

✓ PORZIO, BROMBERG +
NEWARK
163 MADISON AVENUE
MERRISTOWN, NJ 07942

DECLARATION OF ENVIRONMENTAL RESTRICTIONS

Prepared by:

Lisa M. Bromberg
Lisa M. Bromberg, Esq.

MARK-OFF MAP FILED IN RECORDING ROOM

Consideration	\$	EX
Realty Transfer Fee		EX
Recording Fee		EX
By		EX
Totals		EX

This Declaration of Environmental Restrictions, made as of the 8th day of April, 1994, by Pnuemo Abex Corporation, Liberty Lane, Hampton, New Hampshire, 03842 (together with its successors and assigns, collectively "Owner").

WITNESSETH:

WHEREAS, Owner is the owner in fee simple of certain real property (the "Property") designated as Block 41, Lots Blocks 1, 2, 9, 10 on the tax map of the Township of Mahwah, Bergen County, more particularly described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, the New Jersey Department of Environmental Protection and Energy ("Department") has issued a remedial approval on November 27, 1991, in ISRA Case #84078 concerning the Property in which the Department has approved the use of non-residential soil standards, institutional controls, and/or engineering controls in accordance with P.L. 1993 c. 139 (S-1070); and

WHEREAS, this Declaration itself is not intended to create any interest in real estate in favor of the Department, nor to create a lien or encumbrance against the Property, but merely is intended to reflect the regulatory and statutory obligations imposed as a condition of using non-residential standards and approving the proposed remediation; and

WHEREAS, the areas described on Exhibit B and Exhibit C (a metes and bounds description) attached hereto and made a part hereof (the "Affected Areas") contain contaminants located beneath an approved engineering control;

WHEREAS, the type, concentration and specific location of the contaminants are described on one or more diagrams, maps and/or tables on Exhibit B and Exhibit C attached hereto and made a part hereof; and

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WHEREAS, the Department has approved and required the installation of soil, vegetative, wooded and asphalt surface covers on the Property, at the locations shown on Exhibit B and Exhibit C; and

WHEREAS, in accordance with the remedial approval, and in consideration of the terms and conditions of the remedial approval, and other good and valuable consideration Owner has agreed to subject the property to certain statutory and regulatory requirements which impose restrictions upon the use of the Property, and to restrict certain activities at the Property, as set forth below; and

WHEREAS, Owner is required to notify all interested parties that such regulatory and statutory restrictions shall be binding upon and enforceable against Owner and Owner's successors and assigns while such own and/or operate at the Property.

NOW, THEREFORE, Owner agrees to be subject to the regulatory and statutory requirements applicable to those who seek to remediate property to non-residential standards using approved engineering controls and hereby notifies all interested parties, Owners, and operators that the applicable regulations and statutes require of Owner and operators while owning or operating the Property as follows:

1. Restricted Uses. Owner and all Operators of such portions of the Property shall maintain the approved engineering controls as follows and shall not allow any of the following uses of the following portions of the Property:

<u>Portion of the Property</u>	<u>Restricted Use And Maintenance of Engineering Control</u>
The Affected Areas as identified in Exhibit B and Exhibit C.	The Affected Areas shall be restricted to nonresidential use and the engineering controls maintained pursuant to Paragraphs 2 and 3.

2. Emergencies. In the event of an emergency which presents a significant risk to human health, safety or the environment, the application of Paragraph 1 above may be unilaterally suspended, by Owner, provided the Owner:

- i. Immediately notifies the Department of the emergency;
- ii. Limits both the actual disturbance and the time needed for the disturbance to the minimum reasonably necessary to adequately respond to the emergency;
- iii. Implements all measures necessary to limit actual or potential, present or future risk of exposure to the residual contamination levels of hazardous substances to humans or the environment; and

- iv. Implements restoration of the Affected Areas to the pre-emergency conditions to the extent reasonably possible, and provides a report to the Department of such emergency efforts.

3. Alterations, Improvement, and Disturbances. Owner and operators shall not make, nor allow to be made, any alteration, improvement, or disturbance in, to, or about the Affected Areas which creates an unacceptable risk of exposure to contamination in the Affected Areas to humans or the environment, or results in a disturbance of any engineering control designed to contain or reduce exposure to the contaminants without first obtaining the express written consent of the Department, which consent shall be given or withheld at the reasonable discretion of Department. Nothing herein shall constitute a waiver of the Owners obligation to comply with all applicable laws and regulations.

Express written consent of the Department is not required for alteration, improvement, or disturbance that meets the following:

- provides for restoration of any disturbance of an engineering control to pre-disturbance conditions within sixty days.
- does not allow an exposure level above those noted under Restricted Uses, provided that all applicable worker health and safety laws and regulations are followed during the alteration, improvement, or disturbance

4. Notice to Lessees and Other Holders of Property Interests.

(a) Owner shall cause all leases, grants, and other written transfers of interest by the Owner in the Affected Areas to contain a provision expressly requiring all holders thereof to take the property subject to the use restriction and engineering control and not to violate any of the conditions of this Declaration of Environmental Restrictions.

(b) Nothing contained in this paragraph 4 shall be construed as limiting any obligation of Owner to provide any notice required by any law, regulation, or order of any governmental authority.

5. Enforcement of violations. The restrictions provided herein are for the benefit of, and shall be enforceable against any person who knowingly violates this Declaration, solely by the Department. A violation of this Declaration of Environmental Restrictions, shall not have an adverse impact on the status of the ownership of and title to the Property. To enforce violations of this Declaration of Environmental Restrictions, the Department may initiate an action in Superior Court or as otherwise allowed by law against any person who is in any way responsible for a violation hereof and seek all available remedies, including without limitation, penalties and injunctive relief. Such enforcement proceedings shall not be initiated against past owners or operators who have not violated this Declaration.

6. Severability. If any court or other tribunal determines that any provision of this Declaration is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event that the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provision of this Declaration shall remain in full force and effect.

7. Successors and Assigns. This Declaration shall be binding upon Owner and upon Owner's successors and assigns, and the Department, its agents, contractors, and employees, and to any other person performing remediation under the direction of the Department.

8. Termination and Modification:

(a) This Declaration shall terminate only upon filing of an instrument, in the office of the County Recording Officer of Bergen County, New Jersey, expressly terminating this Declaration.

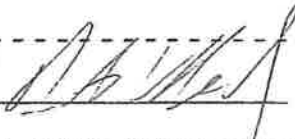
(b) Owner may request in writing at any time that the Department modify or terminate this Declaration of Environmental Restrictions or execute termination proceedings pursuant to the provisions of any applicable law or regulation. Within 90 calendar days after receiving the request the Department shall either:

- i. execute the termination or modification Declaration; or
- ii. issue a draft notice of intent to deny.

The Department shall set forth in a draft notice of intent to deny the request its basis for its decision. The owner can respond to the draft denial by providing new or additional information or data. The Department shall review any such new or additional information and issue a final decision to execute the agreement or deny the request within 60 calendar days of the Department's receipt of the owner's response.

IN WITNESS WHEREOF, Owner has executed this Declaration as of the date first written above.

ATTEST:



Dexter L. Kenfield, Assistant Secretary

[Print name and title]

[Name of corporation]
PNEUMONIC CORPORATION

By: 

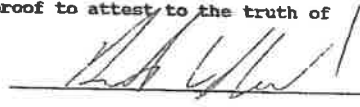
Mark A. Underberg, Vice President

[Print name and title]

STATE OF [State where document is executed] *New Hampshire*
COUNTY OF [County where document is executed] *Rockingham*

I certify that on *April 8,* 19*94*, [Name of *Mark A. Underberg*]
person executing document on behalf of Owner] personally came before
me, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the [secretary/assistant secretary] of
[Owner], the corporation named in this document;
- (b) this person is the attesting witness to the signing of this
document by the proper corporate officer who is the [president/vice
president] of the corporation;
- (c) this document was signed and delivered by the corporation as
its voluntary act and was duly authorized;
- (d) this person knows the proper seal of the corporation which
was affixed to this document; and
- (e) this person signed this proof to attest to the truth of
these facts.



Dexter L. Kenfield, Assistant Secretary
[Print name and title of attesting
witness]

Signed and sworn before me on
the 12th day of April 1994



Janet R. Allain Notary Public
[Print name and title]

Janet R. Allain, Notary Public
My Commission Expires 12/18/96

EXHIBIT A

Tax Map

EXHIBIT B

Description of Affected Areas*

<u>Contaminant</u>	<u>Concentration</u>	<u>Location</u>
Cadmium	varying, ranging from non-detect to 6.5 ppm	Contaminants distributed randomly in foundry sand capped and located as described in Exhibit B and Exhibit C
Chromium	varying, ranging from 5 ppm to 240 ppm	"
Lead	varying, ranging from non-detect to 1800 ppm	"
Polychlorinated biphenyls	ranging from non-detect to 4.3 ppm	Area depicted as A-1 in Exhibit B
Total PAH	Varying, ranging from non-detect to 170 ppm	Contaminants distributed randomly in foundry sand which was capped and located as described in Exhibit B and Exhibit C
Zinc	varying, ranging from 6 to 4600 ppm	"

* Based on the borings conducted at the facility, the depth of the contaminants ranges from 0 to 19 feet in the Affected Areas.

See Also Figure Entitled Exhibit B Attached Hereto

Exhibit C

Metes and Bounds Description
of Affected Areas

EXHIBIT "C"
WRITTEN DESCRIPTION
OF
RESTRICTED AREA NUMBER 1
LIMITS OF LAND CAPPING/OVERLAY
FOR
ABEX, INC.
TAX MAP, BLOCK 41, LOT 1
TOWNSHIP OF MAHWAH
BERGEN COUNTY, NEW JERSEY

Commencing at the intersection of the easterly side line of Rail Road Ave. (50' ROW) and the southerly side line of Ramapo Valley Road (52' ROW) the following courses and distances:

South 32 degrees 18 minutes 06 seconds East for a distance of 670.74 feet to the point and place of beginning;

THENCE South 02 degrees 24 minutes 49 seconds East for a distance of 213.36 feet to a point;

THENCE South 87 degrees 17 minutes 41 seconds East for a distance of 102.96 feet to a point;

THENCE North 07 degrees 54 minutes 42 seconds East for a distance of 146.44 feet to a point;

THENCE North 35 degrees 03 minutes 11 seconds West for a distance of 90.75 feet to a point;

THENCE South 89 degrees 03 minutes 46 seconds West for a distance of 79.87 feet to the point and place of beginning.

Encompassing an area of 0.556 acres.

The above description has been prepared by Langan Engineering and Environmental Services, Inc., River Drive Center 1, Elmwood Park, New Jersey, and is in accordance with a plan titled "Site and Soil Erosion/Sediment Control Plans prepared by "Geo Engineering", dated "September 1992, revised to November 1993".

Joseph E. Romano 2-23-94
Joseph E. Romano
Professional Land Surveyor
N.J. Lic. No. 36273

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EXHIBIT "C"
WRITTEN DESCRIPTION
OF
RESTRICTED AREA NUMBER 2
LIMITS OF LAND CAPPING/OVERLAY
FOR
ABEX, INC.
TAX MAP, BLOCK 41, LOT 1
TOWNSHIP OF MAHWAH
BERGEN COUNTY, NEW JERSEY

Commencing at the intersection of the easterly side line of Rail Road Ave. (50' ROW) and the southerly side line of Ramapo Valley Road (52' ROW) the following courses and distances:

North 28 degrees 41 minutes 56 seconds East for a distance of 1269.25 feet to the point of beginning;

THENCE North 88 degrees 53 minutes 59 seconds West for a distance of 96.82 feet to a point;

THENCE North 52 degrees 35 minutes 20 seconds West for a distance of 46.97 feet to a point;

THENCE North 10 degrees 50 minutes 15 seconds East for a distance of 69.97 feet to a point;

THENCE North 33 degrees 48 minutes 18 seconds East for a distance of 243.76 feet to a point;

THENCE North 56 degrees 32 minutes 17 seconds West for a distance of 28.27 feet to a point;

THENCE South 38 degrees 48 minutes 36 seconds West for a distance of 296.40 feet to a point;

THENCE South 22 degrees 49 minutes 36 seconds West for a distance of 72.00 feet to a point;

THENCE South 03 degrees 16 minutes 17 seconds West for a distance of 179.62 feet to a point;

THENCE North 80 degrees 36 minutes 56 seconds East for a distance of 89.44 feet to a point;

THENCE South 50 degrees 24 minutes 10 seconds East for a distance of 72.21 feet to a point;

THENCE North 02 degrees 55 minutes 10 seconds East for a distance of 22.58 feet to a point;

THENCE North 75 degrees 03 minutes 03 seconds East for a distance of 155.14 feet to a point;

THENCE South 56 degrees 54 minutes 05 seconds East for a distance of 19.13 feet to a point;

THENCE North 05 degrees 50 minutes 15 seconds East for a distance of 81.62 feet to a point;

THENCE North 54 degrees 36 minutes 47 seconds West for a distance of 101.98 feet to the point and place of beginning.

Encompassing an area of 1.480 acres.

The above description has been prepared by Langan Engineering and Environmental Services, Inc., River Drive Center 1, Elmwood Park, New Jersey, and is in accordance with a plan titled "Site and Soil Erosion/Sediment Control Plans prepared by "Geo Engineering", dated "September 1992, revised to November 1993".

Joseph E. Romano 2-24-94
Joseph E. Romano
Professional Land Surveyor
N.J. Lic. No. 38273

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EXHIBIT "C"
WRITTEN DESCRIPTION
OF
RESTRICTED AREA NUMBER 3
LIMITS OF LAND CAPPING/OVERLAY
FOR
ABEX, INC.
TAX MAP, BLOCK 41, LOT 1
TOWNSHIP OF MAHWAH
BERGEN COUNTY, NEW JERSEY

Commencing at the intersection of the easterly side line of Rail Road Ave. (50' ROW) and the southerly side line of Ramapo Valley Road (52' ROW) the following courses and distances:

THENCE North 08 degrees 57 minutes 21 seconds East for a distance of 410.81 feet to a point;

THENCE North 01 degrees 23 minutes 59 seconds West for a distance of 228.17 feet to a point;

THENCE North 03 degrees 44 minutes 15 seconds West for a distance of 1133.35 feet to a point;

THENCE South 86 degrees 15 minutes 45 seconds West for a distance of 10.00 feet to a point;

THENCE North 36 degrees 20 minutes 14 seconds West for a distance of 112.11 feet to a point;

THENCE North 02 degrees 51 minutes 40 seconds West for a distance of 287.27 feet to a point;

THENCE South 65 degrees 07 minutes 28 seconds West for a distance of 59.55 feet to a point;

THENCE South 73 degrees 28 minutes 15 seconds West for a distance of 161.85 feet to a point;

THENCE South 09 degrees 17 minutes 41 seconds West for a distance of 107.16 feet to a point;

THENCE South 15 degrees 30 minutes 57 seconds West for a distance of 99.69 feet to a point;

THENCE South 01 degrees 54 minutes 49 seconds East for a distance of 96.30 feet to a point;

THENCE South 12 degrees 31 minutes 46 seconds East for a distance of 80.84 feet to a point;

THENCE South 08 degrees 19 minutes 04 seconds West for a distance of 48.08 feet to a point;

THENCE North 84 degrees 54 minutes 14 seconds East for a distance of 17.33 feet to a point;

THENCE South 09 degrees 55 minutes 43 seconds East for a distance of 29.29 feet to a point;

THENCE North 87 degrees 04 minutes 29 seconds East for a distance of 22.80 feet to a point;

THENCE South 03 degrees 53 minutes 27 seconds East for a distance of 15.87 feet to a point;

THENCE South 86 degrees 37 minutes 40 seconds West for a distance of 76.04 feet to a point;

THENCE South 30 degrees 34 minutes 03 seconds West for a distance of 47.38 feet to a point;

THENCE South 06 degrees 58 minutes 21 seconds East for a distance of 138.54 feet to a point;

THENCE South 80 degrees 50 minutes 20 seconds West for a distance of 28.01 feet to a point;

THENCE South 11 degrees 41 minutes 17 seconds East for a distance of 22.50 feet to a point;

THENCE North 78 degrees 15 minutes 34 seconds East for a distance of 42.24 feet to a point;

THENCE South 11 degrees 22 minutes 22 seconds East for a distance of 363.53 feet to a point;

THENCE South 11 degrees 23 minutes 14 seconds East for a distance of 273.83 feet to a point;

THENCE South 56 degrees 14 minutes 22 seconds East for a distance of 38.33 feet to a point;

THENCE South 12 degrees 15 minutes 42 seconds East for a distance of 93.62 feet to a point;

THENCE South 11 degrees 08 minutes 58 seconds West for a distance of 266.29 feet to a point;

THENCE South 51 degrees 39 minutes 01 seconds East for a distance of 184.39 feet to a point;

THENCE South 08 degrees 49 minutes 52 seconds East for a distance of 440.34 feet to a point;

THENCE South 78 degrees 18 minutes 57 seconds East for a distance of 41.12 feet to a point;

THENCE North 05 degrees 07 minutes 49 seconds West for a distance of 156.24 feet to the point and place of beginning.

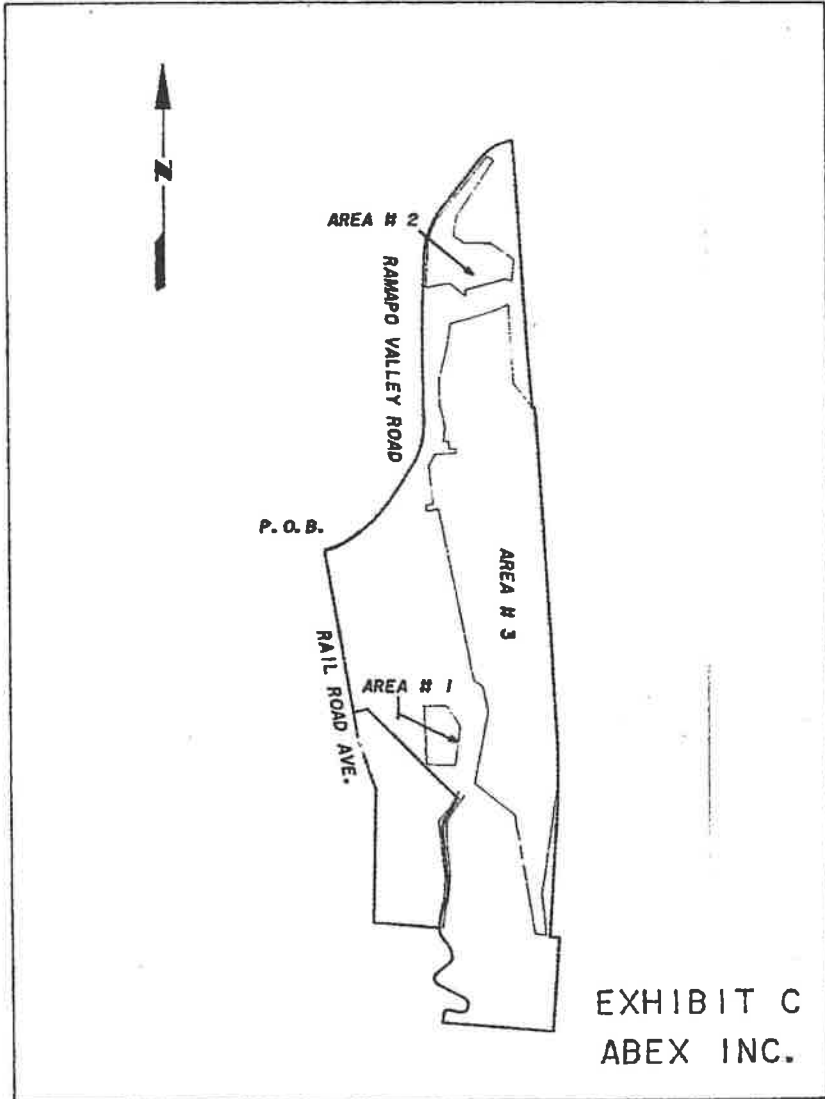
Encompassing an area 13.38 acres.

The above description has been prepared by Langan Engineering and Environmental Services, Inc., River Drive Center 1, Elmwood Park, New Jersey, and is in accordance with a plan titled "Site and Soil Erosion/Sediment Control Plans prepared by "Geo Engineering", dated "September 1992, revised to November 1993".


Joseph E. Romano
Professional Land Surveyor
N.J. Lic. No. 36273

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ABSTRACTED

EXHIBIT C
ABEX INC.

BK 1692 P6891

END OF DOCUMENT

AMG