

BARRY T. SMITHMAN, CHAIRMAN  
DAVID PORTER, COMMISSIONER  
CHRISTI CRADDICK, COMMISSIONER



GIL BUJANO, P.E.  
DIRECTOR, OIL AND GAS DIVISION  
PETER G. POPE, P.G.  
ASSISTANT DIRECTOR, SITE REMEDIATION

## RAILROAD COMMISSION OF TEXAS

### OIL AND GAS DIVISION

#### **VOLUNTARY CLEANUP PROGRAM FINAL CERTIFICATE OF COMPLETION RELYING ON INSTITUTIONAL CONTROLS**

As provided for Chapter 91, Subchapter 0, Texas Natural Resource Code.

*I, PETER G. POPE, ASSISTANT DIRECTOR OF THE SITE REMEDIATION SECTION, OIL AND GAS DIVISION, RAILROAD COMMISSION OF TEXAS, CERTIFY UNDER CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE, THAT NECESSARY RESPONSE ACTIONS HAVE BEEN COMPLETED FOR VOLUNTARY CLEANUP PROGRAM NO. 03-90002 AS OF 8 MARCH 2013 FOR THE TRACT OF LAND DESCRIBED IN EXHIBIT "A", BASED ON THE AFFIDAVIT OF COMPLETION OF RESPONSE ACTION AND INSTITUTIONAL CONTROLS, EXHIBIT "B" AND WHICH ARE FURTHER DESCRIBED IN THE APPROVED FINAL REPORT FOR THE SITE. APPLICANTS WHO WERE NOT RESPONSIBLE PARTIES UNDER SECTION 91.113 ON THE DATE OF ISSUANCE OF THIS CERTIFICATE ARE QUALIFIED TO OBTAIN THE PROTECTION FROM LIABILITY PROVIDED BY CHAPTER 91, SUBCHAPTER 0, TEXAS NATURAL RESOURCE CODE.*

*EXECUTED this the 8th day of March 2013.*

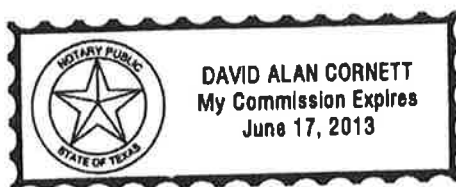
  
Peter G. Pope, P.G.  
Assistant Director, Site Remediation


STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, personally appeared Peter G. Pope, Assistant Director, Remediation Section, of the Railroad Commission of Texas, known to me to be the person and agent of said commission whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, *this the 8th day of March 2013.*



  
Notary Public in and for the State of Texas

**EXHIBIT "A"**  
**RAILROAD COMMISSION OF TEXAS**  
**VOLUNTARY CLEANUP PROGRAM**  
**LEGAL DESCRIPTION 12-ACRE TRACT**

**VCP No. 03-90002**

## EXHIBIT A

BUFFALO LAKES APARTMENTS  
12.00 ACRES

MARCH 22, 2011  
JOB No. EMB07

### DESCRIPTION OF A 12.00 ACRE TRACT OF LAND SITUATED IN THE B.B. B. & C. R.R. Co. SURVEY, ABSTRACT No. 179 CITY OF HOUSTON, HARRIS COUNTY, TEXAS

BEING a 12.00 acre tract of land situated in the B.B. B. & C. R.R. Co. Survey, Abstract No. 179 in the City of Houston, Harris County, Texas, and being all of BUFFALO LAKES APARTMENTS, a subdivision in Harris County, Texas, according to the map or plat filed for record under Film Code No. 635105 of the Map Records of Harris County, Texas, said 12.00 acres described as follows;

**BEGINNING** at a 5/8-inch iron rod with cap stamped "Brown & Gay" set marking the northeast corner of the herein described tract same being the northwest corner of Bedford Falls a subdivision recorded at Film Code Number 540026 of the Harris County Map Records in the south line of the Replat Unrestricted Reserve "E" Lakes At 610 Section, Two recorded in Volume 332, Page 137 of the Harris County Map Records and from which a found 5/8-inch iron rod with cap stamped "Terra Surveying" bears N 63°58' E 0.57 feet;

THENCE S 03°00'45" E, a distance of 671.06 feet along the west line of said Bedford Falls same being the east line of said BUFFALO LAKES APARTMENTS to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for the southeast corner of the herein described tract;

THENCE S 86°59'15" W, along the south line of said BUFFALO LAKES APARTMENTS a distance of 985.68 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" set for corner in the arc of a curve to the left in the east right-of-way line of Buffalo Speedway (100' wide) recorded at Film Code 613118 of the Harris County Map Records, having a radial bearing of N 74°08'59" W 2050.00 feet;

THENCE Northerly along the arc of said curve to the left and east right-of-way said Buffalo Speedway a distance of 468.13 feet, having a radius of 2050.00 feet a central angle of 13°05'02" and a chord which bears N 09°18'30" E, 467.12 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" set for corner and being the southwest corner of a called 2.018 acre tract recorded in Harris County Clerk's File Y294667;

THENCE N 86°57'47" E, departing said east right-of-way line of said Buffalo Speedway along the south line of said 2.018 acres a distance of 420.25 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for corner from which a found 5/8-inch iron rod with cap stamped "Terra Surveying" bears N 66°52' E 0.41 feet;

THENCE N 03°10'12" W, along the east line of said 2.018 acres a distance of 213.24 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" found marking the most northerly northwest corner of the herein described tract in the south line of said Replat Unrestricted Reserve "E" Lakes At 610 Section Two from which a found 5/8-inch iron rod with cap stamped "Terra Surveying" bears N 32°56' E 0.44 feet;

## EXHIBIT A

THENCE N 86°49'48" E, along the south line of said Replat Unrestricted Reserve "E" Lakes At 610 Section, Two a distance of 466.34 feet to the **POINT OF BEGINNING** and containing 12.00 acres (522,721 Sq. Ft.) of land.

Bearings are based on the Texas State Plane Coordinate System, South Central Zone, NAD-83 and was established by GPS observations.



A handwritten signature in cursive script, appearing to read "Paul A. Jurica Jr.", written over a horizontal line.

Paul A. Jurica Jr. RPLS No. 4264  
Brown & Gay Engineers, Inc.  
10777 Westheimer Road, Suite 400  
Houston, Texas 77042  
Telephone: (281) 558-8700

**EXHIBIT "B"**  
**RAILROAD COMMISSION OF TEXAS**  
**VOLUNTARY CLEANUP PROGRAM**  
**AFFIDAVIT OF COMPLETION OF RESPONSE ACTION**  
**AND INSTITUTIONAL CONTROLS**

I, Joel Scott, representing Buffalo Lakes GP, LLC have completed response actions necessary, pursuant to Chapter 91, Subchapter O, Texas Natural Resource Code, at a 12 acre tract of land described in Exhibit "A" (Site) of this certificate pertaining to Voluntary Cleanup Program (VCP) No. 03-90002 located in Houston, Harris County, Texas. The Site was owned by the applicant at the time of the application to participate in the VCP was filed. The applicant has submitted and received approval from the Railroad Commission of Texas (RRC) on all plans and reports required by the Voluntary Cleanup Agreement. The plans and reports were prepared using a prudent degree of inquiry of the Site consistent with accepted industry standards to identify all contaminants, waste and contaminated media of regulatory concern. The response actions for the site have achieved response action levels as determined by the standards of the RRC and remain protective as long as the following institutional controls are maintained:

1. Use of the groundwater beneath the **Affected Property** shall not be allowed except for monitoring purposes.
2. Penetration or excavation of the impacted groundwater zones for any purpose shall only be conducted in such a manner as to prevent the migration or release of contaminations to any other zone or media, and to prevent uncontrolled exposure to human and ecological receptors.
3. These restrictions shall be a covenant running with the land.

These restrictions were filed in the Harris County Clerk's office on 16 June 2011, Document 20110246848 (Attachment 1). The response actions eliminate substantial present or future risk to public health and safety and to the environment from releases and threatened releases of contaminants at or from the Site. The Applicant has not acquired this certificate of completion by fraud, misrepresentation, or knowing failure to disclose material information. Further information concerning the response actions at this Site may be found in the final report at the central office of the RRC under VCP No. 03-90002.

The preceding is true and correct to the best of my knowledge and belief.

Applicant Buffalo Lakes, Inc.  
By: Joel R. Scott  
Print Name: Joel R. Scott, Manager

STATE OF Texas  
COUNTY OF

BEFORE ME, personally appeared Joel R. Scott,  
known to me to be the person and agent of said commission whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 22<sup>nd</sup> day of February 2013.

Notary Public in and for the State of Texas

S. Larae McCarthy



8  
Resistor  
u

**RAILROAD COMMISSION OF TEXAS  
ENVIRONMENTAL RESTRICTIVE COVENANT**

**STATE OF TEXAS           §**

**COUNTY OF HARRIS       §**

This Restrictive Covenant is filed pursuant to the authority of the Railroad Commission of Texas ("Commission") to control and clean up pollution caused by activities over which the Commission exercises jurisdiction in accordance with Section 91.113 of the Texas Natural Resources Code, and affects the real property (**Property**) described as follows:

Buffalo Lakes, Ltd., and Buffalo Lakes II, Ltd., are the current Owners of the **Property** and premises, and appurtenances thereto, located in Harris County, Texas, consisting of a 12-acre tract out of the B.B.B. & C.R.R. Co. Survey, Abstract 179 in the City of Houston, Harris County, Texas according to the map filed for record under film code no. 635105 of the Map Records of Harris County Texas, as more fully described on **Exhibit A** which exhibit is attached hereto and incorporated herein.

Groundwater on the entire **Property** is affected by certain chemicals of concern and for the purpose of this document the entire **Property** is also identified as the **Affected Property** and is more fully described on **Exhibit A**.

This restrictive covenant is required for the following reasons:

The **Affected Property** was part of an oil and gas exploration and production lease from the late 1950s to the late 1970s. Chemicals of concern attributable to the historical oil and gas operations at and in the vicinity of the **Affected Property** have impacted groundwater. The conditions were discovered during an environmental investigation of soil and groundwater beneath the **Affected Property** conducted by Terracon Consultants, Inc. (**Terracon**) in accordance with Commission regulations. The remediation was performed in such a manner that the following chemicals of concern (COCs) were left in groundwater beneath the **Affected Property** at the time of the Institutional Control filing:

COC	Maximum Concentration
Arsenic	0.0887 milligrams per kilogram
Barium	5.51 milligrams per liter
Chromium	0.288 milligrams per liter
Lead	0.176 milligrams per liter
Chloride	2,740 milligrams per liter

The investigation, assessment, remediation and analytical data on the **Affected Property** are contained in the following reports prepared by Terracon, copies of which are located at the offices of Buffalo Lakes, Ltd., and Buffalo Lakes II, Ltd., at 10700 Richmond Ave., Suite 330, Houston, Texas 77042: Copies of the above-referenced reports are also available at the Commission's Austin Office, located at 1701 N. Congress Avenue, Austin, Texas.

✓  
✓  
Pat

Chicago Title Insurance Company  
712 Main St., # 2000E  
Houston, Texas 77002-3218  
GF # 371000014841 (Csk)

1) Phase I Environmental Site Assessment Report dated May 28, 2008; 2) Limited Site Investigation Report dated August 14, 2008; 3) Supplement Environmental Investigation February 12, 2009; 4) Supplemental Environmental Site Investigation dated August 19, 2009, and 5) Groundwater Monitoring and Soil Excavation Activities Report dated January 10, 2010.

The response action has been approved by the Commission based on the presumption that the groundwater beneath the **Affected Property** will not be used for any purpose, except monitoring. The Commission has determined that the **Affected Property** currently meets acceptable recognized standards for residential land use. Based on information contained in the reports identified above, and under the concurrence of the Commission, the chemicals of concern on, under and within the **Affected Property** pose no significant present or future risk to humans or the environment based on residential use. With the filing of this document, the Commission does not require any further remediation of the **Affected Property** as long as groundwater beneath the **Affected Property** is not used, except for monitoring purposes. For purposes of this Covenant, the term "residential use" means use for dwellings such as single family houses and multi-family apartments, children's homes, nursing homes, residential portions of government-owned lands (local, state or federal), day care facilities, educational facilities, hospitals, residential portions of ranch and farm land, and parks (local, state or federal). This restrictive covenant is necessary to assure that all present and future owners of the **Affected Property** are aware of its condition and do not use the **Affected Property** in any manner inconsistent with this restriction. If any person desires to use the groundwater beneath the **Affected Property** in the future in any manner inconsistent with the restrictions described in this covenant, the Commission must be notified at least 60 days in advance of such use. Additional response action contemplating a change in land use or in the size of the assumed exposure area may be necessary. The additional response action must be approved by the Commission and completed prior to the commencement of the new use of the **Affected Property**.

In consideration of the Response Action leading to the final approved remediation of the **Affected Property**, the Owners of the **Property** have agreed to place the following restrictions on the **Affected Property** in favor of the Commission and the State of Texas. Now therefore, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following restrictive covenants in favor of the Commission and the State of Texas are placed on the **Property** described in Exhibit A:

1. Use of the groundwater beneath the **Affected Property** shall not be allowed except for monitoring purposes.
2. Penetration or excavation of the impacted groundwater zones for any purpose shall only be conducted in such a manner as to prevent uncontrolled exposure to human and ecological receptors.
3. These restrictions shall be a covenant running with the land.

For additional information, contact:  
Railroad Commission of Texas  
Site Remediation  
P. O. Box 12967  
1701 N. Congress  
Austin, Texas 78711-2967

Railroad Commission of Texas Voluntary Cleanup Program No.: VCP 03-90002.

As of the date of this Restrictive Covenant, the record owners of fee title to the **Affected Property** are Buffalo Lakes, Ltd., and Buffalo Lakes II, Ltd., both of which have the address Cernus Group, Ltd., 10333 Harwin Drive, Suite 530, Houston, Texas 77036.

This Restrictive Covenant may be rendered of no further force or effect only by a release executed by the Commission and filed in the same Real Property Records as those in which this Restrictive Covenant is filed.

Executed this 6<sup>th</sup> day of June, 2011

Signature: Joel R. Scott

Joel Scott, Manager, Member and Director of Buffalo Lakes GP, LLC as general partner and registered agent of Buffalo Lakes, Ltd.

*Joel (3)*

STATE OF TEXAS §  
COUNTY OF HARRIS §

Before me, the undersigned officer, on this day personally appeared Joel Scott, known to me to be the person whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and in the capacity herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE

Signature: Linda D. Hiemer

Notary Public, in and for the State of Texas

County of Harris

My Commission Expires: 2-26-2015



*Stacy Stewart*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

2011 JUN 16 PM 3:08

FILED

RP 077-74-1775



Executed this 6<sup>th</sup> day of June, 2011

Signature: Joel R. Scott

Joel Scott, Manager, Member and Director of  
Buffalo Lakes GP, LLC  
as general partner of  
Buffalo Lakes II, Ltd.

STATE OF TEXAS §  
COUNTY OF HARRIS §

Before me, the undersigned officer, on this day personally appeared Joel Scott, known to me to be the person whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and in the capacity herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE

Signature: Linda D. Hiemer

Notary Public, in and for the State of Texas

County of Harris

My Commission Expires: 2-26-2015



RP 027-74-1776

Accepted as Third Party Beneficiary this 8<sup>th</sup> day of June, 2011.

Railroad Commission of Texas,

By: Kathy Keils <sup>low</sup>

Printed Name: Kathy Keils

Title: Special Counsel Attorney

STATE OF TEXAS §  
COUNTY OF TRAVIS §

BEFORE ME, on this the 8<sup>th</sup> day of June, 2011 personally appeared Kathy Keils known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE

Signature Kathy Way

Notary Public in and for the State of Texas

County of Travis \_\_\_\_\_

My Commission Expires: 7-22-2013

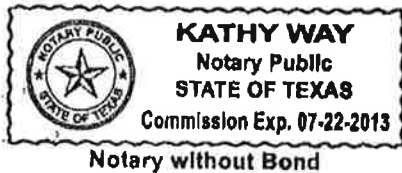


EXHIBIT A

BUFFALO LAKES APARTMENTS  
12.00 ACRES

MARCH 22, 2011  
JOB No. EMB07

DESCRIPTION OF A 12.00 ACRE TRACT OF LAND SITUATED  
IN THE B.B. B. & C. R.R. Co. SURVEY, ABSTRACT No. 179  
CITY OF HOUSTON, HARRIS COUNTY, TEXAS

BEING a 12.00 acre tract of land situated in the B.B. B. & C. R.R. Co. Survey, Abstract No. 179 in the City of Houston, Harris County, Texas, and being all of BUFFALO LAKES APARTMENTS, a subdivision in Harris County, Texas, according to the map or plat filed for record under Film Code No. 635105 of the Map Records of Harris County, Texas, said 12.00 acres described as follows;

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**THENCE** S 03°00'45" E, a distance of 671.06 feet along the west line of said Bedford Falls same being the east line of said BUFFALO LAKES APARTMENTS to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for the southeast corner of the herein described tract;

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**THENCE** Northerly along the arc of said curve to the left and east right-of-way said Buffalo Speedway a distance of 468.13 feet, having a radius of 2050.00 feet a central angle of 13°05'02" and a chord which bears N 09°18'30" E, 467.12 feet to a 5/8-inch iron rod with cap stamped "Brown & Gay" set for corner and being the southwest corner of a called 2.018 acre tract recorded in Harris County Clerk's File Y294667;

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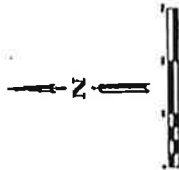
Bearings are based on the Texas State Plane Coordinate System, South Central Zone, NAD-83 and was established by GPS observations.



  
Paul A. Jurica Jr. RPLS No. 4264  
Brown & Gay Engineers, Inc.  
10777 Westheimer Road, Suite 400  
Houston, Texas 77042  
Telephone: (281) 558-8700

RP 077-74-1779

EXHIBIT A



STARBOARD POINT DRIVE

HARBOR HILLS DRIVE  
REDFORD FALLS  
N.O. 84008 H.C.M.

GEORGEANN/GERBORN

12.00 Acres  
527,721 Sq. Ft.  
BUFFALO LAKES  
APARTMENTS  
P.C. 835105 H.C.M.E.

BEVLY F. JAMES AT \$10  
UNREGISTERED SECTION TWO  
VOL. 882 P.C. 187 H.C.M.E.

1957 BETTNER  
DUNE LOTS

BUFFALO SPEEDWAY

LEGEND

1	As Shown
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3	As Shown
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99	As Shown
100	As Shown

THE STATE OF TEXAS, COUNTY OF HARRIS, BEFORE ME, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

My commission expires \_\_\_\_\_.

ALVIN/ACSM LAND TITLE SURVEY OF A  
 160-ACRE TRACT OF LAND  
 SITUATED IN THE  
 CITY OF HOUSTON  
 HARRIS COUNTY, TEXAS

Survey No. \_\_\_\_\_  
 Date of Survey \_\_\_\_\_



**RECORDER'S MEMORANDUM:**  
 At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

RP 077-74-1381

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.  
THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas.

JUN 16 2011



*Stan Starns*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS