

Resolution #

RESOLUTION DIRECTING THE BUNCOMBE COUNTY ATTORNEY TO TAKE ACTIONS NECESSARY FOR REIMBURSEMENT OF PUBLIC FUNDS EXPENDED TO MITIGATE THREATS AND TAKE REMEDIAL ACTIONS

- WHEREAS, pursuant to North Carolina General Statutes § 153A-121 a board of commissioners may define and abate nuisances; and
- WHEREAS, the CTS site contains approximately 8.65 acres ("Site") in southern Buncombe County located at 235 Mills Gap Road and this Site is the documented source of chlorinated solvents and other hazardous substances that have been detected above regulatory standards in the soils on site, in the groundwater and in surface water from certain nearby streams; and
- WHEREAS, after years of samplings, testings, and investigations conducted by EPA and NCDENR dating back to 1985, the EPA finalized the inclusion of the Site on the National Priorities List ("NPL") which is a part of the Superfund cleanup process; and
- WHEREAS, CTS has engaged in certain removal actions and it has conducted various remedial investigation activities at the Site over the past several years; and
- WHEREAS, CTS entered into an Administrative Order on Consent for Removal Action (AOC) with EPA in 2004, and entered into an Administrative Order and Settlement Agreement on Consent (AOC) for Remedial Investigation and Feasibility Study; and
- WHEREAS, Mills Gap Associates is the current owner of the Site having purchased approximately 53 acres in 1987 and then sold 44.89 acres to the Biltmore Group, LLC for residential development; and Mills Gap Associates retained ownership of the remaining 8.65 acre Site; and
- WHEREAS, through the NPL process, EPA will continue to oversee removal and remedial actions, however, all these actions have thus far fallen short of protecting the public from the risks associated with contaminated drinking water which may only be bypassed through the installation of public water lines; and
- WHEREAS, in May 2008, this Board approved the expenditure of \$225,000 to construct water lines to serve The Oaks Subdivision after four wells in the community tested positive for ground water contaminants including the industrial solvent trichloroethylene ("TCE"); and
- WHEREAS, in December 2011, Buncombe County proceeded with an abatement and demolition of the building located on the Site at the cost of \$173,700; and
- WHEREAS, at the direction of the Board, Buncombe County is currently working with the City of Asheville for the installation of water lines to homes located within a one miles radius of the Site for a contract price of \$1,644,555; and

WHEREAS, the health and well-being of the community requires safe drinking water and the expenditures of of these sums totaling \$2,043,255 was deemed required to abate this public health nuisance; and

WHEREAS, in 2002, EPA's completed a search indicating that CTS Corporation and Mills Gap Road Associates were potentially responsible parties in connection with contaminations associated with the Site; and

WHEREAS, in keeping with the letter and spirit of EPA regulations, it is just and proper that the responsible parties pay for all removal and remedial actions associated with contaminations flowing and emanating from the Site.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of Buncombe as follows:

1. That the Buncombe County Attorney is directed to take necessary and appropriate legal actions to collect \$2,043,255 from the responsible parties in connection with contaminations associated with the CTS Site.
2. That this resolution shall become effective upon adoption.

This the 16th of September, 2014.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Kathy Hughes, Clerk

By: _____
David Gantt, Chairman

APPROVED AS TO FORM

County Attorney