violation of the LURs, shall be held liable for the remediation of all contaminants to unrestricted use standards.

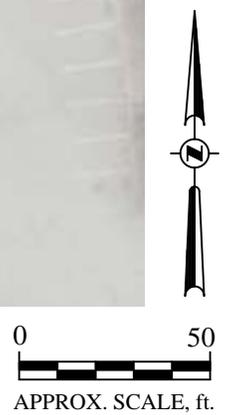
## **11.0 CONCLUSIONS AND RECOMMENDATIONS**

URS has prepared this RMP for the former Swannanoa Cleaners site on behalf of the NCDENR DSCA Program. The results of the risk assessment completed for the site indicate that contaminant concentrations do not pose an unacceptable risk. A contaminant groundwater plume is not associated with this site. This RMP specifies that the NDCSR requirements provide notification that land-use conditions observed during the risk assessment evaluation remain valid in the future. Based on the documentation contained in this report, URS recommends issuance of a “No Further Action” letter.

## FIGURES



LEGEND	
	Monitoring Well Location
MW-5	
	Attempted Monitoring Well Locations
MW-1	



SHEET: <b>ATT. 14</b>	DRAWN BY:
	RMB- 3/9/2009
	CHECKED BY:
	AC - 3/9/2009
PROJECT NO.:	Not Assigned



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 TWO SOUTH EXECUTIVE PARK  
 6135 PARK SOUTH DRIVE, SUITE 300  
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**Monitoring Well Location Map**  
**Swannanoa Cleaners**  
**1336 Patton Avenue**  
**Asheville, NC**  
**DSCA Site # 11-0007**

## APPENDIX A

### DOCUMENTATION OF PLUME STABILITY EVALUATION





## **APPENDIX B**

### **LEVEL I ECOLOGICAL RISK ASSESSMENT CHECKLISTS**



August 6, 2009

North Carolina Department of Environment  
and Natural Resources  
Division of Waste Management – DSCA Program  
401 Oberlin Road, Suite 150  
Raleigh, NC 27605-1350

Att: Mr. Mike Cunningham  
DSCA Project Manager

Re: Level 1 Ecological Risk Assessment  
Swannanoa Cleaners DSCA Site ID #11-0007  
1336 Patton Avenue  
Asheville, Buncombe County, North Carolina  
URS-NC Project Number 38854461

Dear Mr. Cunningham:

URS Corporation – North Carolina (URS) is pleased to present the findings of the Level 1 Ecological Risk Assessment (Eco Risk Assessment) for the Swannanoa Cleaners facility (site) located in Asheville, Buncombe County, North Carolina to North Carolina Department of Environment and Natural Resources (NCDENR). The Eco Risk Assessment was completed in accordance with the DSCA program's Risk Based Corrective Action (RBCA) guidance document to assess the potential for ecological receptors. If you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

**URS CORPORATION – NORTH CAROLINA**

Michael T. Chang  
Environmental Scientist

Robert H. MacWilliams, PG  
Program Manager

Attachment  
cc: Project File (hard copy)

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**Level 1 Ecological Risk Assessment**  
**Checklist A for Potential Receptors and Habitat**  
**DSCA # 11-0007**

- 1. Are there any navigable water bodies or tributaries to a navigable water body on or within the one-half mile of this site?** Yes, based on a review of the USGS topographic map, Asheville, North Carolina, an unnamed tributary that eventually leads to Smith Mill Creek which is located approximately 600 feet east of the site. This tributary is shown on attached Figure 1.
- 2. Are there any water bodies anywhere on or within the one-half mile of the site?** Yes, an unnamed tributary is located approximately 600 feet east of the site.
- 3. Are there any wetland area such as marshes or swamps on or within one-half mile of the site?** Yes. No wetland areas were identified by the National Wetland Inventory (NWI), however, the unnamed tributary located to the east of the site would likely be classified as a wetland.
- 4. Are there any sensitive environmental areas on or within one-half mile of the site?** Yes, an unnamed tributary is located approximately 600 feet east of the site.
- 5. Are there any areas on or within one-half mile of the site owned or used by local tribes?** No, none were identified by the Indian Reservation Database.
- 6. Are there any habitat, foraging area or refuge by rare, threatened, endangered, candidate and/or proposed species (plants or animals), or any otherwise protected species on or within one-half mile of the site?** Not likely. None were identified by the Endangered Species Protection Program Database, North Carolina Natural Heritage Sites database, or North Carolina Significant Natural Heritage Areas database within ½-mile of the site. However, six endangered species were identified on the Endangered Species list in Buncombe County, North Carolina.
- 7. Are there any breeding, roosting or feeding areas by migratory bird species on or within one-half of the site?** Not likely, however, migratory birds are present in Buncombe County according to the North Carolina Audubon Society website.
- 8. Are there any ecologically, recreationally or commercially important species on or within one-half mile of the site?** None have been identified.
- 9. Are there any threatened and/or endangered species (plant or animal) on or within one-half mile of the site?** Not likely. None were identified by the Endangered Species Protection Program Database, North Carolina Natural Heritage Sites database, or North Carolina Significant Natural Heritage Areas database within ½-mile of the site. However, six endangered species were identified on the Endangered Species list in Buncombe County, North Carolina.

**If the answer is “Yes” to any of the above questions, then complete Level 1 Ecological Risk Assessment, Checklist B for Potential Exposure Pathways.**

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Wetlands are defined in 40 CFR §232.2 as “areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.” The sources to make the determination whether or not wetland areas are present may include, but not limited to, national wetland inventory available at <http://nwi.fw.gov>, federal or state agency, and USGS topographic maps. Areas that provide unique and often protected habitat for wildlife species. These areas typically used during critical life stages such as breeding, rearing or young and overwintering. Refer to Attachment 1 for examples of sensitive environments. Ecologically important species include populations of species which provide a critical food resource for higher organisms. Ecologically important species include pest an opportunistic species that populate an area if they serve as a food source for other species, but do not include domesticated animals or plants/animals whose existence is maintained by continuous human interventions.

March 2007

DSCA Program

**Level 1 Ecological Risk Assessment  
Checklist B for Potential Receptors and Habitat  
DSCA # 11-0007**

- 1A. Can chemicals associated with the site leach, dissolve, or otherwise migrate to Groundwater? **Yes**
- 1B. Are chemicals associated with the site mobile in groundwater? **Yes**
- 1C. Does groundwater from the site discharge to ecological receptor habitat? **Yes, eventually, based on the direction of anticipated groundwater flow, groundwater will likely discharge to an unnamed tributary of Smith Mill Creek located approximately 600 feet east of the site.**

**Question 1. Could chemicals associated with the site reach ecological receptors through groundwater?** **Unlikely, identified groundwater impacts are relatively low and have not been identified off-site.**

- 2A. Are chemicals present in surface soils on the site? **Yes**
- 2B. Can chemicals be leached from or be transported by erosion of surface soils on the site? **Not likely, surficial soil impacts have been identified beneath impervious surfaces and vegetative growth. No impacted soils have been identified between 0-1' below ground surface (bgs).**

**Question 2. Could chemicals associated with the site reach ecological receptors through runoff or erosion?** **Not likely, surface soil impacts have been identified beneath impervious surfaces and vegetative growth, both of which limit soil runoff and erosion.**

- 3A. Are chemicals present in surface soil or on the surface of the ground? **Yes**
- 3B. Are potential ecological receptors on the site? **No**

**Question 3. Could chemicals associated with the site reach ecological receptors through direct contact?** **No, soil impacts are located beneath impervious surfaces and vegetative growth at depths greater than 1' bgs.**

- 4A. Are chemicals on the site volatile? **Yes**
- 4B. Could chemicals on the site be transported in air as dust or particulate matter? **No, surficial soil impacts are located beneath impervious surfaces and vegetative growth which limit dust and particulate matter at the site.**

**Question 4. Could chemicals associated with the site reach ecological receptors through inhalation of volatilized chemicals or adhered chemicals to dust in ambient air or in subsurface burrows?** **Not likely, surficial soil impacts are located beneath impervious surfaces and vegetative growth. No burrowing animals have been observed at the site.**

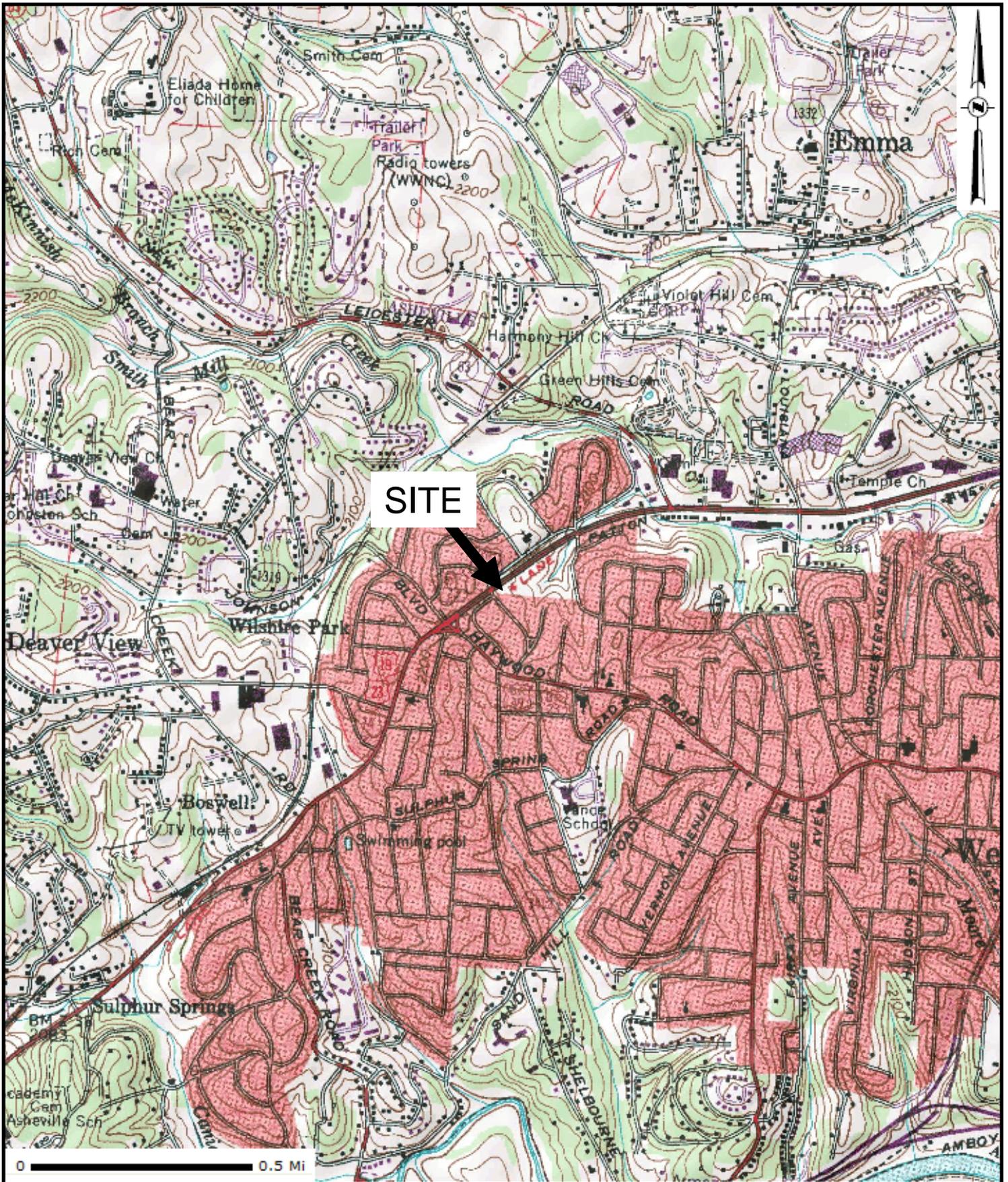
- 5A. Is Non-Aqueous Phase Liquid (NAPL) present at the site? **No**
- 5B. Is NAPL migrating? **No**
- 5C. Could NAPL discharge occur where ecological receptors are found? **No**

**Question 5. Could chemicals associated with site reach ecological receptors through migration of NAPL? No**

- 6A. Are chemicals present in surface and shallow subsurface soils or on the surface of the ground? **Yes, chemicals have been identified in soils at 1' - 3' below ground surface (bgs) beneath impervious surfaces and vegetative growth.**
- 6B. Are chemicals found in soil on the site taken up by plants growing on the site? **Potentially, soil impacts are located in areas of vegetative growth.**
- 6C. Do potential ecological receptors on or near the site feed on plants (e.g., grasses, Shrubs, forbs, trees, etc.) found on the site? **Potentially**
- 6D. Do chemicals found on site bioacummlate? **No**

**Question 6. Could chemicals associated with the site reach ecological receptors through direct ingestion of soil, plants animals or contaminants? Potentially, though impacted soil has only been identified at depths greater than 1' bgs.**

If the answer to one or more of the above six questions is “Yes”, the DENR may require further assessment to determine whether the site poses an unacceptable risk to ecological receptors.



Reference: 7.5 Minute USGS Topographic Map: Asheville, North Carolina (1991)



URS CORPORATION – NORTH CAROLINA  
 TWO SOUTH EXECUTIVE PARK  
 6125 PARK SOUTH DRIVE, SUITE 300  
 CHARLOTTE, NC 28210  
 TEL: (704) 522-0330  
 FAX: (704) 522-0663



Site Location Map  
 Swannanoa Cleaners  
 1336 Patton Avenue  
 Asheville, North Carolina  
 DSCA Site ID #11-0007

DRAWN BY:	CLE - 12/1/08
CHECKED BY:	RHM - 12/1/08
PROJECT NO.:	38854461

SHEET  
 Figure 1

**APPENDIX C**

**NOTICE OF DRY-CLEANING SOLVENT REMEDIATION**

**NOTICE OF DRY-CLEANING SOLVENT REMEDIATION**

Property Owner: Park Terrace Properties II, LLC and R&T Enterprises I, LLC  
Recorded in Book \_\_\_\_\_, Page \_\_\_\_\_  
Associated plat recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_

**This documentary component of a Notice of Dry-Cleaning Solvent Remediation (hereinafter “Notice”) is hereby recorded on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by Park Terrace Properties II, LLC and R&T Enterprises I, LLC (hereinafter “Property Owner”). The survey plat component of the Notice is being recorded concurrently with this documentary component. The real property (hereinafter “Property”) which is the subject of this Notice is located at 1334 Patton Avenue, Asheville, Buncombe County, North Carolina, Parcel Identification Number (PIN) 9628867888.**

**The Property is contaminated with dry-cleaning solvent, as defined at North Carolina General Statutes (hereinafter “N.C.G.S.”), Section (hereinafter “§”) 143-215.104B(b)(9) and other contaminants, and is one of two parcels that make up the dry-cleaning solvent contamination site (hereinafter “Contamination Site”). This Notice has been approved by the North Carolina Department of Environment and Natural Resources, or its successor in function (hereinafter “DENR”) under the authority of the Dry-Cleaning Solvent Cleanup Act of 1997, as amended, N.C.G.S. § 143-215.104A *et seq.* (hereinafter “DSCA”), and is required to be filed in the Register of Deeds' Office in the county or counties in which the land is located, pursuant to NCGS § 143-215.104M. A Notice will be recorded separately in each chain of title of the Contamination Site.**

Soils at the Property are contaminated with dry-cleaning solvents associated with dry-cleaning operations at the former Swannanoa Cleaners (DSCA Site #11-0007) located at 1334 Patton Avenue, Asheville, in the Park Terrace Business Center. The commercial space on the Property was used as a dry-cleaning facility. However, the dates of operation are not known.

Pursuant to N.C.G.S. § 143-215.104M, this Notice is being filed in order to reduce or eliminate the danger to public health or the environment posed by the Property. Attached hereto as **Exhibit A** is a reduction, to 8 1/2" x 11", of the survey plat component of the Notice required by N.C.G.S. § 143-215.104M. The survey plat has been prepared and certified by a professional land surveyor and meets the requirements of G.S. 47-30, and contains the following information required by N.C.G.S. § 143-215.104M:

- (1) A description of the location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks; and
- (2) The type, location and quantity of regulated dry-cleaning solvent contamination and other contaminants known to exist on the Property.

Attached hereto as **Exhibit B**, is a legal description of the Property that would be sufficient as a description in an instrument of conveyance.

Pursuant to NCGS § 143-215.104M, a certified copy of this Notice must be filed within 15 days of receipt of DENR's approval of the Notice or the effective date of the dry-cleaning solvent remediation agreement, whichever is later. Pursuant to NCGS § 143-215.104M, the copy of the Notice certified by DENR must be recorded in the grantor index under the names of the owners of the land.

### **LAND-USE RESTRICTIONS**

**NCGS § 143-215.104M requires that the Notice identify any restrictions on the current and future use of the Property that are necessary or useful to maintain the level of protection appropriate for the designated current or future use of the Property and that are designated in the dry-cleaning remediation agreement. The restrictions shall remain in force in perpetuity unless canceled by the Secretary of DENR, or his/her designee, after the hazards have been eliminated, pursuant to NCGS §143-215.104M. Those restrictions are hereby imposed on the Property, and are as follows:**

- 1. Without prior written approval from DENR, the Property shall not be used for:**
  - a. child care centers or schools; or**
  - b. mining or extraction of coal, oil, gas or any mineral or non-mineral substances.**
- 2. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools that use groundwater, or construction or excavation activities that encounter or expose groundwater) may occur on the Property without prior approval of DENR.**
- 3. No activities that cause or create a vapor intrusion risk (for example, construction of sub-grade structures that encounter contaminated soil or construction that places building users in close proximity to contaminated groundwater) may occur on the Property without prior approval of DENR.**
- 4. In January of each year, on or before January 31<sup>st</sup>, the owner of any portion of the Property shall submit a notarized Annual DSCA Land-Use Restrictions Certification to DENR certifying that this Notice remains recorded at the Register of Deeds' office, and that the Land-Use Restrictions are being complied with.**

5. **No person conducting environmental assessment or remediation at the Property or involved in determining compliance with applicable land-use restrictions, at the direction of, or pursuant to a permit or order issued by DENR may be denied access to the Property for the purpose of conducting such activities.**
6. **The owner of any portion of the Property shall cause the instrument of any sale, lease, grant, or other transfer of any interest in the property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this Notice. The failure to include such a provision shall not affect the validity or applicability of any land-use restriction in this Notice.**

### **EASEMENT (RIGHT OF ENTRY)**

The property owner grants and conveys to DENR, its agents, contractors, and employees, and any person performing pollution remediation activities under the direction of DENR, access at reasonable times and under reasonable security requirements to the Property to determine and monitor compliance with the land-use restrictions set forth in this Notice. Such investigations and actions are necessary by DENR to ensure that use, occupancy, and activities of and at the Property are consistent with the land-use restrictions and to ensure that the structural integrity and continued effectiveness of any engineering controls (if appropriate) described in the Notice are maintained. Whenever possible, at least 48 hours advance notice will be given to the Property Owner prior to entry. Advance notice may not always be possible due to conditions such as response time to complaints and emergency situations.

### **REPRESENTATIONS AND WARRANTIES**

The Property Owner hereby represents and warrants to the other signatories hereto:

- i) that the Property Owner is the sole owner of the Property; **or** that the Property Owner has provided to DENR the names of all other persons that own an interest in or hold an encumbrance on the Property and have notified such persons of the Property Owner's intention to enter into this Notice;
- ii) that the Property Owner has the power and authority to enter into this Notice, to grant the rights and interests herein provided and to carry out all obligations hereunder; and
- iii) that this Notice will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which the Property Owner is a party or by which the Property Owner may be bound or affected.

## **ENFORCEMENT**

The above land-use restrictions shall be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. The land-use restrictions shall be enforced by any owner of the Property. The land-use restrictions may also be enforced by DENR through the remedies provided in NCGS § 143-215.104P or by means of a civil action; by any unit of local government having jurisdiction over any part of the Property; and by any person eligible for liability protection under the DSCA who will lose liability protection if the restrictions are violated. Any attempt to cancel any or all of this Declaration without the approval of the Secretary of DENR (or its successor in function), or his/her delegate, shall be subject to enforcement by DENR to the full extent of the law. Failure by any party required-or authorized to enforce any of the above restrictions shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

If a land-use restriction set out in this Notice required under NCGS § 143-215.104.M is violated, the owner of the Property at the time the land-use restriction is violated, the owner's successors and assigns, and the owner's agents who direct or contract for alteration of the contamination site in violation of a land-use restriction shall be liable for remediation of all contaminants to unrestricted use standards.

## **FUTURE SALES, LEASES, CONVEYANCES AND TRANSFERS**

When any portion of the Property is sold, leased, conveyed or transferred, pursuant to NCGS § 143-215.104M the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the Property has been contaminated with dry-cleaning solvent and, if appropriate, cleaned up under the DSCA.

The Property Owner shall notify DENR within fourteen (14) calendar days of the effective date of any conveyance, grant, gift, or other transfer, whole or in part, of the Owner's interest in the property, but such notification requirement does not apply with regard to the Property Owner's execution of a lease of any portion of the Property. This Notice shall include the name, business address and phone number of the transferee and the date of transfer.

**PROPERTY OWNER SIGNATURE**

IN WITNESS WHEREOF, Property Owner has caused this instrument to be duly executed this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Park Terrace Properties II, LLC and  
R&T Enterprises I, LLC

By:

\_\_\_\_\_  
Name of contact

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of the county and state aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is a Member of Park Terrace Properties II, LLC and R&T Enterprises I, LLC, a North Carolina limited liability corporation, and its Manager, and that by authority duly given and as the act of the company, the foregoing Notice of Dry-Cleaning Solvent Remediation was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name typed or printed  
Notary Public

My Commission expires: \_\_\_\_\_  
[Stamp/Seal]

**APPROVAL AND CERTIFICATION**

The foregoing Notice of Dry-Cleaning Solvent Remediation is hereby approved and certified.

North Carolina Department of Environment and Natural Resources

By: \_\_\_\_\_ Date \_\_\_\_\_  
Jim Bateson, LG  
Chief, Superfund Section  
Division of Waste Management

**LIMITED POWER OF ATTORNEY**

I \_\_\_\_\_ “Property Owner”, do hereby grant a limited power of attorney to DENR and to DENR’s independent contractors, as follows:

**DENR and DENR’s independent contractors shall have the limited power of attorney to record this Notice, including its documentary and survey plat components, in accordance with N.C.G.S. § 143-215.104M on my “Property Owner” behalf. This limited power of attorney shall terminate upon completion of the recordation of the Notice.**

Signature of Property Owner \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public, do hereby certify that \_\_\_\_\_ personally appeared before me this day and signed this “Limited Power of Attorney”.

WITNESS my hand and official stamp or seal, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name typed or printed  
Notary Public

My Commission expires: \_\_\_\_\_  
[Stamp/Seal]



EXHIBIT A

PARK TERRACE PROPERTIES II LLC AND R&T ENTERPRISES I, LLC

REDUCTION OF SURVEY PLAT



**EXHIBIT B**

**PARK TERRACE PROPERTIES II LLC AND R&T ENTERPRISES I, LLC**

**PROPERTY LEGAL DESCRIPTION**

FORMER SWANNANOVA CLEANERS (DSCA SITE ID # 11-0007)  
1334 PATTON AVENUE, ASHEVILLE, NC  
TAX PIN # 9628-86-7888

ALL THAT CERTAIN PIECE, PARCEL, OR TRACT OF LAND SITUATE, LYING AND BEING IN THE CITY OF ASHEVILLE, BUNCOMBE COUNTY, AND THE STATE OF NORTH CAROLINA CONTAINING +/-0.81 ACRES, BEING KNOWN AS TRACT II-A ON A PLAT ENTITLED, "SURVEY PLAT – EXHIBIT A TO THE NOTICE OF DRY-CLEANING SOLVENT REMEDIATION PARK TERRACE PROPERTIES II, LLC AND R&T ENTERPRISES I, LLC FORMER SWANNANOVA CLEANERS - DSCA 11-0007 1334 PATTON AVENUE, ASHEVILLE TOWNSHIP, BUNCOMBE COUNTY, NORTH CAROLINA", DATED DECEMBER 7, 2012, PREPARED BY SITE DESIGN, INC., AND HAVING ACCORDING TO SAID PLAT THE FOLLOWING METES AND BOUNDS TO WIT:

BEGINNING AT A POINT LOCATED ON THE SOUTHERN RIGHT OF WAY OF PATTON AVENUE (HWY 19 AND 23) AN IN THE CENTERLINE OF PARKWOOD ROAD AT THEIR INTERSECTION; THENCE RUNNING ALONG SAID SOUTHERN RIGHT OF WAY N 55-26-40 E, 194.58' TO AN IRON PIN OLD 5/8" REBAR LOCATED AT THE JOINT CORNER WITH TRACT II; THENCE LEAVING SAID RIGHT OF WAY AND RUNNING ALONG THE COMMON LINE WITH SAID TRACT II, S 33-29-39 E, 90.67' TO AN IRON PIN OLD 5/8" REBAR; THENCE S 48-09-03 E, 85.19' TO AN IRON PIN OLD 5/8" REBAR; THENCE S 47-04-00 W, 192.86' TO A POINT LOCATED IN THE CENTER OF PARKWOOD ROAD. THENCE RUNNING ALONG SAID PARKWOOD ROAD, N 40-49-12 W, 202.77' TO THE POINT OF BEGINNING.

## NOTICE OF DRY-CLEANING SOLVENT REMEDIATION

Property Owner: Park Terrace Properties, LLC Etal  
Recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_  
Associated plat recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_

This documentary component of a Notice of Dry-Cleaning Solvent Remediation (hereinafter "Notice") is hereby recorded on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by Park Terrace Properties, LLC Etal (hereinafter "Property Owner"). The survey plat component of the Notice is being recorded concurrently with this documentary component. The real property (hereinafter "Property") which is the subject of this Notice is located at 1330 Patton Avenue, Asheville, Buncombe County, North Carolina, Parcel Identification Number (PIN) 9628961547.

The Property is contaminated with dry-cleaning solvent, as defined at North Carolina General Statutes (hereinafter "N.C.G.S."), Section (hereinafter "§") 143-215.104B(b)(9), and other contaminants and is one of two parcels that make up the dry-cleaning solvent contamination site (hereinafter "Contamination Site"). This Notice has been approved by the North Carolina Department of Environment and Natural Resources, or its successor in function (hereinafter "DENR") under the authority of the Dry-Cleaning Solvent Cleanup Act of 1997, as amended, N.C.G.S. § 143-215.104A *et seq.* (hereinafter "DSCA"), and is required to be filed in the Register of Deeds' Office in the county or counties in which the land is located, pursuant to NCGS § 143-215.104M. A Notice will be recorded separately in each chain of title of the Contamination Site.

Groundwater under the Property is contaminated with dry-cleaning solvents associated with dry-cleaning operations at the former Swannanoa Cleaners (DSCA Site 11-0007) located at 1334 Patton Avenue, Asheville, in the Park Terrace Business Center.

Pursuant to N.C.G.S. § 143-215.104M, this Notice is being filed in order to reduce or eliminate the danger to public health or the environment posed by the Property. Attached hereto as **Exhibit A** is a reduction, to 8 1/2" x 11", of the survey plat component of the Notice required by N.C.G.S. § 143-215.104M. The survey plat has been prepared and certified by a professional land surveyor and meets the requirements of G.S. 47-30, and contains the following information required by N.C.G.S. § 143-215.104M:

(1) A description of the location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks; and

(2) The type, location and quantity of regulated dry-cleaning solvent contamination and other contaminants known to exist on the Property.

Attached hereto as **Exhibit B** is a legal description of the Property that would be sufficient as a description in an instrument of conveyance.

### **LAND-USE RESTRICTIONS**

**N.C.G.S. § 143-215.104M requires that the Notice identify any restrictions on the current or future use of the Property that are necessary to assure adequate protection of public health and the environment. The restrictions shall continue in perpetuity and cannot be amended or canceled unless and until the County Register of Deeds receives and records the written concurrence of DENR. Those restrictions are hereby imposed on the Property, and are as follows:**

**1. Any surface or underground water shall not be used for any purpose. The installation of groundwater wells or other devices for access to groundwater for any purpose other than monitoring groundwater quality is prohibited without prior approval by DENR.**

**2. The Property shall not be used for mining, extraction of coal, oil, gas or any other minerals or non-mineral substances.**

**3. No activities that encounter, expose, remove, or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools that use groundwater, or construction or excavation activities that encounter or expose groundwater) may occur on the Property without prior approval by DENR. No subsurface structures for access of personal use, such as basements, may be constructed on the Property without prior approval by DENR.**

**4. No activities that cause or create a vapor intrusion risk in the event the property is rezoned for residential use (for example, construction of sub-grade structures that encounter contaminated soil or construction that places building users in close proximity to contaminated groundwater) may occur on the Property without prior approval of DENR.**

**5. No person conducting environmental assessment or remediation at the Property, or involved in determining compliance with applicable land-use restrictions, at the direction of, or pursuant to a permit or order issued by DENR may be denied access to the Property for the purpose of conducting such activities.**

**6. The owner of the Property which is the subject of this Notice shall cause the**

**instrument of any sale, lease, grant, or other transfer of any interest in the Property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this Notice. The failure to include such provision shall not affect the validity or applicability of any land-use restriction identified in this Notice.**

For purposes of the land-use restrictions set forth above, DENR's point of contact shall be:

North Carolina Division of Waste Management  
Dry-Cleaning Solvent Cleanup Act (DSCA) Program  
1646 Mail Service Center  
Raleigh, NC 27699-1646

### **EASEMENT (RIGHT OF ENTRY)**

The property owner grants and conveys to DENR, its agents, contractors, and employees, and any person performing pollution remediation activities under the direction of DENR, access at reasonable times and under reasonable security requirements to the Property to determine and monitor compliance with the land-use restrictions set forth in this Notice. Such investigations and actions are necessary by DENR to ensure that use, occupancy, and activities of and at the Property are consistent with the land-use restrictions and to ensure that the structural integrity and continued effectiveness of any engineering controls (if appropriate) described in the Notice are maintained. Whenever possible, at least 48 hours advance notice will be given to the Property Owner prior to entry. Advance notice may not always be possible due to conditions such as response time to complaints and emergency situations.

### **REPRESENTATIONS AND WARRANTIES**

The Property Owner hereby represents and warrants to the other signatories hereto:

- i) that the Property Owner is the sole owner of the Property; **or** that the Property Owner has provided to DENR the names of all other persons that own an interest in or hold an encumbrance on the Property and have notified such persons of the Property Owner's intention to enter into this Notice;
- ii) that the Property Owner has the power and authority to enter into this Notice, to grant the rights and interests herein provided and to carry out all obligations hereunder; and
- iii) that this Notice will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which the Property Owner is a party or by which the Property Owner may be bound or affected.

## **ENFORCEMENT**

The above land-use restrictions shall be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. The land-use restrictions shall be enforced by any owner of the Property. The land-use restrictions may also be enforced by DENR through the remedies provided in NCGS § 143-215.104P or by means of a civil action; by any unit of local government having jurisdiction over any part of the Property; and by any person eligible for liability protection under the DSCA who will lose liability protection if the restrictions are violated. Any attempt to cancel any or all of this Declaration without the approval of the Secretary of DENR (or its successor in function), or his/her delegate, shall be subject to enforcement by DENR to the full extent of the law. Failure by any party required-or authorized to enforce any of the above restrictions shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

If a land-use restriction set out in this Notice required under NCGS § 143-215.104.M is violated, the owner of the Property at the time the land-use restriction is violated, the owner's successors and assigns, and the owner's agents who direct or contract for alteration of the contamination site in violation of a land-use restriction shall be liable for remediation of all contaminants to unrestricted use standards.

## **FUTURE SALES, LEASES, CONVEYANCES, TRANSFERS AND PETITIONS OR FILINGS FOR REZONING**

When any portion of the Property subject to this Notice is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, (1) a statement that the property has been contaminated with dry-cleaning solvent and, if appropriate, cleaned up under the Act and (2) a reference by book and page to the recordation of this Notice.

The Property Owner shall notify DENR within fourteen (14) calendar days of the effective date of any conveyance, grant, gift, or other transfer, whole or in part, of the Property Owner's interest in the Property. This notification shall include the name, business address and phone number of the transferee and the expected date of transfer.

The Property Owner shall notify DENR within thirty (30) days following the petitioning or filing of any document by any person initiating a rezoning of the Property that would change the base zone of the Property.

**PROPERTY OWNER SIGNATURE**

IN WITNESS WHEREOF, Property Owner has caused this instrument to be duly executed this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Park Terrace Properties, LLC Etal

By:

\_\_\_\_\_  
Name of contact

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of the county and state aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that she is a Member of Park Terrace Properties, LLC Etal, a North Carolina limited liability corporation, and its Manager, and that by authority duly given and as the act of the company, the foregoing Notice of Dry-Cleaning Solvent Remediation was signed in its name by her.

WITNESS my hand and official stamp or seal, this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name typed or printed  
Notary Public

My Commission expires: \_\_\_\_\_  
[Stamp/Seal]

**APPROVAL AND CERTIFICATION**

The foregoing Notice of Dry-Cleaning Solvent Remediation is hereby approved and certified.

North Carolina Department of Environment and Natural Resources

By: \_\_\_\_\_  
Jim Bateson, LG  
Chief, Superfund Section  
Division of Waste Management

\_\_\_\_\_  
Date

**LIMITED POWER OF ATTORNEY**

I \_\_\_\_\_ “Property Owner”, do hereby grant a limited power of attorney to DENR and to DENR’s independent contractors, as follows:

DENR and DENR’s independent contractors shall have the limited power of attorney to record this Notice, including its documentary and survey plat components, in accordance with N.C.G.S. § 143-215.104M on my “Property Owner” behalf. This limited power of attorney shall terminate upon completion of the recordation of the Notice.

Signature of Property Owner \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public, do hereby certify that \_\_\_\_\_ personally appeared before me this day and signed this “Limited Power of Attorney”.

WITNESS my hand and official stamp or seal, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name typed or printed  
Notary Public

My Commission expires: \_\_\_\_\_  
[Stamp/Seal]



EXHIBIT A  
PARK TERRACE PROPERTIES LLC ETAL  
REDUCTION OF SURVEY PLAT



**EXHIBIT B**  
**PARK TERRACE PROPERTIES LLC ETAL**  
**PROPERTY LEGAL DESCRIPTION**

FORMER SWANNANOVA CLEANERS (DSCA SITE ID # 11-0007)  
1330 PATTON AVENUE, ASHEVILLE, NC  
TAX PIN # 9628-96-1547

LL THAT CERTAIN PIECE, PARCEL, OR TRACT OF LAND SITUATE, LYING AND BEING IN THE CITY OF ASHEVILLE, BUNCOMBE COUNTY, AND THE STATE OF NORTH CAROLINA CONTAINING +/-11.12 ACRES, BEING KNOWN AS TRACT II ON A PLAT ENTITLED, "SURVEY PLAT – EXHIBIT A TO THE NOTICE OF DRY-CLEANING SOLVENT REMEDIATION PARK TERRACE PROPERTIES II, LLC AND R&T ENTERPRISES I, LLC FORMER SWANNANOVA CLEANERS - DSCA 11-0007 1330 PATTON AVENUE, ASHEVILLE TOWNSHIP, BUNCOMBE COUNTY, NORTH CAROLINA", DATED DECEMBER 7, 2012, PREPARED BY SITE DESIGN, INC., AND HAVING ACCORDING TO SAID PLAT THE FOLLOWING METES AND BOUNDS TO WIT:

BEGINNING AT A POINT LOCATED ON THE SOUTHERN RIGHT OF WAY OF PATTON AVENUE (HWY 19 AND 23) AT THE COMMON CORNER WITH PARK TERRACE PROPERTIES, LLC. ETAL PROPERTY N/F. THENCE LEAVING SAID RIGHT OF WAY AND RUNNING ALONG THE COMMON LINE WITH SAID PARK TERRACE PROPERTIES, LLC. ETAL, S 33-56-21 E, 229.17' TO A POINT. THENCE S 82-15-37 E, 106.45' TO A POINT. THENCE S 07-40-54 W, 115.74' TO A POINT. THENCE S 50-52-26 E, 201.85' TO A POINT. THENCE S 84-44-26 E, 195.61' TO A POINT LOCATED ON THE COMMON LINE WITH HAYES SUBDIVISION. THENCE RUNNING ALONG THE COMMON LINE WITH SAID HAYES SUBDIVISION, S 04-44-08 W, 200.47' TO A POINT. THENCE N 83-30-52 W, 164.15' TO A POINT. THENCE S 07-45-24 W, 19.39' TO A POINT. THENCE AROUND A CURVE TO THE LEFT HAVING A RADIUS OF 25.00', A CHORD BEARING AND DISTANCE OF S 07-45-24 W, 45.82' TO A POINT. THENCE N 83-27-36 W, 150.00' TO A POINT. THENCE S 07-08-24 W, 387.84' TO A POINT. THENCE S 83-10-36 E, 4.00' TO A POINT. THENCE S 06-59-12 W, 195.35' TO A POINT LOCATED ON THE NORTHERN RIGHT OF WAY OF HAYWOOD ROAD. THENCE RUNNING ALONG SAID NORTHERN RIGHT OF WAY, N 84-59-25 W, 98.11' TO A POINT. THENCE N 83-58-36 W, 177.60' TO A POINT. THENCE N 81-15-36 W, 78.02' TO A POINT LOCATED IN THE CENTER OF PARKWOOD ROAD. THENCE RUNNING ALONG SAID PARKWOOD ROAD, N 17-06-48 E, 84.00' TO A POINT. THENCE N 33-11-58 E, 249.05' TO A POINT. THENCE N 07-19-26 E, 104.21' TO A POINT. THENCE N 08-40-20 W, 60.02' TO A POINT. THENCE N 19-37-09 W, 63.93' TO A POINT. THENCE N 35-12-59 W, 83.03' TO A POINT. THENCE N 40-47-19 W, 286.68' TO A POINT LOCATED AT THE JOINT CORNER WITH TRACT II-A; THENCE RUNNING ALONG THE COMMON LINE WITH TRACT II-A N 47-04-00 E, 192.86' TO AN IRON PIN OLD 5/8" REBAR; THENCE N 48-09-03 W, 85.19' TO AN IRON PIN OLD 5/8" REBAR; THENCE N 33-29-39 W, 90.67' TO AN IRON PIN OLD 5/8" REBAR LOCATED ON THE SOUTHERN RIGHT OF WAY OF PATTON AVENUE (HWY 19 AND 23). THENCE RUNNING ALONG SAID RIGHT OF WAY, N 55-25-50 E, 305.07' TO THE POINT OF BEGINNING.

**APPENDIX D**

**EXAMPLE ANNUAL DSCA LAND-USE RESTRICTIONS CERTIFICATIONS**

**Site Name: Former Swannanoa Cleaners**

**Site Address: 1334 Patton Avenue, Asheville, Buncombe County, NC**

**DSCA ID No:11-0007**

**ANNUAL DSCA LAND USE RESTRICTIONS CERTIFICIATION**

Pursuant to Land Use Restriction Number \_\_\_\_\_ in a Notice of Dry-Cleaning Solvent Remediation (NDCSR) executed by \_\_\_\_\_ and recorded on \_\_\_\_\_ at the Buncombe County Register of Deeds Office, Park Terrace Properties, II LLC and R&T Enterprises I, LLC hereby certifies, as an owner of at least part of the property that is the subject of the NDCSR, that the NDCSR remains recorded at the Buncombe County Register of Deeds office and the land use restrictions therein are being complied with.

Duly executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Park Terrace Properties, II LLC and R&T Enterprises I, LLC

By: \_\_\_\_\_  
Name typed or printed:  
Member/Manager

NORTH CAROLINA  
\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, a Notary Public of the county and state aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is a Member of Park Terrace Properties, LLC, and its Manager, and that by authority duly given and as the act of the corporation, the foregoing certification was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name typed or printed:  
Notary Public

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

[Stamp/Seal]

**Site Name: Former Swannanoa Cleaners**

**Site Address: 1334 Patton Avenue, Asheville, Buncombe County, NC**

**DSCA ID No: 11-0007**

**ANNUAL DSCA LAND USE RESTRICTIONS CERTIFICATION**

Pursuant to Land Use Restriction Number \_\_\_\_\_ in a Notice of Dry-Cleaning Solvent Remediation (NDCSR) executed by \_\_\_\_\_ and recorded on \_\_\_\_\_ at the Buncombe County Register of Deeds Office, Park Terrace Properties, LLC ETAL hereby certifies, as an owner of at least part of the property that is the subject of the NDCSR, that the NDCSR remains recorded at the Buncombe County Register of Deeds office and the land use restrictions therein are being complied with.

Duly executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Park Terrace Properties, LLC ETAL

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

Name typed or printed:

Member/Manager

NORTH CAROLINA  
\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, a Notary Public of the county and state aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is a Member of Park Terrace Properties, LLC, and its Manager, and that by authority duly given and as the act of the corporation, the foregoing certification was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name typed or printed:

Notary Public

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

[Stamp/Seal]

## APPENDIX E

### EXAMPLE LETTERS ANNOUNCING THE PUBLIC COMMENT PERIOD

**Public Notice**

**SUMMARY OF NOTICE OF INTENT TO REMEDIATE A DRY-CLEANING  
SOLVENT FACILITY OR ABANDONED SITE**

Former Swannanoa Cleaners  
DSCA Site # 11-0007

Pursuant to N.C.G.S. §143-215.104L, on behalf of Park Terrace Properties, LLC Etal, the North Carolina Department of Environment and Natural Resources' (DENR's) private contractor has prepared a Notice of Intent to Remediate a Dry-Cleaning Solvent Facility or Abandoned Site (NOI). The purpose of this Summary of the NOI is to notify the community of the proposed remedy for the contamination site and invite comment on the proposed remedy.

The former Swannanoa Cleaners formerly conducted dry-cleaning operations at 1334 Patton Avenue in the Park Terrace Business Center in Asheville, North Carolina. The property is currently being redeveloped, including construction of a new building, for commercial purposes. Dry-cleaning solvent contamination in soil has been identified at the following parcel(s):

1334 Patton Avenue, Asheville, Buncombe County; Parcel No. 9628867888  
1330 Patton Avenue, Asheville, Buncombe County; Parcel No. 9628961547

An investigation of the extent of contamination has been completed. A risk assessment of the contaminated properties concluded that the contamination poses no unacceptable risks. A Risk Management Plan has been prepared which proposes using land-use controls to prevent current and future risks at the affected properties.

The elements of the complete NOI are included in the Risk Management Plan (RMP) which is available online at <http://portal.ncdenr.org/web/wm/DSCA/PublicNotices>.

***The public comment period begins [REDACTED], 20[REDACTED], and ends [REDACTED], 20[REDACTED].***

Comments must be in writing and submitted to DENR no later than [REDACTED], 20[REDACTED]. Written requests for a public meeting may be submitted to DENR no later than [REDACTED], 20[REDACTED]. Requests for additional information should be directed to Mike Cunningham at (919)707-8361.

All comments and requests should be sent to:

Mike Cunningham, DSCA Remediation Unit  
Division of Waste Management, NC DENR  
1646 Mail Service Center  
Raleigh, North Carolina 27699-1646



North Carolina Department of Environment and Natural Resources  
Division of Waste Management

Pat McCrory  
Governor

Dexter R. Matthews  
Director

John E. Skvarla, III  
Secretary

<Date>

<property owner>  
<mailing address>  
<city, state, zip>

Subj: Dry-Cleaning Solvent Contamination at 1334 Patton Avenue,  
Asheville, NC

Dear <property owner>:

You are receiving this letter because your property at <adjacent property address> is adjacent to an area contaminated with dry-cleaning solvents. The Dry-Cleaning Solvent Clean-up Act (DSCA) Program has completed an assessment of the dry-cleaning solvent contamination associated with the former Swannanoa Cleaners at 1334 Patton Avenue in Asheville, NC. Construction of a commercial/retail space building is currently on-going. A remedial strategy to address the site contamination has been prepared, and in accordance with our program's statutes, the community has an opportunity to review and comment on the proposed strategy.

The attached Summary of the Notice of Intent to Remediate a Dry-Cleaning Solvent Facility or Abandoned Site (NOI) provides a brief description of the proposed remedy, a web link to the complete NOI, and the dates and procedures for commenting on the proposed remedy. If you do not have access to the internet, we ask that you contact us to request a hard copy of the complete NOI.

If you have questions, please contact me at (919) 707-8361, or Delonda Alexander at (919) 707-8365.

Sincerely,

Mike Cunningham, Project Manager  
DSCA Remediation Unit  
mike.cunningham@ncdenr.gov

Attachments: Summary of the NOI

Cc: DSCA Site # 11-0007 File