



Public Interest Center | P.O. Box 1049 | Columbus, OH | 43216-1049

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MEDIA CONTACT: Heather Lauer, (614) 644-2160
CITIZEN CONTACT: Darla Peelle, (614) 644-2160

Hamilton County Property Receives Covenant Not to Sue Under Ohio EPA's Voluntary Action Program

Through the voluntary efforts of the village of Reading, a 9.9-acre brownfield located at 595 and 601 Third Street is ready for reuse after being investigated and remediated under Ohio EPA's Voluntary Action Program (VAP). Ohio EPA has issued a covenant not to sue to Reading. This covenant completes Reading's participation in the VAP.

Following standards developed by Ohio EPA, Reading hired a certified environmental professional to assess the site, identify any areas of concern and remediate contamination on the property to a level that will allow for commercial and industrial land use. The current plan is to redevelop the property as a life sciences research and development complex.

The former Nivison-Weiskoph industrial facility and Ostholthoff and Glorius residential parcel were used from before 1900 through the mid-2000s. Industrial activities led to site contamination. Soils and buildings that were contaminated with petroleum products or chemicals of concern above the VAP applicable standards were removed from the property and properly disposed.

The owner must ensure the soil is not excavated below 10 feet, that commercial/industrial users (workers) do not come into contact with soils below two feet, that the water at the site is not used for potable purposes, and that chemicals of concern above VAP applicable standards in the ground water do not emanate from the property boundary and/or migrate into the indoor air in future buildings.

A covenant not to sue protects the property's owner or operator and future owners from being legally responsible to the State of Ohio for further investigation and remediation. This protection applies only when the property is used and maintained in accordance with the terms and conditions of the covenant. If the property is found to no longer comply with the applicable standards for the property, there is an opportunity to 'cure' the non-compliance. If the noncompliance is not cured, the covenant may be revoked. The covenant must be filed with the Hamilton County Recorder's office within 30 days of issuance (August 10, 2011).

In the 16 years since Ohio EPA issued the first covenant under VAP, more than 6,000 acres of blighted land have been revitalized at more than 300 sites across the state.