



# STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR  
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
CHUCK GIPP, DIRECTOR

October 15, 2012

TONY GUIDA  
CRETEX CONCRETE PRODUCTS  
525 SOUTH 11<sup>TH</sup> STREET  
WEST DES MOINES IA 50265

Subject: Cretex – Prairie City Plant Participation Agreement

Dear Mr. Guida:

The Contaminated Sites Section of the Iowa Department of Natural Resources (IDNR) has reviewed the Participation Agreement (PA) for the Cretex – Prairie City Plant site. The Department approves the PA with the following change; the date for the timetable on Page 4 is incorrect as timetable was revised after August 28<sup>th</sup>. The PA has been revised accordingly. The property has completed enrollment in the Land Recycling Program and a signed PA is enclosed.

The IDNR notes the Site Assessment Report was submitted on October 9<sup>th</sup>, 2012. The IDNR will review the report within the next two weeks.

Please feel free to contact me at 515/242-5241 or by email at [greg.fuhrmann@dnr.iowa.gov](mailto:greg.fuhrmann@dnr.iowa.gov) with any questions, comments or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Greg Fuhrmann".

Greg Fuhrmann  
Land Recycling Program Coordinator  
Contaminated Sites Section  
Iowa Department of Natural Resources

Enclosure: Participation Agreement

cc: Cal Lundberg, Supervisor, Contaminated Sites Section  
Field Office 5, 401 SW 7th, Suite I, Des Moines, IA 50309  
Nick Morrison, Cretex Concrete Products, 525 South 11<sup>th</sup> Street, West Des Moines IA 50265  
Steven Hardy, Environmental Resource Services, 519 Lynn Avenue, Ames IA 50014

**IOWA DEPARTMENT OF NATURAL RESOURCES  
IOWA LAND RECYCLING PROGRAM  
PARTICIPATION AGREEMENT**

**I. RECITALS**

**WHEREAS**, the following participants (“the participants”) in the Iowa Land Recycling Program (LRP) and the Iowa Department of Natural Resources (“the department”) enter into this agreement as required by Iowa Code section 455H.107(2) and in accordance with administrative rule 567 Iowa Administrative Code (IAC) 137.3(4).

**WHEREAS**, Iowa Code chapter 455H grants participants certain benefits, privileges and immunities as well as establishing certain obligations. Only those parties who have entered into this agreement shall be considered “participants” as defined in Iowa Code section 455H.103(10) and entitled to those benefits, privileges and immunities. Parties may be removed from this agreement by withdrawal or upon final agency action terminating enrollment in accordance with department rules 567 IAC 137.3(6) - (8). Parties may be added to this agreement by written consent of all participants or a determination by the department that the party meets the criteria for consideration as a participant as defined in Iowa Code section 455H.103(10).

**WHEREAS**, an essential purpose of this agreement is to establish a general understanding between the participant(s) and the department as to the scope of the project being undertaken by the participants and a general set of mutual expectations. To the extent possible at the time of entering into this agreement, the parties are expected to reach an understanding on such issues as what contaminants associated with what known or suspected sources within the affected area are to be addressed and are not to be addressed, the scope of expected liability protection arising out of participation in the LRP, and any barriers the parties foresee in completion of the environmental project and the planned reuse of the affected area.

**II. PARTICIPANTS**

The following parties to this agreement are participants:

Person/organization: **Tony Guida, Project Manager  
Cretex Concrete Products Midwest, Inc.**

Form of business organization or affiliation:  
(sole proprietor, general or limited  
partnership, corporation, non-profit  
corporation, principal shareholder/corporate  
officer, etc.)

Address: **6655 Wedgwood Rd. (Suite 130)**

City, State: **Maple Grove, MN 55311**

### III. TERMS

1. The participants shall grant the department and all authorized representatives reasonable access to the affected area as defined in Iowa Code section 455H.103(1) in order to fulfill regulatory duties including but not limited to site inspections and oversight of all response actions conducted by participants or their agents and surface or subsurface site investigation and response actions related to any suspected contaminants.
2. The participants shall be jointly and severally responsible to reimburse the department for actual costs assessed in accordance with department subrule 137.3(3). The participants also agree to allocate the costs of reimbursement amongst themselves according to the method as described in the attached Exhibit but in doing so do not relieve themselves of their joint and several liability to the department for full reimbursement.

### IV. CERTIFICATION OF FINANCIAL ABILITY

1. The participants certify they have obtained an estimate from a qualified groundwater professional of the costs of completing the site assessment and risk evaluation/response phase for the affected area in accordance with chapter 567 IAC 137 based on currently available information. Further, the participants certify they have the financial means to complete the site assessment and risk evaluation/response phase of this project based on this initial estimate and have entered into a legally enforceable contract with the following qualified professional, **Environmental Resource Services**. Further, the participants certify that if costs of completion of this response action is to be allocated amongst participants, this allocation has been specified and made part of a legally binding contractual agreement.
2. Unless the cost of response action and demonstration of compliance leading to a no further action classification can be reasonably estimated at the time of execution of this agreement, the participants agree to amend this agreement, and provide certification of financial ability upon approval of a response action. If the participants choose to expedite response action without prior review and approval of the department as provided in subrule 567 IAC 137.9(8), they agree to provide financial certification prior to or within a reasonable time after notice to the department of expedited response action.
3. The participants agree to notify the department in writing and at the earliest practicable date if they have reason to believe they will not be able to complete response actions in accordance with chapter 567 IAC 137 and this certification.

## V. SCOPE OF PROJECT

1. The participants have (or have not) met with the department project manager and agree to the following project description:

*a. A general description of the contaminants expected to be evaluated and those known or suspected contaminants, sources and probable locations which the participants do not expect to evaluate.*

*Phase I Environmental Site Assessment (ESA) was conducted in the Summer of 2011 and the Limited Phase II Assessment (ESA) was conducted in the Fall of 2011.. These ESAs revealed diesel contamination on the Property. Both of these ESAs are included with the Land Recycling Program Enrollment Application submitted to IDNR on August 24, 2012.*

*In order to obtain a No Further Action Letter it was agreed that additional Monitoring Wells needed to be installed around the contaminated area to assure that the contaminated area is contained within the Property. The installation of these additional Monitoring Wells was completed on September 6, 2012.*

*The samples taken on September 06, 2012 from the additional Monitoring Wells encircling the contaminated area have been submitted to & analyzed by Keystone Laboratories, Inc. and the results indicate that the diesel contamination at all the encircling Monitoring Wells is below the allowable limits.*

*In order to satisfy the Compliance Monitoring, samples from these encircling Monitoring Wells will be taken and analyzed on a quarterly basis for 4 Quarters Minimum.*

*b. A general description of the affected area including areas which are not currently within the control of the participants or for which access agreements have not been obtained.*

*The affected area is described in Section 3 of Phase I Environmental Site Assessment (ESA) which was included with the Land Recycling Program Enrollment Application submitted to IDNR on August 24, 2012. The affected area is within the Property located at 101 South West Street - Prairie City, IA 50228 and access will not be an issue.*

*c. A timetable for initiation of site assessment and submittal of assessment work plans and reports. If the participants intend to proceed with or have begun expedited site assessment in accordance with 567 IAC 137.8(2) and (5), please attach a copy of the required notice of expedited action.*

*See attached LRP Timeline, previously submitted on August 28, 2012.* <sup>cdf</sup>  
Participation Agreement  
4 of 4

*d. A projected timetable for each phase of the proposed project and any outlying deadlines applicable to property development objectives.*

*See attached LRP Timeline, previously submitted on August 28, 2012.* <sup>cdf</sup>

**VI. CONSTRUCTION**

1. Words and phrases in this document shall be interpreted consistent with meanings and definitions as used in Iowa Code Chapter 455H and Chapter 567 IAC 137.

Brian Tormey Dated this 12<sup>th</sup> day of October, 2012  
Iowa Department of Natural Resources

By:

Participant Signatures:

Tony Gurd Dated this 19<sup>th</sup> day of SEPTEMBER, 2012  
Cretex Concrete Products Midwest, Inc.

ID	Task Name	Duration	Start	Finish	Qtr 3, 201	Qtr 4, 201	Qtr 1, 201	Qtr 2, 201	Qtr 3, 201	Qtr 4, 201	Qtr 1, 201	Qtr 2, 201								
					Jul	u	e	Oct	o	e	Jan	e	Mar	Apr	Jun	Jul	u	e	Oct	o
1	<b>LRP Total Timeline</b>	<b>397 days</b>	<b>Wed 8/29/12</b>	<b>Thu 3/6/14</b>																
2	IDNR Issues First Public Notice	1 day	Fri 8/31/12	Fri 8/31/12																
3	LRP Application Approved by IDNR	10 days	Mon 9/3/12	Fri 9/14/12																
4	Participation Agreement Submitted to IDNR	1 day	Mon 9/17/12	Mon 9/17/12																
5	LRP Application Submitted to IDNR	1 day	Tue 9/18/12	Tue 9/18/12																
6	Participation Agreement Approved by IDNR	10 days	Wed 9/19/12	Tue 10/2/12																
7	Complete Site Investigation Activities	2 days	Wed 8/29/12	Thu 8/30/12																
8	Obtain Lab Results from Investigation Activities	10 days	Fri 8/31/12	Thu 9/13/12																
9	Cretex Creates Covenant Proposal	10 days	Fri 9/14/12	Thu 9/27/12																
10	IDNR Approves Covenant Proposal	20 days	Fri 9/28/12	Thu 10/25/12																
11	Compliance Monitoring (4 QTRs Minimum)	365 days	Fri 9/14/12	Thu 2/6/14																
12	Submit Site Investigation Report and RE/RA Report to IDNR	7 days	Fri 9/14/12	Mon 9/24/12																
13	IDNR Approve RE/RA Report	10 days	Tue 9/25/12	Mon 10/8/12																
14	Issue Public Notice	1 day	Tue 10/9/12	Tue 10/9/12																
15	Public Comment Period Ends	10 days	Wed 10/10/12	Tue 10/23/12																
16	Implement Response Action (easements) and Submit Final Report to IDNR	10 days	Fri 2/7/14	Thu 2/20/14																
17	IDNR issues No Further Action Letter	10 days	Fri 2/21/14	Thu 3/6/14																

Project: LRP Timeline r 9-25-12 Date: Tue 9/25/12	Task		Milestone		External Tasks	
	Split		Summary		External Milestone	
	Progress		Project Summary		Deadline	