

Appendix I
Deed Restriction

 RRRICK, HERRINGTON
& SUTCLIFFE

July 27, 1992

Direct Dial
[Handwritten scribbles]

Mr. Anthony J. Mancini
Regional Water Quality Control Board
2101 Webster St., Suite 500
Oakland, CA 94612

Re: Applied Materials Building 1 Site

Dear Tony:

Enclosed please find a copy of the final, recorded deed restriction for the above-referenced site.

Thank you, as always, for your cooperation in these matters.

Sincerely yours,



Arthur L. Haubensack

ALH:pm

Enclosure

cc: Marie Cawley, Esq.
(w/o enclosure)

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FILED IN RECORD
AT RECORDING OFFICE

GRANTOR

JUN 10 1 59 PM '92

Recording requested by:
Applied Materials, Inc.

SANTA CLARA COUNTY
LAUREN KANE
RECORDING CLERK

And when recorded mail to:

Applied Materials, Inc.
2695 Augustine Drive
Mail Stop 0934
Santa Clara, California 95054

REC FEE	19
REF	17
MICRO	1
RTCF	16
LIEN	
SMPF	
9	PCGR

COVENANT TO RESTRICT USE OF PROPERTY
Applied Materials, Inc.
3050 Bowers Building 1 Facility
City of Santa Clara, Santa Clara County

This Covenant and Agreement ("Covenant") is made as of the 9th day of June, 1992 by APPLIED MATERIALS, INC., a California Corporation, ("Covenantor") who is the owner of record of certain property generally referred to as the Applied Materials Building One facility at 3050 Bowers Avenue, situated in Santa Clara, County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference ("the Property") and by the California Regional Water Quality Control Board, San Francisco Bay Region (the "Board"), with reference to the following facts:

- A. Portions of this Property have contained and currently contain hazardous substances.
- B. Covenantor owns the Property and operates the Building One facility thereon for the purpose of manufacturing wafer

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fabrication equipment used in the semiconductor industry. Portions of the site have been found to be contaminated with various synthetic volatile organic compounds (VOCs). The Board has overseen and is presently involved in overseeing the investigation and remediation of the site.

Pursuant to the Health and Safety Code, the Board issued Site Cleanup Requirements Order No. 90-134 to Applied Materials, Inc. to achieve the investigation and remediation of the contamination of the site related to the wafer fabrication equipment production facility. Remediation of the site is proceeding by extraction and treatment of contaminated groundwater.

This Agreement is an enforceable agreement pursuant to Health & Safety Code section 25355.5(a)(1)(C) and the Water Code, and all terms, time periods, and provisions not otherwise defined herein shall take the meaning ascribed to them in Health & Safety Code sections 25233 and 25234, as of the date of this Agreement, substituting "Regional Water Quality Control Board, San Francisco Bay Region" for "Department" in such sections.

C. Contamination at the Property

1. VOCs were used primarily as solvents in the manufacture of wafer fabrication equipment. Analytical results of soil and groundwater samples indicate that the chemicals were released by leakage from three underground acid neutralization tanks on the west side of the Property.

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2. Shallow groundwater underlying the Property has been contaminated with VOCs, principally 1,1,1-trichloroethane ("TCA"), with lower concentrations of 1,1-dichloroethane ("DCA") and 1,1-dichloroethylene ("DCE"), and with trace concentrations of perchloroethylene ("PCE") and Freon 113. The VOC plume is primarily limited to the Property and no drinking water sources have been affected by the plume, which spread about 700 feet to the northeast of the tanks, and covered an area about 500 feet wide.

3. Soil underlying the Property has been contaminated with VOCs, with the greatest concentrations directly beneath and within 10 feet of the underground tank area in the "A" water bearing zone. Much lower concentrations were detected in the remaining samples only several feet away.

D. Health Effects

VOCs may be absorbed via the oral and inhalation routes. Covenantor has evaluated the potential human health effects resulting from the presence of VOCs in the groundwater by (1) calculating the exposure point concentrations for indicator VOCs and comparing these to Applicable or Relevant and Appropriate Requirements ("ARARs"); and (2) calculating exposure risks for a Maximally Exposed Individual ("MEI") at the site of highest estimated exposure, a number of years into the future. Covenantor concluded that for (1) all exposures are lower than ARARs, inferring that human health was not threatened, even in the absence of cleanup. For (2), Covenantor concluded that there

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probably would be no health hazards associated with exposure to non-carcinogenic chemicals, but that there may be some risk due to the presence of carcinogens, in the absence of cleanup. The Board found that the projected concentrations of carcinogens in the near-source groundwater may, upon long term MEI exposure, be a threat to human health.

E. Routes of Exposure and Population at Risk

The primary exposure route for covenantor's pollution is through the ingestion (drinking) of contaminated water. Another potential exposure route is through inhalation. The VOC plume is primarily limited to Applied Materials' property and no drinking water supplies or sources have been affected. Thus, no exposure exists at this time through this mechanism. Property owners and workers at the affected site are aware of proper health and safety precautions to be taken during construction or other on-site activities.

F. Covenantor desires and intends that in order to protect the present or future public health and safety, in accordance with the terms of Section C.2.c. of Board Order No. 90-134, the Property shall be used in such a manner as to avoid potential harm to persons or property which may result from hazardous substances which have been deposited on unspecified portion(s) of the Property.

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ARTICLE I

GENERAL PROVISIONS

1.01 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, restrictions and conditions (collectively referred to as "Restrictions"), upon and subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and all of the Restrictions are imposed upon the entire Property unless expressly stated as applicable to a specific portion of the Property. Each and all of the Restrictions are imposed and run with the land pursuant to Section 25355.5 of the Health and Safety Code, and shall be enforceable solely by the Board.

1.02 Concurrence of Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees that the Restrictions as herein established must be adhered to for the benefit of future Owners and Occupants and that their interest in the Property shall be subject to the Restrictions contained herein.

1.03 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated in, and this Covenant and Agreement shall be

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attached to, each and all deeds and ground leases of any portion of the Property, provided, however, that the right to enforce the Restrictions shall exist only in the Board. Recordation of this Covenant and Agreement shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to any given deed or ground lease.

ARTICLE II

DEFINITIONS

2.01 Board. "Board" shall mean the California Regional Water Quality Control Board, San Francisco Bay Region, and shall include its successor agencies, if any.

2.02 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Property.

2.03 Occupants. "Occupants" shall mean those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to occupy any portion of the Property.

2.04 Owner. "Owner" shall mean the Covenantor or its successors in interest, including heirs and assigns, who hold title to all or any portion of the Property.

2.05 Shallow Wells. "Shallow wells" shall mean any well, boring or excavation that allows extraction of water from any water bearing zone above a depth of approximately 75 feet

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(approximately 50 feet below mean sea level) below 1990 ground surface.

ARTICLE III

DEVELOPMENT, USE AND CONVEYANCE OF THE PROPERTY

3.01 Restrictions on Use. Covenantor promises to restrict the use of the Property, as described in Exhibit A, as follows:

(1) No Owner or Occupant of the Property shall act in any manner that will aggravate or contribute to the existing contamination at the Property or interfere with the implementation of any remedial action at the Property.

(2) No Owners or Occupants of the Property or any portion thereof shall drill, bore, excavate or otherwise construct a shallow well, as defined above, for the purpose of extracting water for beneficial use as defined in section 13050 of the California Water Code; provided, however, that it shall be permissible to construct shallow wells pursuant to a plan for remediation of groundwater contamination and to use water extracted from such wells for any use which is specifically approved in a written decision from the Board or the Santa Clara Valley Water District. Except as specified above, this covenant shall not restrict drilling, boring or excavation for any purpose including, but not limited to: borings for the purpose of testing soils; excavation for foundations or underground utilities; wells for monitoring the quality of water; or borings to define the