Montana Department of
ENVIRONMENTAL QUALITY

Brian Schweitzer, Governor

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POLICY OFFICE

March 20, 2006

Todd Everts
Environmental Quality Council
Capitol Complex
Helena, MT 59620

Subject: Final Environmental Assessment for the CHS Inc. Laurel Refinery

Dear Mr. Everts:

Enclosed is the Environmental Assessment for the above-referenced facility. You should have received a copy of the draft EA in late January. If you have any questions, please contact me at 406/444-2876 or the e-mail address listed below.

Sincerely,

Rebecca Holmes

Rebecca Holmes
Environmental Science Specialist
Waste and Underground Tank Management Bureau
Permitting and Compliance Division
e-mail: rholmes@mt.gov

Enclosure
cc: HW facility file: Cenex Harvest States – Public Participation #2 (w/o enclosure)

Montana Department of Environmental Quality
Permitting and Compliance Division
Waste and Underground Tank Management Bureau
P.O. Box 200901
Helena, Montana 59620-0901

Final Environmental Assessment

Montana Hazardous Waste Permit Number: MTHWP-02-02

Issued to: CHS Inc. - Laurel Refinery
803 Highway 212 S., P.O. Box 909, Laurel, MT 59044-0909

Legal Description: Sections 15 and 16, Township 2 South, Range 24 East, Yellowstone County, Montana

Issued by: Hazardous Waste Section
Waste and Underground Storage Tank Management Bureau
Permitting and Compliance Division
Montana Department of Environmental Quality

Purpose of the Environmental Assessment
The Montana Department of Environmental Quality (DEQ) is required under the Montana Environmental Policy Act (MEPA) to conduct an environmental assessment (EA) on the proposed permit action described in this document. An EA details: 1) all reasonable alternatives to DEQ's action; and 2) outlines the potential impacts to the human environment resulting from DEQ's permitting action and reasonable alternatives to that action.

Based on the impact analysis and professional judgment, DEQ makes a decision on the proposed permit action and summarizes the decision in the EA. If the decision significantly impacts the human environment, a more detailed environmental review, called an environmental impact statement, must be conducted by DEQ.

Rules administering hazardous waste management in Montana are set forth in the Administrative Rules of Montana (ARM), Title 17, Chapter 53, Sub-Chapters 1 through 12. Federal regulations for hazardous waste management are set forth in the Code of Federal Regulations (CFR), Parts 124 and 260 through 279, and are incorporated by reference in ARM. For ease of reading this document, when federal regulations under Title 40 of the CFR have been incorporated by reference into ARM, only the federal citation is used.

Public Comment Period
The public including interested citizens, DEQ, EPA, other governmental agencies, and the applicant were given thirty (30) days to comment on the draft EA. The comment period extended from January 23, 2006 to February 21, 2006. The Department received no comments on the draft EA. The alternatives considered and the summary of impacts as described in the final EA remains the same as the draft EA with one exception. That exception is a correction and clarification of the changes DEQ proposed and made to language in the NLF Closure Plan. The corrected section of the final EA can be found in Alternative I, 3.b. (page 4). Language in Attachment 1 concerning land use restrictions was changed; however, the changes had no effect on alternatives considered or the summary of impacts.

Description of Project
DEQ initially issued a hazardous waste permit (MTHWP-90-01) to CHS for its Laurel Refinery on August 2, 1991. In August 2002, DEQ reissued the permit under number MTHWP-02-02. The permit regulates operation of a corrective action management unit (CAMU), closure and post-closure care of a land treatment unit (the New Landfarm), and the implementation of facility-wide remediation.

CHS submitted a Class 2 permit modification request in accordance with 40 CFR 270.42(b) to DEQ on November 14, 2005. CHS requested multiple modifications to MTHWP-02-02 permit language. These modifications are grouped in four general areas:

1. Revisions to permit text to clarify submittal sequence and requirements of various documents to better describe the actual submittal process.

2. Clarifications of definitions listed in the Corrective Action Management Unit (CAMU) Module.

3. Modification to the New Landfarm (NLF) Closure Plan to allow for a determination whether waste residuals are present in the NLF. Clean closure of the NLF would require removal of waste residuals only where present.

4. Various administrative and informational permit language changes (e.g., text formatting or minor revision).

Objectives of DEQ Action
DEQ's objective in issuing a permit modification to CHS is to comply with 40 CFR 270. CHS has submitted a Class 2 permit modification request in accordance with 40 CFR 270.42(b). As stated in 40 CFR 270.42(b)(6), the Department must approve the modification request with or without changes, deny the modification, or determine that procedures for a Class 3 modification as set forth in 40 CFR 270.42(c) must be followed.

Alternatives Considered
<u>Alternative I – Modification with Changes (Proposed Action)</u>
DEQ's proposed action is to approve the modification request with changes, pursuant to 40 CFR 270.42(b)(6).

1. <u>Revisions to the permit text to clarify submittal sequence and requirements of various documents to better describe the actual submittal process</u>

   The basis for DEQ approval of the requested modifications to clarify permit text is as follows:

   a. CHS requested modification of permit language to clarify submittal sequence of reports for regulated units and facility-wide corrective action. The modified language more accurately describes the reports and schedules for submittal.

   b. CHS requested modification of permit language modifying the scope of the Corrective Measures Study (CMS) required for remedy selection. This modification would change the scope of the CMS to include a screening level evaluation of each remedial alternative, a detailed evaluation of the facility's proposed remedial alternative, and a comparison of the alternatives to a "no action" alternative. DEQ retains the authority through the permit and through the Montana Hazardous Waste Act to require evaluation of additional remedies or particular elements of one or more remedial alternatives evaluated in the CMS, should DEQ determine that the facility-proposed remedial alternative is not adequate.

2. Clarifications of definitions listed in the Corrective Action Management Unit (CAMU) Module

CHS requested four modifications to Module IV – Corrective Action Management Unit (CAMU). The basis for DEQ approval of these modifications is as follows:

a. CHS requested modification of treatment zone and below treatment zone definitions. The modifications are in accordance with land treatment program requirements set forth in 40 CFR 264.271(c).

b. CHS requested modification of requirements for treatment lift volumes for the CAMU. The maximum volume of contaminated soils allowed on the CAMU will not be modified. The requested modification will allow flexibility in scheduling placement of contaminated soils on the CAMU during facility-wide remediation efforts.

c. CHS requested revision of the nutrient ratio for ammonia and phosphorus during land treatment of contaminated soils. The revised ratio allows an achievable level of nutrient distribution in the CAMU soils.

d. CHS requested modification of permit language to allow disking in addition to tilling as an option for enhancing microbial degradation of applied wastes on the CAMU. The change clarifies the methods and types of equipment CHS may use to incorporate and treat contaminated soils on the CAMU.

3. Modification to the New Landfarm (NLF) Closure Plan to allow for a determination whether waste residuals are present in the NLF. Clean closure of the NLF would require removal of waste residuals only where present

CHS requested three modifications to the NLF Closure Plan. The closure plan is an attachment to the permit which details the steps CHS must take to complete closure of the NLF. The basis for DEQ approval of requested modifications to the closure plan is as follows:

a. CHS requested revision to permit language which would allow clean closure of the NLF without removal of the Zone of Incorporation (ZOI) soils and waste residuals if CHS can provide evidence that hazardous constituents remaining in the soils do not pose a threat to human health and the environment. Closure using this option would excuse CHS from post-closure care requirements for the NLF. CHS has collected data that it believes supports this closure option using closure standards developed through non-residential exposure assumptions.

Approval with changes: DEQ proposes to approve the proposed language with changes. These changes include requirements for land use controls for the NLF, following the approval of risk-based closure using non-residential exposure assumptions.

The NLF is a regulated unit and must meet the management requirements of 40 CFR 264 subpart M (Land Treatment Units). EPA, in a March 16, 1998 Memorandum, states that regulations for clean closure of a regulated unit do not require complete removal of all contamination, i.e. to background concentrations, from a closing regulated unit. Limited quantities of hazardous constituents may remain in environmental media after clean closure, provided those constituents are at concentrations that will not pose a risk to human health and the environment. In addition, EPA states that limited quantities of hazardous constituents may remain in environmental media after clean closure, provided concentration levels would not migrate from soil to air, surface or ground water in excess

of Agency-approved concentrations. If CHS can demonstrate that concentrations of hazardous constituents remaining in the NLF soils are at levels which do not pose risks to human health or the environment, and are at levels which will not migrate from soil to air, surface or groundwater, then, as noted in EPA's memorandum, CHS could meet requirements for clean closure of the NLF.

EPA also states in its 1998 memorandum, that non-residential exposure assumptions may be used to develop cleanup standards for regulated units. However, EPA emphasizes non-residential exposure assumptions should not be used unless there is a reasonable degree of confidence future land use will conform to those assumptions. This confidence would be based on the existence of long-term controls over land use. When non-residential exposure assumptions are used to determine cleanup standards for a regulated unit, the area covered by those standards should be clearly delineated and procedures established to alert future users to the presence of contamination and risks presented.

DEQ has reviewed preliminary analytical data and risk-analysis for the NLF provided by CHS in support of closure to cleanup levels developed using non-residential (industrial) exposure assumptions. The review of the NLF information appears to indicate an industrial risk-based clean closure could be met for the NLF. The NLF information submitted by CHS to DEQ is located in Waste and Underground Tank Management Bureau files.

Currently, Module VI (Closure / Post-Closure) of the CHS hazardous waste permit includes requirements for submittal of a survey plat to local zoning or land use authority, to DEQ, and to Yellowstone County. The plat, prepared and certified by a professional land surveyor, must indicate the location and dimension of the closed regulated unit, and must contain a note displaying the owner/operator's obligation to restrict disturbance of the regulated unit in accordance with Module VI. The plat and restriction notice must also be attached to all instruments of conveyance such as deeds or contracts for deeds.

DEQ does not believe language in the current permit condition adequately addresses the need for long-term land use controls for the NLF if closed using industrial risk-based standards. Therefore, DEQ will make language changes to the permit which ensure clear delineation of the NLF and notice of an industrial risk-based closure on the survey plat; deed notice with restrictions as to land use; and requirements that any land use control for the NLF must be commiserate with land use controls developed for facility-wide remediation. New permit language requiring more stringent land use controls for regulated units closed using industrial risk-based standards is included in Attachment 1.

Note that the proposed modification does not approve the closure of the NLF. The proposal only allows CHS to clean close the NLF without removing ZOI soils and waste residuals, if a risk-based closure can be achieved. Determination of whether clean closure is appropriate for the NLF will be made by DEQ following a demonstration of clean closure by CHS.

b. CHS requested modification of permit language to clarify that hazardous waste residuals will only need to be removed if present and that, when closed under Option II (Clean Closure), the NLF will be removed from "RCRA or any associated hazardous waste permit requirements."

Approval with changes: DEQ proposes to approve the requested modification with changes. Montana hazardous waste regulations are authorized by the Montana Hazardous Waste Act (MHWA), not the federal Resource Conservation and Recovery Act (RCRA). Therefore, DEQ has removed the acronym "RCRA" and included language requiring that closure must be in accordance with Module VI of the permit. In addition, as noted above, adequate land use controls must be implemented should CHS choose to clean close the NLF using industrial risk-based standards.

These land use controls will include deed restrictions, covenants and inclusion or consideration of the NLF in any land use controls implemented as a part of facility-wide remediation. All these requirements have been included as conditions in the permit; therefore, the NLF will not be removed from "any associated hazardous waste permit requirements" as stated in the original closure plan. New permit language clarifying these issues is included in Attachment 1.

c. CHS proposes language changes to the NLF Closure Plan that would allow use of a "contained-in determination" for NLF soils containing listed hazardous waste. Historically, several wastes placed on the NLF were classified as listed hazardous wastes. These wastes were incorporated into the NLF soils as part of the land treatment process. The language changes proposed by CHS include requirements for sampling of the NLF soils and comparing analytical results to industrial risk-based levels. If concentrations exceed industrial risk-based levels, the media (soils in this case) would be managed as a hazardous waste. If concentrations are less than risk-based levels, the media would be determined to no longer contain a hazardous waste.

   Approval with changes: DEQ proposes to approve the requested modification with changes. Environmental media (such as soil, sediment, surface and ground water) are not considered solid wastes in the sense of being abandoned, recycled, or inherently waste-like as those terms are defined in hazardous waste regulations. However, environmental media that contain listed wastes must be managed as hazardous waste as long as they contain listed waste. EPA Regions and authorized states (such as Montana) may make a "contained-in" determination that an environmental media no longer contains a listed hazardous waste. This determination may be made based on site-specific conditions and by considering the risks posed by concentrations of hazardous constituents within the contaminated media. If concentrations of hazardous constituents are below levels which may pose a risk to human health and the environment, and do not pose risk of migration to surface or groundwater, DEQ may make the determination that media no longer contains a listed hazardous waste. It is important to note that a contained-in determination does not excuse a generator of hazardous waste from the land disposal requirements of 40 CFR Part 268.

   The proposed CHS language does not specify the protective standard to be used for determining whether concentrations of hazardous constituents within sampled soils would pose a risk and does not specify the need to follow requirements set forth in 40 CFR subpart 268, Land Disposal Restrictions. In addition, the proposed language does not clearly state that CHS must request a contained-in determination from DEQ. New permit language specifying standards and contained-in determination procedures is included in Attachment 1.

   Note that the proposed modification only allows CHS to ask DEQ for a contained-in determination, if certain analytical and evaluation criteria are met. The proposed modification does not make the determination that soils on the NLF do not contain a listed hazardous waste.

4. Various administrative and informational permit language changes (e.g., text formatting or minor revision)

   The administrative and informational language changes clarify or correct language currently in the permit conditions. DEQ proposes to approve the modifications with no changes.

Alternative II – Modification Approval without Changes

DEQ may approve the modification request without changes pursuant to 40 CFR 270.42(b)(6). In this alternative, DEQ would accept changes to permit language as proposed by CHS.

Alternative III - Denial
DEQ may deny the CHS permit modification request pursuant to 40 CFR 270.42(b)(6). CHS has submitted a complete permit modification request and the DEQ can issue a permit modification containing conditions to protect human health and the environment. Therefore, the DEQ does not have grounds to deny the permit modification request. The denial alternative is not reasonable and is not considered further.

Alternative IV – Class 3 Modification
DEQ may determine that the modification request must follow the procedures for a Class 3 modification, as set forth in 40 CFR 27.42(c). Specifications for Class 3 modifications are detailed in §270.42(c), appendix I. The CHS modification request does not meet the specifications as set forth in the regulations; therefore, Alternative IV is not reasonable and is not considered further.

Stipulations and Controls
All conditions of the permit are based on requirements in Title 17, Chapter 53 of Administrative Rules of Montana (ARM) for the management of hazardous waste. CHS must comply with the permit conditions to comply with Montana's hazardous waste laws and regulations.

Analysis of Regulatory Impacts on Private Property Rights
A Private Property Assessment Act Checklist was completed for DEQ's proposed action on the CHS modification request. The checklist is on file with DEQ's Permitting and Compliance Division, Waste and Underground Tank Management Bureau. DEQ determined that no taking or damaging implications exist requiring a further impact assessment.

Summary of Impacts
The checklist below was only completed for Alternatives I and II. As noted above, Alternatives III and IV were not considered because the DEQ determined the alternatives were not reasonable.

Tables 1 and 2 rate potential human environment impacts from modifying MTHWP-02-02 according to Alternatives I and II. The human environment includes those attributes, such as biological, physical, social, economic, cultural, and aesthetic factors, that interrelate to form the environment. Impacts may be adverse, beneficial, or both. The following criteria are used to rate the impacts:

- The severity, duration, geographic extent, and frequency of occurrence;
- The probability the impact will occur if the proposed action occurs;
- Growth-inducing or growth-inhibiting aspects of the impact;
- The quantity and quality of each environmental resource or value effected;
- The importance to the State and society of each environmental resource or value effected;
- Any precedent set as a result of an impact from the proposed action that would commit DEQ to future actions with significant impacts or a decision in principle about such future actions; and
- Potential conflict with local, state, or federal laws, requirements, or formal plans.

The following are definitions for major, moderate, minor, none, and unknown impacts on the human environment:

Major: A significant change from the present conditions of the human environment. Major impacts are serious enough to warrant preparing an environmental impact statement (EIS).

Moderate: Not a major or minor change from the present condition of the human environment. A single moderate impact may not warrant preparing an EIS; however, when considered with other impacts, an EIS may be required.

Minor: A slight change from the present condition of the human environment. Minor impacts are not serious enough to warrant preparing an EIS.

None: No change from the present conditions of the human environment.

Unknown: An EIS must be conducted to determine the effects on the human environment if impacts are unknown.

Table 1. Potential Impacts on Physical and Biological Environment
Alternative I = ■
Alternative II = ♦

Resources		Major	Moderate	Minor	None	Unknown	Discussion Attached
A.	Air Quality			■ ♦			X
B.	Water Quality, Quantity, and Distribution				■ ♦		
C.	Geology and Soil Quality, Stability, and Moisture				■ ♦		
D.	Historical and Archaeological Sites				■ ♦		
E.	Aesthetics				■ ♦		
F.	Terrestrial and Aquatic Life and Habitats				■ ♦		
G.	Vegetation Cover, Quantity, and Quality				■ ♦		
H.	Unique, Endangered, Fragile, or Limited Environmental Resources				■ ♦		
I.	Demands on Environmental Resource of Water, Air, and Energy				■ ♦		
J.	Cumulative and Secondary Impacts				■ ♦		

A. Air Quality

Clean closure of the NLF without movement of ZOI soils would have a minor beneficial impact on air quality. These impacts would be the same for both alternatives.

Table 2. Potential Impacts on Social, Economic, and Cultural Environment

	Resources	Major	Moderate	Minor	None	Unknown	Discussion Attached
A.	Social Structures and Mores				■ ♦		
B.	Cultural Uniqueness and Diversity				■ ♦		
C.	Local and State Tax Base and Tax Revenue			■ ♦			X
D.	Agricultural or Industrial Production			■ ♦			X
E.	Human Health			■ ♦			X
F.	Access to and Quality of Recreational and Wilderness Activities				■ ♦		
G.	Quantity and Distribution of Employment			■ ♦			X
H.	Distribution of Population				■ ♦		
I.	Demands for Governmental Services			■ ♦			X
J.	Industrial and Commercial Activity			■ ♦			X
K.	Locally Adopted Environmental Plans and Goals				■ ♦		
L.	Cumulative and Secondary Impacts			■ ♦			X

C. Local and State Tax Base and Tax Revenue

Clean closure of the NLF will make the space available for new refinery units, with the potential for increased productivity. This in turn may have a positive effect on local and state tax base and tax revenue. This effect would be the same for both alternatives.

D. Agricultural or Industrial Production

Clean closure of the NLF will make the space available for new refinery units, with the potential for increased productivity. The proposed action is a benefit for industrial production. This benefit would be the same for both Alternative I and II.

E. Human Health

Impacts on human health will not differ from those produced by the current permit.

I. Demands for Governmental Services

The modified permit will require CHS to submit a technical justification for clean closure of the NLF, closure certification, and proof of implementation of land use controls. These submittals will be reviewed

by DEQ. Therefore, a minor impact to government services is anticipated. This impact would be the same for both Alternative I and II.

J. Industrial and Commercial Activity

Impacts on industrial and commercial activity will increase from those generated by the current permit. CHS will hire environmental consulting firms to complete sampling, evaluations, and certification for clean closure. Samples for analytical evaluation will be sent to an external analytical laboratory for analysis. Following clean closure, CHS intends to use the NLF to support construction of a new refinery Coker Unit. These impacts would be the same for both Alternative I and II.

L. Cumulative and Secondary Impacts

Alternative I: If the NLF were clean closed, the land would be available for industrial use-only development. As stated in its modification request, CHS intends to use the NLF to support construction of a new refinery Coker Unit, if clean closure can be accomplished. A new refinery process unit may result in an increase or improvement in efficiency at the facility; this would be a secondary impact to industrial and commercial activity. Reuse of the NLF site for refinery process units would have a minor beneficial impact.

Currently, the area encompassing the CHS Laurel Refinery is zoned as heavy industrial through the authority of the City of Laurel Planning Board. Permit-required land use controls, including deed restrictions, survey plat notations, and restrictive covenants would restrict land use to industrial purposes only. Deed restrictions would be required to "run with the land" to ensure any restrictions are forever binding against the owner and successors in interest. Land use controls required by the permit would provide additional long-term protection to that provided by the local zoning authority. Long-term restrictions on land use for industrial purposes required by the permit would have minor positive cumulative and secondary impacts.

Alternative II: If the NLF were clean closed, the land would be available for industrial use-only development. As stated in its modification request, CHS intends to use the NLF to support construction of a new refinery Coker Unit, if clean closure can be accomplished. A new refinery process unit may result in an increase or improvement in efficiency at the facility; this would be a secondary impact to industrial and commercial activity. Reuse of the NLF site for refinery process units would have a minor beneficial impact.

Alternative II includes no additional permit requirements for land use controls. Currently, the area encompassing the CHS Laurel Refinery is zoned as heavy industrial through the authority of the City of Laurel Planning Board. Land use controls required by the permit would provide long-term protection in addition to that provided by the local zoning authority. The lack of requirements in the permit for long-term restrictions on land use for industrial purposes may have minor negative cumulative and secondary impacts.

Individuals or Groups Contributing to EA
Montana Department of Environmental Quality

Draft EA Prepared
Rebecca Holmes
January 18, 2006

Final EA Prepared
Rebecca Holmes
March 17, 2006

Recommendation

Based on the EA analysis, DEQ recommends Alternative I, approval of the modification request with changes. CHS has submitted a complete permit modification request. Analysis of the request, hazardous waste regulations, and EPA guidance indicate changes to the modification request are warranted to protect human heath and the environment.

Based on the EA analysis, DEQ does not recommend Alternative II, approval of the modification request without changes. As noted in the discussion of Alternative I, if a regulated unit is clean closed based on standards using non-residential exposure assumptions, mechanisms should be in place to ensure future use of the land will conform to those assumptions (i.e. land used for industrial purposes only). Such mechanisms would include deed restrictions and land use covenants. The local zoning authority, City of Laurel Planning Board, has zoned the area encompassing the Laurel Refinery as heavy industrial use only. The permit currently includes requirements for restrictive notes on survey plats and deed notices. However, to be protective, DEQ believes land use controls should be more clearly specified in the permit, especially for cases where a regulated unit is clean closed using standards developed with non-residential exposure assumptions.

The EA is an adequate level of environmental review; an EIS is not required. The EA analysis demonstrates that this State action will not be major action significantly affecting the quality of the human environment.

Module VI, Condition VI.D.1.b.
The Permittee may choose to attain clean closure of the NLF. In order to meet clean closure standards for the NLF, the Permittee shall close the NLF in accordance with the NLF Closure Plan (Section 3.2) in Attachment VI.1. If the Permittee demonstrates clean closure of the NLF to the Department, the Permittee must provide and maintain protective institutional and land use controls in accordance with Condition VI.D.12. The Permittee may be excused from post-closure requirements of Condition VI.E for the NLF, if clean closure of the NLF is demonstrated.

Module VI, Condition VI.D.12.
VI.D.12. *Institutional and Land Use Controls*
VI.D.12.a. *Designation of Regulated Units as SWMUs*
Upon approval of closure certification for regulated units defined in Condition I.B.2.b., Appendix A will be updated to include that regulated unit as a SWMU. Status of the regulated unit must reflect the status of the regulated unit at closure, such as no further action (NFA) with institutional controls, or post-closure care.

VI.D.12.b. *Deed Notices*
No later than the submission of a certification of closure for a regulated unit defined in Condition I.B.2.b., the Permittee shall place a restriction on all instruments of conveyance such as deeds or contracts for deeds for that regulated unit that include the following:

•The Deed Restriction must provide notice to subsequent purchasers and lessees that the property has been used to manage and dispose of hazardous waste, and, as applicable, use of the land is restricted.

•The Deed Restriction must provide notice that any State-required institutional or land use control or condition on the land must be maintained.

•As applicable, the Deed Restriction must provide notice that any State-required engineering controls will be maintained for the duration of required remediation.

•The Deed Restriction must contain, in writing, a statement of intention by the Permittee that particular restrictions be placed on the land in perpetuity and the restrictions must "touch and concern the land." The deed restriction must also contain a precise reflection of the parties' intentions with regard to the scope and duration of the restrictions therein. The phrase "run with the land" must be placed in the deed restriction to ensure that any restrictions are forever binding against the owner and successors in interest.

•The Permittee shall draft the deed restriction using precise and easily understandable language which designates the specific activities and uses that will be allowed and the specific activities and uses that will be prohibited.

VI.E.12.a.i. *Restrictions, as applicable to each closed regulated unit, must include:*
•A requirement for notification to be sent by the owner of the property to purchasers, lessees, and tenants disclosing the existence of residual chemicals of concern;

•A requirement that the owner and successors and assigns give notice in all deeds, mortgages, leases, subleases, and rental agreements that there are residual chemicals of concern on the property;

•A requirement for advance notice to the Department of any sale, lease, or other conveyance of property;

•A requirement for notice in the deed notifying prospective purchasers that the property has been used to manage and dispose of hazardous waste, and that its use is restricted (notice must specify the restricted use); and

•Restriction of use for industrial purposes only and, should the property be used for residential purposes, the owner must ensure the property is reevaluated to determine whether additional remediation is needed to provide an adequate level of protection to human health and the environment and ensure that any necessary remediation takes place.

VI.D.12.b. *Survey Plat*
No later than submission of the certification of closure for 3a regulated unit defined in Condition I.B.2.b., the Permittee shall submit to the local zoning authority or the authority with jurisdiction over local land use, to the Department, and to the county planner or equivalent, a survey plat indicating the location and dimension of the closed regulated unit with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat must be filed with the local zoning authority or the authority with jurisdiction over local land use and must contain a note prominently displayed which states the owner's or operator's obligation, in accordance with Module IV, to restrict any future land use and continue any required remediation and/or post-closure care as applicable. The plat and restriction notice must also be attached to all instruments of conveyance such as deeds or contracts for deeds.

VI.D.12.c. *Inclusion in Facility-Wide Corrective Action*
The Permittee shall include institutional and land use controls for regulated units defined in Condition I.B.2.b. in any facility-wide deed notice(s), restrictive covenant(s), or other land use controls established under Module III (Facility-Wide Corrective Action).

VI.D.12.d. *Actual Notice*
The Permittee shall provide direct notice of environmental information by certified mail to potential successors of title in the property. Where this notice is not provided, the transaction may be voided or damages may be sought by the successors of title in the property. .

VI.D.12.e. *Notice to Government Authority*
The Permittee shall provide notice to the Department within thirty (30) days prior to completion of any land transaction.

NLF Closure Plan, Section 3.0, page 4
***Option 2** – remove hazardous waste residuals, if present, from the NLF and complete a risk-based closure of the NLF in accordance with Condition VI.D.1.b.*

NLF Closure Plan, Section 3.2.7, page 10, bullet 3

- *CHS will submit a Class 3 Permit Modification to remove NLF from closure requirements of Module VI.*

NLF Closure Plan, Section 3.2.4, page 8, second bullet

- *Compare reported concentrations with risk-based standards based on industrial exposure scenarios, such as risk-based concentrations developed through a facility-specific risk assessment, and/or the most recent and complete remediation screening values published by*

the US Environmental Protection Agency. Any standard used must be protective of human health and the environment, and ensure no migration of hazardous constituents from soil to air, and surface and ground water.

NLF Closure Plan, Section 3.2.4, page 8, paragraph 4
If the reported concentrations exceed risk-based levels, the media would be managed as a hazardous waste (or treated until the media no longer contained hazardous waste). If reported concentrations are less than risk-based levels, this information will be submitted to MDEQ as a request for a contained-in determination. If a determination is made by MDEQ that the soils no longer contain a listed hazardous waste, the soils may be managed accordingly. Requirements for land disposal restrictions in 40 CFR Part 268 must be followed for all contaminated soils managed at the NLF