



State of Ohio Environmental Protection Agency

Dan T

STREET ADDRESS:

Lazarus Government Center
122 S. Front Street
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

November 5, 2002

Mr. James Setterlin
The Handwell Company
RWS Building
4678 Larwell Drive,
Columbus, OH 43220

RECEIVED
CERTIFIED MAIL
NOV 07 2002
OHIO EPA/CDO

**RE: Issuance of Covenant Not To Sue for The Handwell Company Property
02NFA140**

Dear Mr. Setterlin:

I am pleased to inform you that on November 5, 2002, the Director of the Ohio Environmental Protection Agency ("Director") issued a Covenant Not To Sue ("Covenant") to Summit Properties, Inc. for The Handwell Company Property located at 304 West Mound Street, Columbus, Ohio. The Covenant was issued as Final Findings and Orders pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300. You will find the certified copy of the Covenant enclosed. When filing the Covenant and its exhibits at the Franklin County Recorder's Office, please use the enclosed Affidavit to guide the recording of the documents in the County's deed records.

Upon the issuance of these Findings and Orders, and subject to the conditions outlined in the Covenant, Ohio EPA covenants not to sue and releases The Handwell Company, and its agents, employees, shareholders, officers, directors, successors and assigns, and successors and assigns of the property, from all civil liability to the State of Ohio to perform additional investigational and remedial activities at the property for the releases of hazardous substances or petroleum identified in the June 2002 Phase I Property Assessment and addressed in the June 2002 Phase II Property Assessment conducted in compliance with ORC Chapter 3746 and OAC Chapter 3745-300.

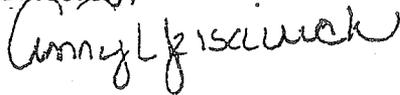
The issuance of the Covenant is a final action of the Director and will be public noticed in

Bob Taft, Governor
Maureen O'Connor, Lieutenant Governor
Christopher Jones, Director

accordance with OAC 3745-47-07. The action may be appealed to the Environmental Review Appeals Commission ("Commission"). The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice or issuance of the action. (See ORC 3745.04 and 3745.07.) A copy of the appeal must be served on the Director within three (3) days after the appeal is filed with the Commission. The appeal may be filed with the Commission at 236 East Town Street, Room 300, Columbus, Ohio 43215.

Many parties within The Handwell Company, Civil and Environmental Consultants, J.R. Kolmer + Associates, and the agency worked hard to remove the environmental barriers associated with redeveloping this property. Congratulations on the issuance of this Covenant. If you have any questions or concerns, please feel free to contact me at (614) 644-2285.

Sincerely,



Amy Yersavich, Manager
Division of Emergency and Remedial Response
Voluntary Action Program

Enclosure

cc: Berry Franz, CP, Civil and Environmental Consultants, Inc.
J.R. Kolmer, Civil and Environmental Consultants, Inc.
Dan Tjoelker, DERR, CDO
Mark Navarre, Legal Office
CO DERR-VAP Files

TO BE RECORDED IN DEED RECORDS,
PURSUANT TO R.C. 317.08(A)

AFFIDAVIT

STATE OF OHIO)
)
COUNTY OF FRANKLIN) ss:

Before me, the subscriber, a Notary Public in and for the State of Ohio, personally appeared Zona L. Clements or Tonya R. Jackson, who, being duly sworn according to law, deposes and says that: (i) she is employed as a records management officer in the Legal Office of the Ohio Environmental Protection Agency ("Ohio EPA") and, as such, is authorized to sign this Affidavit on behalf of Ohio EPA; and (ii) the attached document is a true and correct copy of the Covenant Not to Sue/Director's Final Findings and Orders issued by the Director and entered in the Ohio EPA Director's Journal on November 5, 2002 regarding the property known as The Handwell Company Property, located at 304 West Mound Street, Columbus, Franklin County, Ohio, and further described in Exhibit 1 of the attached Covenant Not to Sue.

Tonya R. Jackson
Zona L. Clements or Tonya R. Jackson
Records Management Officer
Ohio EPA Legal Office

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this 5th day of November, 2002.

S. Kroeger
Notary Public
State of Ohio

Permanent Commission
No expiration, R.C. 147.03

This instrument prepared by:
Mark Navarre, Attorney
Ohio EPA Legal Office
P.O. Box 1049
Columbus, Ohio 43216-1049



SUSAN C. KROEGER
Attorney at Law
Notary Public
State of Ohio
Lifetime Commission

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

The Handwell Company
RWS Building
4678 Larwell Drive
Columbus, OH 43220

Covenant Not to Sue

Director's Final Findings
and Orders

Regarding property known as:

The Handwell Company
304 West Mound Street
Columbus, OH 43215
Franklin County

Pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300, the Director of the Ohio Environmental Protection Agency (the "Director") hereby makes the following Findings and issues the following Orders.

FINDINGS

1. A No Further Action Letter, No. 02NFA140 (the "NFA Letter"), was submitted on August 2, 2002 to the Director under the Voluntary Action Program on behalf of The Handwell Company (the "Volunteer"), by Barry Franz, a certified professional, No. CP 119, as defined in ORC 3746.01(E) and OAC 3745-300-01(A)(8) (the "Certified Professional").
2. The NFA Letter describes investigational and remedial activities undertaken at the approximately 0.995 acre property, currently known as The Handwell Company, located at 304 West Mound Street, Columbus, Franklin County, Ohio (the "Property"). An exact legal description of the Property is attached hereto as Exhibit 1. A property location map is attached hereto as Exhibit 2. The NFA Letter includes an Executive Summary, which is attached hereto as Exhibit 3.
3. Based upon the information contained in the NFA Letter, the following investigational and remedial activities were undertaken and completed regarding the Property:

I, the undersigned, being duly sworn, depose and say that the foregoing is true and correct to the best of my knowledge and belief.

By: Denise Jackson on 11/5/02

OHIO E.P.A.
NOV - 5 2002
ENTERED DIRECTOR'S OFFICE

- a. a Phase I Property Assessment, in accordance with OAC 3745-300-06, to determine whether there is any reason to believe that a release of hazardous substances or petroleum has or may have occurred on, underlying or is emanating from the Property;
- b. a Phase II Property Assessment, in accordance with OAC 3745-300-07, including but not limited to investigations of identified areas of concern and affected media, to assess environmental conditions related to any release of hazardous substances and petroleum;
- c. a property-specific risk assessment to assess the potential for ground water migration to surface water and potential off-property receptors;
- d. a remedy that included the removal and disposal of approximately 6,670 cubic yards of metals contaminated soil;
- e. institutional controls contained in the Declaration of Institutional Controls, recorded on July 3, 2002 in the Franklin County Recorder's Office, Instrument No. 200207030164645 (the "Declaration"), which restricts the Property to commercial or industrial uses only; prohibits the extraction of ground water located at or underlying the Property, for any purpose, potable or otherwise, except for investigation or remediation of the ground water; and prohibits the construction of a basement or other permanent subsurface structures designed for routine human occupancy at the Property without the prior written approval of the Ohio EPA; and
- f. an Urban Setting Designation ("USD"), pursuant to the requirements of OAC 3745-300-10(D), which was approved for the Property by the Ohio EPA on September 24, 1998.
- g. The Certified Professional has verified by affidavit that the investigational and remedial activities undertaken at the Property comply with the applicable standards established in ORC Chapter 3746 and OAC Chapter 3745-300, that the Property is eligible to receive a covenant not to sue under the Voluntary Action Program, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws and regulations.
- h. At the time that analyses were performed, Aqua Tech Environmental Laboratories, Inc. and American Analytical Laboratories, Nos. CL 0017 and CL 0010, respectively, were certified laboratories, as defined in ORC 3746.01(D) and OAC 3745-300-01(A)(7), whose services were used in support of the NFA Letter for the Property (the "Certified Laboratories").

- i. According to information provided by each of the Certified Laboratories in affidavits contained in the NFA Letter, each of the Certified Laboratories performed analyses for which they were certified, pursuant to ORC Chapter 3746 and OAC Chapter 3745-300, that formed the basis for the issuance of the NFA Letter by the Certified Professional.
- j. The Declaration was recorded on July 3, 2002 in the Franklin County Recorder's Office, in accordance with ORC 3746.14 and OAC 3745-300-13(E)(13). A copy of the Declaration is attached hereto as Exhibit 4. The Declaration:
 - a. restricts the use of the Property to commercial or industrial land uses only;
 - b. prohibits the extraction of ground water at or underlying the Property for any purpose, potable or otherwise, except for investigation or remediation of the ground water;
 - c. prohibits the construction of basements or other permanent subsurface structures designed for routine human occupancy at the Property without prior written approval from Ohio EPA.
- k. Based on the information contained in the NFA Letter, Declaration, and all conditions set forth in these Findings and Orders, the Property meets the applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for commercial and industrial land use, including but not limited to:
 - a. commercial and industrial land use category direct contact soil standards for hazardous substances, in accordance with Tables III, IV, and VI of OAC 3745-300-08, at a point of compliance from the surface to the uppermost Class A ground water zone, at an approximate depth of 20 feet;
 - b. unrestricted potable use ground water standards, in accordance with Table VII of OAC 3745-300-08, in the regional limestone bedrock ground water zone, found at depths greater than approximately 80 feet, at all points underlying the Property;
 - c. ground water standards based on off-property, non-potable exposures, derived through property-specific risk assessment procedures in accordance with OAC 3745-300-09(D) for human receptor exposures not related to potable use of ground water, in the uppermost Class A ground water zone, at the Property boundary;
 - d. ground water standards, based on ground water migration to surface water, derived through property-specific risk assessment procedures in accordance with OAC 3745-300-08(D) [and OAC 3745-300-09(E) for ecological receptor

exposures not related to potable use of ground water], in the uppermost Class A ground water zone, prior to discharge into the Scioto River; and

- e. soil standards, derived through property-specific risk assessment procedures in accordance with OAC 3745-300-09(D), and background concentrations in soils determined in accordance with OAC 3745-300-07(I)(1), to satisfy the requirements in OAC 3745-300-10(E) to ensure the protection of ground water by meeting unrestricted potable use standards in the lower regional limestone bedrock ground water zone, at a point of compliance depth of 80 feet.
- i. Based on the NFA Letter and subject to all conditions set forth in these Findings and Orders, a covenant not to sue ("the Covenant") may be issued for the Property in accordance with ORC 3746.12(A), and the voluntary action for the Property is protective of public health and safety and the environment.

ORDERS

Covenant

1. Upon the issuance of these Findings and Orders, and subject to the conditions set forth herein, Ohio EPA hereby covenants not to sue and releases The Handwell Company and its agents, employees, shareholders, officers, directors, successors and assigns, and successors and assigns of the Property, from all civil liability to the State of Ohio (the "State") to perform additional investigational and remedial activities at the Property for the releases of hazardous substances or petroleum identified in the Phase I Property Assessment and addressed in the Phase II Property Assessment conducted in compliance with ORC Chapter 3746 and OAC Chapter 3745-300.

Conditions and Limitations

2. The Covenant provided in Order No. 1 shall only apply to the approximately 0.995 acre Property described in these Findings and Orders, the NFA Letter and the Exhibits attached hereto, upon which the investigational and remedial activities specified in the NFA Letter were conducted.
3. Pursuant to ORC 3746.12(B), the Covenant shall remain in effect for as long as the Property continues to comply with the applicable standards upon which the Covenant is based, as referenced in these Findings and Orders.
4. Pursuant to ORC 3746.05, any use of the Property that does not comply with the institutional controls identified herein (i.e., the use restrictions contained in the Declaration), voids the Covenant on and after the date of the commencement of the

noncomplying use.

5. Pursuant to ORC 3746.21 and 3746.171, authorized representatives of the Director shall be granted access to the Property for inspection or investigation purposes, including, but not limited to, determining whether the Property is being used in compliance with the use restrictions contained in the Declaration.
6. The Covenant shall not apply to releases of hazardous substances or petroleum:
 - a. that occur after the issuance of the NFA Letter to the Volunteer;
 - b. on or emanating from the Property, that are not identified in the Phase I Property Assessment or not addressed in the Phase II Property Assessment of the NFA Letter; or
 - c. for which investigational or remedial activities were conducted that were not in compliance with ORC Chapter 3746 or OAC Chapter 3745-300.
7. The Covenant shall not apply:
 - a. to claims for natural resource damages the State may have pursuant to Sections 107 or 113 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9607 and 9613, as amended;
 - b. to claims the State may have pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, as amended, for costs other than those for damages to natural resources, provided that the State incurs those other costs as a result of an action by the United States Environmental Protection Agency; or
 - c. as otherwise specifically provided in ORC Chapter 3746.
8. Nothing in ORC Chapter 3746 limits the authority of the Director to act under ORC 3734.13 and 3734.20 to 3734.23, or to request that a civil action be brought pursuant to the ORC or common law of the State to recover the costs incurred by Ohio EPA for investigating or remediating a release or threatened release of hazardous substances or petroleum at or from the Property, when the Director determines that the release or threatened release poses an imminent and substantial threat to public health or safety or the environment.
9. Nothing in the Covenant shall be construed to limit or waive the Director's authority to revoke the Covenant in response to any of the circumstances for revocation of a covenant, as provided in ORC Chapter 3746 and OAC Chapter 3745-300.

Recordation in Deed Records

10. Pursuant to ORC 3746.14(A), a copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Property Location Map), and 3 (Executive Summary), shall be recorded in the Franklin County Recorder's Office, in the same manner as a deed to the Property, within sixty (60) days after the issuance of these Findings and Orders.

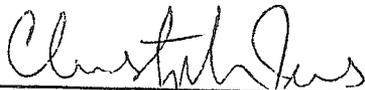
Transfer

11. Pursuant to ORC 3746.14 and OAC 3745-300-13(K), the NFA Letter and the Covenant Not to Sue/Findings and Orders may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.

Notice of Use Restrictions upon Property Conveyance

12. In each instrument the Volunteer uses to convey the Property or any portion of the Property, the Volunteer shall include a notice of the Declaration in accordance with paragraph 9 of the Declaration attached hereto as Exhibit 4. The Volunteer shall submit to the Director a copy of each instrument containing the notice of the Declaration whenever such conveyance occurs.

IT IS SO ORDERED:



Christopher Jones, Director
Ohio Environmental Protection Agency

11-4-02

Date

Exhibit 1
Legal Description

TAB 1
LEGAL DESCRIPTION OF PROPERTY
AND DETAILED SURVEY MAP

11-8494A20

101979

8/14/86

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS that MARIA HANDLER, widowed and unremarried, of Columbus, Ohio; LEON HANDLER, married, of Columbus, Ohio; DOROTHY ZELIZER, married, of Pompano Beach, Florida; MARTIN HANDLER, divorced and unremarried, of Columbus, Ohio; NATHAN ZELIZER, married, of Highland Beach, Florida; DEBORAH KAPLAN, married, of Columbus, Ohio; and GERALD ZELIZER, married, of Metuchen, New Jersey, GRANTORS, in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations to them paid by THE HANDWELL COMPANY

GRANTEE, receipt of which is hereby acknowledged, grant, with general warranty covenants to said Grantee the undivided interests hereinafter set forth in the following described real property situated in the County of Franklin, in the State of Ohio, and in the City of Columbus and bounded and described as follows:

Undivided interests as follows in the parcel legally described in Exhibit "A" attached hereto and made part hereof:

| | |
|-----------------|------|
| Maria Handler | 8/36 |
| Leon Handler | 7/36 |
| Dorothy Zelizer | 7/36 |
| Martin Handler | 7/36 |
| Nathan Zelizer | 3/36 |
| Deborah Kaplan | 2/36 |
| Gerald Zelizer | 2/36 |

Prior Transfer O.R. 03767E08 and O.R. 07579105
(~~10-6706~~)

To have and to hold said premises, with all the privileges and appurtenances thereto belonging to the said Grantee and its successors and assigns forever.

RECORDED
NOV 10 1986
FRANKLIN COUNTY, OHIO

FRANKLIN COUNTY, OHIO
NOV 10 1986 Time 4:35 P.M.

JOSEPH W. TESTA, Recorder

Recorder's Fee \$ 16.00

8494801

IN WITNESS WHEREOF, the said Grantors and NATALIE HANDLER, wife of LEON HANDLER; CODY ZELIZER, husband of DOROTHY ZELIZER; JAN ZELIZER, wife of NATHAN ZELIZER; MARVIN KAPLAN, husband of DEBORAH KAPLAN; and VIVIANA ZELIZER, wife of GERALD ZELIZER, who hereby release their rights of dower in the premises, have hereunto set their hands as of the _____ day of _____, 1986.

Signed and acknowledged in the presence of:

Steve M. Polts

Cheryl Rodgers

Carolyn M. Kasper

Karyn E. Epstein

Carolyn M. Kasper

Karyn E. Epstein

Steve M. Polts

Cheryl M. Rodgers

Steve M. Polts

Cheryl M. Rodgers

Harold J. Zeller

Harold J. Zeller

Deborah Kaplan

Deborah Kaplan

Maria Handler

MARIA HANDLER

Leon Handler

LEON HANDLER

Natalie Handler

NATALIE HANDLER

Dorothy Zelizer

DOROTHY ZELIZER

Cody Zelizer

CODY ZELIZER

Martin Handler

MARTIN HANDLER

Nathan Zelizer

NATHAN ZELIZER

Jan Zelizer

JAN ZELIZER

Deborah Kaplan

DEBORAH KAPLAN

Marvin Kaplan

MARVIN KAPLAN

Gerald Zelizer

GERALD ZELIZER

Viviana Zelizer

VIVIANA ZELIZER

AS TO BOTH

8494802

STATE OF OHIO
COUNTY OF FRANKLIN

Sworn to and subscribed in my presence this 29th day of August, 1986, by MARIA HANDLER.

STEVE W. S...
Notary Public
By Commission Expires [unclear] date
Section 147.03 R.C.

[Signature]
Notary Public

STATE OF OHIO
COUNTY OF FRANKLIN

Sworn to and subscribed in my presence this 25 day of August, 1986, by LEON HANDLER and NATALIE HANDLER.

STEVE W. S...
Notary Public
By Commission Expires [unclear] date
Section 147.03 R.C.

[Signature]
Notary Public

STATE OF OHIO
COUNTY OF FRANKLIN

Sworn to and subscribed in my presence this 9th day of September, 1986, by DOROTHY ZELIZER and CODY ZELIZER.

STEVE W. S...
Notary Public
By Commission Expires [unclear] date
Section 147.03 R.C.

[Signature]
Notary Public

STATE OF OHIO
COUNTY OF FRANKLIN

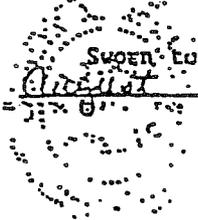
Sworn to and subscribed in my presence this 29th day of August, 1986, by MARTIN HANDLER.

STEVE W. S...
Notary Public
By Commission Expires [unclear] date
Section 147.03 R.C.

[Signature]
Notary Public

STATE OF FLORIDA
COUNTY OF Polk, Florida

Sworn to and subscribed in my presence this 21st day of August, 1986, by NATHAN ZELIZER and JAN ZELIZER.



[Signature]
Notary Public, State of Florida
By Commission Expires March 31, 1990
Notary Public, State of Florida

STATE OF OHIO
COUNTY OF FRANKLIN

Sworn to and subscribed in my presence this 15th day of August, 1986, by DEBORAH KAPLAN and MARVIN KAPLAN.

08494803

STATE OF NEW JERSEY
COUNTY OF Middlesex

Sworn to and subscribed in my presence this 26th day of
August, 1986, by GERALD ZELIZER and VIVIANA ZELIZER.

Deborah A. Stefanski
Notary Public

DEBORAH A. STEFANSKI
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 21, 1989



This instrument prepared by:

STEVE N. SOLTIS, Attorney at Law

EXHIBIT "A"

Situated in the County of Franklin, in the State of Ohio,
and in the City of Columbus and bounded and described as follows:

Being all that part of Lot Number One (1) of Constock, Smith, Barcus and Janton and Company's Subdivision in said City as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book No. 3, page 32, Recorder's Office, Franklin County, Ohio described as follows:

Beginning at a point $37\frac{1}{2}$ feet east of the Hocking Valley Railroad Tract at a point where said Railroad Tract intersects Mound Street; thence east on the North line of Mound Street, 78 feet; thence North on a line perpendicular to Mound Street to a point on the Scioto River; thence in a Westerly direction along the bank of the Scioto River and with the meanderings thereof to a point on the said Scioto River, $37\frac{1}{2}$ feet east of the Hocking Valley Railroad tract; thence in a straight line 166 feet to the beginning, excepting, however, the following part of said land, to-wit: Beginning at the southwest corner of said lot; thence northwardly with the West boundary line of said lot, 166 feet to the Scioto River; thence Eastwardly up said river 30 feet; thence southwardly in a straight line 170 feet to the place of beginning.

Excepting, however, from said conveyance the following portion of said premises, to-wit: Beginning at a point in the east line of said Lot No. 1, at a distance of 159 feet measured along said east line from the north line of Mound Street; thence with said east line of said Lot No. 1, to the low water mark of the Scioto River; thence in a westerly direction with the low water mark of said River and the meanderings thereof, to a point where the said low water mark is intersected by the east line of that part of said Lot No. 1, conveyed by the Hardesty Williams Milling Company to the Toledo and Ohio Central Railway Company by deed dated April 12, 1910, and recorded in D.B. 498, page 128, Recorder's Office, Franklin County, Ohio; thence southward with the last mentioned line to a point, 148 feet from the northline of Mound St., measured along said east line; thence easterly in a straight line to the point of beginning, said part hereby excepted being premises conveyed to the City of Columbus, by Deed of Record in D.B. 631, page 451.

(Also known as 304 West Mound Street).

This is to certify that the foregoing is a true and correct copy of
a *Deed* record in Recorders Office, Franklin County,
Ohio, in volume... *8494* page... *A-20* in testimony
whereof I have hereunto subscribed my name and affixed my
official seal this... *18* day of... *July* 19... *94*

RICHARD B. METCALF, Recorder
By... *Eric Johnson* Deputy



6491 - A-16
134878

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS that MARIA HANDLER, widowed
unmarried, of Columbus, Ohio; LEON HANDLER, married, of
Columbus, Ohio; DOROTHY ZELIZER, married, of Pompano Beach, Florida;
MARTIN HANDLER, divorced and unmarried, of Columbus, Ohio;
DEBORAH KAPLAN, married, of Columbus, Ohio; and GERALD ZELIZER,
married, of Metuchen, New Jersey, GRANTORS, in consideration
of the sum of One Dollar (\$1.00) and other good and valuable
considerations to them paid by _____

THE HANDWELL COMPANY

GRANTEE, receipt of which is hereby acknowledged, grant, with
general warranty covenants to said Grantee the undivided interests
hereinafter set forth in the following described real property
located in the County of Franklin, in the State of Ohio, and
the City of Columbus and bounded and described as follows:

Undivided interests as follows in the parcel
legally described in Exhibit "A" attached
hereto and made part hereof:

| | |
|-----------------|------|
| Maria Handler | 1/3 |
| Leon Handler | 1/6 |
| Dorothy Zellzer | 1/6 |
| Martin Handler | 1/6 |
| Deborah Kaplan | 1/12 |
| Gerald Zellzer | 1/12 |

Prior Transfer: O.R. 03767F06

(See parcel ~~map~~ 10-374-1)

To have and to hold said parcels, with all the privileges
and appurtenances thereto belonging to the said Grantee and
successors and assigns forever.

TRANSFERRED
NOV 10 1985
E. MENEAL
Recorder
Franklin County, Ohio

FRANKLIN COUNTY, OHIO
Recorded NOV 10 1985 4:35 P.M.
JOSEPH V. TESTA, Recorder
Recorder's Fee \$100

112
MAY 1985

STATE OF OHIO
COUNTY OF FRANKLIN

Sworn to and subscribed in my presence this 29th day of August, 1986, by MARIA HANDLER.

STEVE M. ...
Notary Public

Steve M. ...
Notary Public

STATE OF OHIO
COUNTY OF FRANKLIN

Sworn to and subscribed in my presence this 29th day of August, 1986, by LEON HANDLER and KATALIE HANDLER.

STEVE M. ...
Notary Public

Steve M. ...
Notary Public

STATE OF OHIO
COUNTY OF FRANKLIN

Sworn to and subscribed in my presence this 9th day of September, 1986, by DOROTHY ZELIZER and CONY ZELIZER.

Steve M. ...
Notary Public

STATE OF OHIO
COUNTY OF FRANKLIN

Sworn to and subscribed in my presence this 29th day of August, 1986, by MARTIN HANDLER.

STEVE M. ...
Notary Public

Steve M. ...
Notary Public

STATE OF OHIO
COUNTY OF FRANKLIN

Sworn to and subscribed in my presence this 15th day of August, 1986, by DEBORAH KAPLAN and HARVIN KAPLAN

STEVE M. ...
Notary Public

Steve M. ...
Notary Public

STATE OF NEW JERSEY
COUNTY OF Millbury

Sworn to and subscribed in my presence this 11th day of August, 1986, by GERALD ZELIZER and VIVIANA ZELIZER.

Steve M. ...
Notary Public

EXHIBIT "A"

Situated in the County of Franklin, in the State of Ohio,
and in the City of Columbus and bounded and described as follows:

Being Lots Numbers Four (4) and Five (5)
of Comstock, Smith, Barcus, Janton and Company's
Subdivision, as the same are numbered and delineated
upon the recorded plat thereof, of record in Plat
Book No. 3, page 32, Recorder's Office, Franklin
County, Ohio. Also all that part of Lot No.
Two (2) in said subdivision, being 6.90 feet
wide, which lies directly west of and adjacent
to said Lots Nos. 4 and 5 in said subdivision.

This deed is delivered by the Grantors and
accepted by the Grantee, subject to any rights
of any railroad or the City of Columbus, if any
rights there be.

This instrument prepared by:

STEVE M. SOLTIS, Attorney at Law

08397808

127256

THIS QUITCLAIM DEED, made SEP 5 1986, by

and between THE CHESAPEAKE AND OHIO RAILWAY COMPANY, a corporation of the Commonwealth of Virginia, whose post office address is 100 North Charles Street, Baltimore, Maryland 21201, hereinafter called Grantor, and THE CHESSWELL COMPANY, a corporation of the State of Ohio, whose post office address is P. O. Box 21352, Columbus, Ohio 43221, hereinafter called Grantee, witnesseth:

That, for and in consideration of payment of the sum of FORTY-NINE THOUSAND FIVE HUNDRED DOLLARS (\$49,500.00), which is the full monetary consideration for this conveyance, the receipt whereof is hereby acknowledged, Grantor does hereby Remise, Release and forever Quitclaim unto Grantee, Grantee's successors and assigns, all of Grantor's right, title and interest in and to that certain land situate in the City of Columbus, Franklin County, Ohio, being part of Lot 2 and part of Lot 3 as said Lots are numbered and delineated upon the plat of Constock, Smith, Barcus, Janbon and Company's Subdivision, of record in Plat Book 3, Page 32, in the Land Records of Franklin County, Ohio, and more particularly described as follows:

BEGINNING at an iron pin set in the southwest corner of said Lot 2 and in the northerly right-of-way line of Mound Street (75 feet in width); thence North, 146.00 feet to a point at the southwesterly corner of that 0.066-acre tract as described in a deed to The City of Columbus, of record in Deed Book 833, Page 358; thence East, along the southerly line of said 0.066-acre tract, a distance of 79.90 feet to an iron pin set in the westerly line of Parcel No. 3 as described in a Certificate of Transfer to Maria Handler, et al. (6), of record in Official Records Volume 3767, Page E08; thence South, along said westerly line, a distance of 46.00 feet to the southwesterly corner of said Parcel No. 3; thence East, along the southerly line of said Parcel No. 3, passing the northwesterly corner of Lot 3 at 6.90 feet, a total distance of 106.90 feet to an iron pin set at the northeasterly corner of Lot 3 and in the westerly right-of-way line of Levee Street (44 feet in width); thence South, along said right-of-way line, a distance of 35.00 feet to the most northerly corner of that tract of land as described in a deed to The Ironsides Company, of record in Deed Book 1006, Page 400, said corner being witnessed by

DRICKER & ECKLER BOA DGB

F-34
Ac Of
57541
57540
C/L

10-27-86

TRANSFERRED
OCT 27 1986
PALMER C. McNEAL
AUDITOR
FRANKLIN COUNTY, OHIO

21715
CONVEYANCE TAX
\$ 49,500.00
PALMER C. McNEAL
FRANKLIN COUNTY AUDITOR

08397809

railroad spike located South, a distance of 0.20 feet; thence along the northwesterly perimeter of said Ironsides tract with the arc of a curve to the left, having a radius of 380.00 feet, a central angle of 15° 00' 26", the chord of which bears South 49° 05' 08" West, a chord distance of 99.25 feet to an iron pin found bent and reset at the most westerly corner of said Ironsides tract and in the northerly right-of-way line of Wood Street; thence West, along said right-of-way line, a distance of 111.80 feet to the PLACE OF BEGINNING; containing 0.4523 acre of land, more or less.

For the purpose of this description, Wood Street was assumed to run in an East-West direction.

Iron pins set (or reset) consist of a one-inch O.D. iron pipe, 30 inches long, with a plastic cap inscribed "M-E BLDG CONSULTANTS."

This description taken from a survey prepared by Robert S. Wynd, Registered Surveyor No. 6372, M-E Building Consultants, Inc., Civil Engineering Division; based on an actual field survey of the premises performed between June 18 and June 23, 1986.

BEING all of the property (Grantor's Parcel No. 2) on its Valuation Map V-3 (EV) / 3, acquired by The Columbus, Hocking Valley and Toledo Railway Company (predecessor of The Chesapeake and Ohio Railway Company) by Deed from Myra A. Snyder (widow), dated October 13, 1896, recorded in the Land Records of Franklin County, Ohio, in Deed Volume 287, Page 549.

Through mesne consolidations and conveyances, title to the properties of The Columbus, Hocking Valley and Toledo Railway Company became vested in the Hocking Valley Railway Company and by Deed dated May 1, 1930, recorded as aforesaid in Deed Volume 924, Page 338, the latter company conveyed all of its properties to The Chesapeake and Ohio Railway Company.

TOGETHER with the buildings and all other improvements thereupon erected, made or being, and all and every of the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in anyway appertaining.

EXCEPTING, however, unto Grantor, Grantor's successors and assigns, the ownership in Grantor's Track No. 1597 and related facilities within and on the southeastern portion of Premises; and RESERVING unto Grantor a revertible 20-foot wide exclusive easement (10-foot in each direction from centerline of

FRANKLIN COUNTY, OHIO
OCT 27 1986
JOSEPH W. TESTA, Recorder
Recorded for \$19.00

08997810

Track T-1597) for the continued ownership, operation, maintenance and use of said track and related facilities; and FURTHER RESERVING unto Grantor the easement and right to enter the Premises to remove said track and related facilities on cessation of use. In the event said exclusive track easement area ceases to be used for the purposes herein contained, Grantor shall give notice thereof in writing to Grantee, Grantee's successors and assigns, and title to said easement area shall vest automatically in Grantee free of said easement but subject to Grantor's rights to enter and remove said track and related facilities. Grantor shall make such removal within ninety (90) days after such notice.

TO HAVE AND TO HOLD the Premises aforesaid, with the privileges and appurtenances thereunto belonging, to Grantee, Grantee's successors and assigns forever.

AND GRANTEE, on behalf of Grantee, Grantee's successors and assigns, by the acceptance hereof, hereby covenants and agrees with Grantor, Grantor's successors and assigns, that neither Grantor nor its successors or assigns shall be required to erect or maintain any fences, railings, or guard rails along any boundary lines between the Premises and the adjacent land(s) or track easements of Grantor or of any company affiliated with Grantor; nor be liable for or required to pay any part of the cost or expense of erecting or maintaining such fences, railings, or guard rails or any part thereof; nor be liable for any damage, loss or injury that may result by reason of the nonexistence or the condition of any fences, railings, or guard rails. Grantee, for Grantee, Grantee's successors and assigns, assumes all liability and responsibility respecting fences, railings, or guard rails, or the absence thereof.

AND THIS DEED FURTHER WITNESSETH that Manufacturers Hanover Trust Company, as Trustee under The Hocking Valley Railway Company's First Consolidated Mortgage to Central Trust Company of New York (now Manufacturers Hanover Trust

08387817

Mortgage recorded in M.R. 249, P. 141 and Supplement recorded in M.R. 248, P. 345

Company, successor by merger), dated March 1, 1899, as amended, modified and supplemented, has executed this deed for the sole purpose of releasing and does hereby, pursuant to the terms and conditions contained in said mortgage, release from the lien and operation of said mortgage, including any and all mortgages or deeds of trust supplemental thereto, all the right, title and interest which the said Trustee may have acquired in and to the property herein conveyed; but this release is subject to any and all of the same rights, reservations, exceptions, limitations and agreements herein specified on behalf of the Grantor, and is without covenant or warranty, express or implied, without recourse against said Trustee in any event, and without affecting or in any way impairing the lien and operation of said mortgage and supplements thereto on and in respect of any other

IN WITNESS WHEREOF, THE CHESAPEAKE AND OHIO RAILWAY COMPANY and MANUFACTURERS HANOVER TRUST COMPANY (as aforesaid Trustee), pursuant to due corporate authority, have caused their names to be signed hereto by their officers hereunto duly authorized and their corporate seals, duly attested, to be hereunto affixed.

WITNESS:
Edward L. Lee
Richard M. Hood

THE CHESAPEAKE AND OHIO RAILWAY COMPANY
By T. R. Jackson
T. R. Jackson, General Manager

Attest:
John P. [Signature]
Corporate Secretary

App. 21 to
Levy form

WITNESS:
Carolyn P. Baxter
Carolyn P. Baxter
Eloster T. Green
Eloster T. Green

MANUFACTURERS HANOVER TRUST COMPANY,
as Trustee as aforesaid.
By D. A. Ursitti, Jr.
D. A. URSITTI, JR., President

Attest:
James C. [Signature]
Assistant Secretary

08997812

STATE OF MARYLAND)
) SS:
CITY OF BALTIMORE

I, Robert H. Chilcote, a Notary Public of the State of Maryland and the City of Baltimore, do certify that on SEP 5 1986 before me in said City personally came W. B. Jackson, to me known, and known to me to be one of the persons whose name is subscribed to the above instrument, who, being by me first duly sworn, did depose, acknowledge and say that: he resides in Cockeysville, Baltimore County, Maryland; he is General Manager of The Chesapeake and Ohio Railway Company, one of the corporations described in and which executed said instrument; he knows the seal of said corporation; one of the seals affixed to said instrument is such seal; it was so affixed by authority of the Board of Directors of said corporation; he signed his name thereto for said corporation pursuant to such authority; said instrument is the free act and deed of said corporation; and the conveyance herein is not part of a transaction, sale, lease, exchange or other transfer or conveyance of all or substantially all of the property and/or assets of the Grantor.

In witness whereof, I hereunto set my hand and official seal, the day and year written above.

My Commission expires on July 1, 1990.

Robert H. Chilcote
ROBERT H. CHILCOTE, Notary Public

STATE OF NEW YORK)
) SS:
CITY AND COUNTY OF NEW YORK

I, Kathy A. Murphy, a Notary Public of said City and County, do certify that on September 25, 1986 before me in said City and County personally came D. I. URSITTI, JR., to me known, and known to me to be one of the persons whose name is subscribed to the above instrument, who, being by me first duly sworn, did depose, acknowledge and say that he resides at 26 Evergreen Lane, New Hyde Park, N.Y.

that he is a Vice President of Manufacturers Hanover Trust Company, 600 Fifth Avenue, New York, New York 10020, one of the corporations described in and which executed said instrument; that said corporation is a Trustee under the mortgage of The Hocking Valley Railway Company (now The Chesapeake and Ohio Railway Company) dated March 1, 1899, as amended, modified and supplemented; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by authority of the Board of Directors of said corporation; that he signed his name thereto for said corporation pursuant to such authority; and that said instrument is the free act and deed of said corporation as such Trustee.

In witness whereof, I hereunto set my hand and official seal, the day and year written above.

My Commission expires on 7/31/88

Kathy A. Murphy
Notary Public

This 5-page instrument prepared by:

Richard C. Keene

Richard C. Keene
Attorney for Grantor
Business Address:
100 North Charles Street
Baltimore, Maryland 21201
Phone: (301) 237-3121

KATHY A. MURPHY
Notary Public, State of New York
No. 54-1825140
Qualified in Westchester County
Certificate Issued in New York County
Commission Expires July 31, 1988

This is to certify that the foregoing is a true and correct copy of
a ~~Deed~~ ^{Deed} on record in Recorders Office, Franklin County,
Ohio. In volume... 8397... page B-08. In testimony
whereof I have heretunto subscribed my name and affixed my
official seal this... 12... day of July... 19 94.

RICHARD B. METCALF, Recorder
By..... *Ernie Johnson*... Deputy

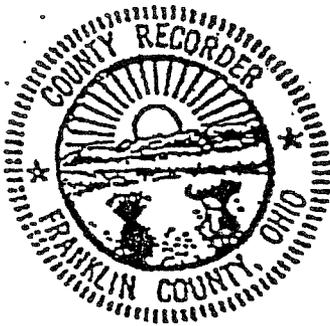


Exhibit-2
Property Location Map

M-E BUILDING CONSULTANTS, INC.
 CIVIL ENGINEERING DIVISION
 1015 EAST BROAD STREET
 COLUMBUS, OHIO 43205
 (614) 258-4903

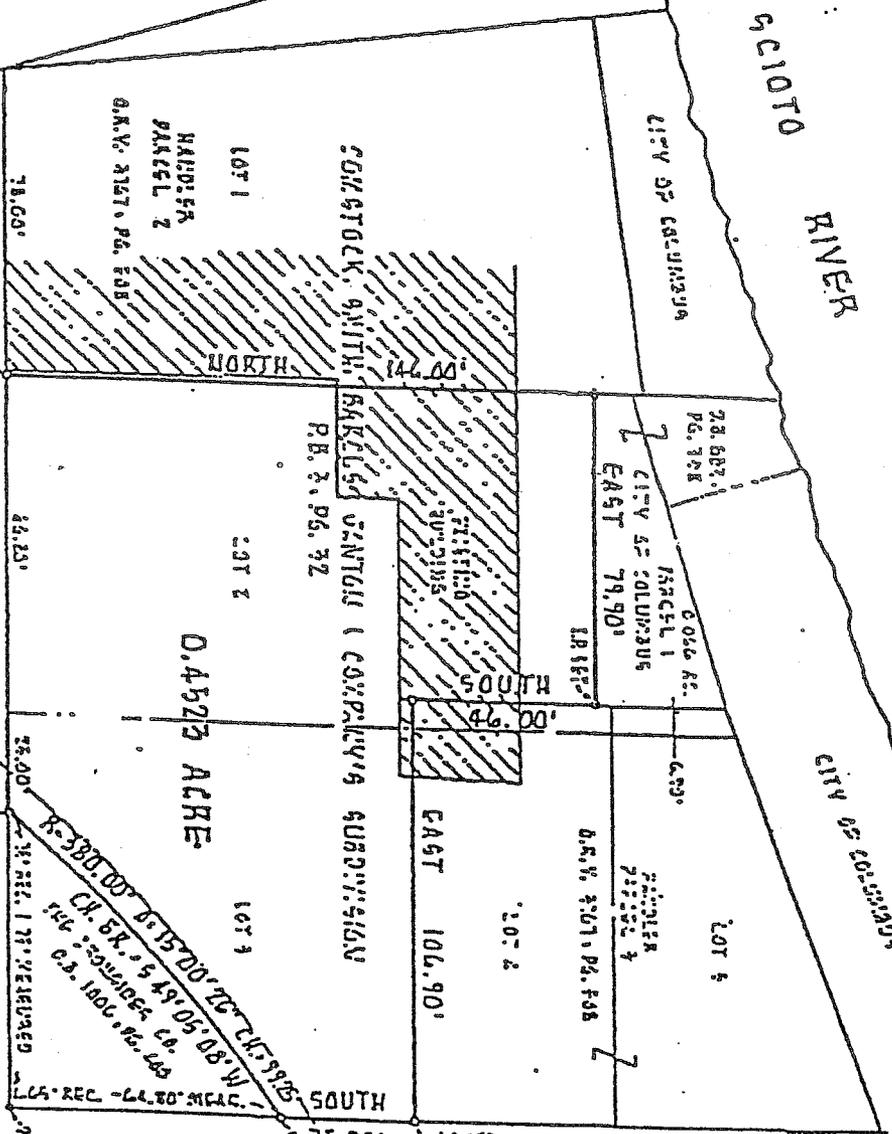
TOLEDO & OHIO CENTRAL RAILWAY COMPANY

SCIOTO RIVER

CITY OF COLUMBUS

MOUND STREET (75')

0.4523 ACRE



LEVEE STREET (44')

STATE OF OHIO
 ROBERT
 WYX
 5-6872
 REGISTERED
 SURVEYOR

DATE: 6-72-86
 REVISED DATE:
 JOB NUMBER: 26476C

1" = 40'

JRTR

Exhibit 3
Executive Summary

**EXECUTIVE SUMMARY AND FILING DOCUMENT
OF NO FURTHER ACTION LETTER**

**304 West Mound Street
Columbus, Franklin County, Ohio 43215**

June 2002

1.0 INTRODUCTION

This No Further Action (NFA) letter is submitted for The Handwell Company property, which is located at 304 West Mound Street in Columbus, Ohio. The purpose of this NFA letter is to provide a description of The Handwell Company property with respect to its environmental condition, and also to provide a description of the remedial work that was conducted. This NFA letter also satisfies the requirements of OAC 3745-300-13(H) and (J) to use the format provided by the Ohio EPA for submitting the NFA letter and OAC 3745-300-13(J) for recording a summary of the NFA letter in the County Recorder's office.

This NFA letter was submitted to the Ohio EPA, Division of Emergency and Remedial Response (DERR) Voluntary Action Program (VAP) on behalf of The Handwell Company in February 2002, by Barry Franz of Civil and Environmental Consultants, Inc., CP No. 119. The specific property that was the subject of this NFA was formerly used as a commercial facility for the reclamation of automotive batteries and for nickel-chrome plating operations, which is described more particularly within the attached documents. The property consists of slightly less than one acre of ground and is located within the corporate boundary of the City of Columbus, at 304 West Mound Street.

The Phase I and Phase II property assessments were conducted to determine the condition of the property with respect to the applicable VAP standards. A complete copy of the NFA letter documentation will be on file with the Ohio EPA, Department of

Emergency and Remedial Response, Voluntary Action Program in accordance with the filing requirements of OAC 3745-300-13(H).

The Handwell Company property is located near the Scioto River adjacent to the Miranova development, and is contained within the Southwest Columbus, Ohio USGS quadrangle, which map is included as Tab 2 in the Phase I Report. The latitude and longitude of the four corners of the property are as follows:

- Northwest corner, 39° 57' 18"N, 83° 0' 28"W
- Northeast corner, 39° 57' 18"N, 83° 0' 26"W
- Southwest corner, 39° 57' 14"N, 83° 0' 27"W
- Southeast corner, 39° 57' 15"N, 83° 0' 24"W

A complete legal description of the property is provided at Tab 1 in the Phase I Property Assessment Report and at Tab A in the Phase II Report.

2.0 SUMMARY OF NO FURTHER ACTION LETTER

It was determined that the Site property meets the applicable standards for the issuance of this NFA without any further assessment, or remedial actions, based on the findings of the assessment work and the remedial program conducted at this property. The intended future land use is commercial. The documents supporting the issuance of this NFA and considered to be an integral part of the NFA documentation include the following:

- The Phase I Property Assessment, which was completed and finalized in December of 2001;
- The Phase II Property Assessment, which was completed and finalized in January of 2002;
- The NFA Letter Form ("the checklist"), which was compiled and finalized in February of 2002; and

- The Remediation Report for the property, which was compiled and completed in January of 2002.

These documents, in conjunction with this Executive Summary, fulfill the VAP requirements for the preparation of NFA documentation in accordance with VAP Rule 13, Content and Scope of No Further Action Letters (OAC 3645-300-13).

2.1 Phase I Property Assessment

The purpose of the Phase I Property Assessment was to determine the eligibility of the property for entry into the VAP, to review the historic and current uses of the property and surrounding properties, to conduct an environmental review including the operational history of the property, to perform a property inspection, and to determine if any portion of the site contains, or potentially contains, chemicals that are in excess of the VAP standards. The initial Phase I property assessment was completed by HzW Environmental Consultants, Inc. in July of 1997. This initial Phase I was revised and updated in February of 2001, and was finalized in December of 2001.

The Phase I property assessment was based upon past environmental investigations that had been conducted at the property, as well as the files of federal, state and local governmental agencies. Historically, this site has been used for the recovery of lead from automotive batteries, and for metal plating operations. The lead recovery operations were conducted from the 1920s until 1961, when the plating operation occupied the facility. Plating operations continued until 1991. After that date, no operations were conducted at the facility, and all buildings were razed in 1997.

The previous site investigations found that nickel, lead and chromium were potentially present in the soil at the site above the VAP standards. These three metals were related to the historical operations at the facility and were identified as the

chemicals of concern. These investigations also identified that the discharge water from the plating operations were routed to two dry wells located in the northwestern portion of the property.

The Phase I report concluded that chemical releases had occurred at the site, and that soil contamination was present throughout most of the property. The entire site, consisting of slightly less than one acre, was designated as the Identified Area. The principal constituents of concern were chromium, nickel and lead. It was recommended that a Phase II investigation be conducted to quantify site conditions and determine if a remedial program was required.

2.2 Phase II Property Assessment

The Phase II property assessment was started in July of 1991 and was completed in December of 2001. The purpose of the Phase II assessment was to quantify environmental conditions on the Handwell property and to determine if a remedial program was required. If remediation was determined to be necessary, it was the purpose of the Phase II assessment to specify the scope of the remedial work.

The Phase II assessment focused on the evaluation of soil and groundwater at the site. These two media were identified in the Phase I report as being potentially impacted by the historical site operations. The soil contained elevated concentrations of lead and nickel, and these soils were identified for remediation. This remedial work has been completed, and all soils exceeding the VAP standards were excavated and removed.

Groundwater samples were collected from seven monitoring wells located throughout the site. The groundwater evaluation showed that nickel was present above the VAP standard in the central portion of the property where the historical plating

operation had been conducted. Groundwater concentrations, however, were below the VAP standard at the point of compliance after the remedial work had been completed.

2.2.1 Soil Investigation and Findings

The previous environmental studies at the facility were used to obtain a general understanding of the distribution of metals in the soil profile. During the course of these previous investigations, 49 soil samples had been collected and chemically analyzed for the metals of concern. An additional twenty soil borings were drilled as part of the Phase II investigation, and 91 soil samples were collected and analyzed for the metals of concern. In addition to these soil borings, soil samples were collected from four of the monitoring well borings. Finally, a backhoe was used to collect a soil sample beneath the location of the basement floor of the old Hardesty Brothers Merchant Mill.

The results of the soil investigation showed that nickel and lead were the only two metals that exceeded the VAP standards. Lead was found to be the most prevalent metal at the site, and its concentrations exceeded the VAP standard throughout virtually the entire property. Nickel was also present in the soil, but its distribution across the site was significantly less than the lead. Overall, the Phase II investigation showed that metals generally did not extend to depths greater than six feet below ground surface, and soil distribution diagrams for both of these metals were prepared to show what portion of the soil profile was impacted. This impacted area was identified for remediation, and all soils exceeding the VAP standards for nickel and lead were excavated and removed from the site.

2.2.2 Groundwater Investigation and Findings

The groundwater investigation was conducted in two phases. The first phase of investigation was conducted prior to remediation of the soil materials in the fall of 1999.

The second phase of investigation was conducted after the remediation of the soil in the summer of 2001.

The initial investigation utilized two of the three existing groundwater monitoring wells at the site, and five additional monitoring wells were installed so that the entire site area could be properly characterized. The chemicals of concern that were evaluated during this groundwater investigation were lead, nickel and chromium, the same metals of concern for the soil.

The groundwater quality data showed that nickel was the only metal that exceeded the unrestricted potable use standard within the site property. The highest concentration of nickel was adjacent to the area where plating operations had been historically conducted. An inspection of this area revealed that there were several underground storage tanks present beneath the floor of the old operating buildings and two of these tanks contained sludges that had high nickel content. These sludges were identified as the source of the nickel in the groundwater, and they were removed from the site and properly disposed.

The second round of groundwater sampling was conducted in the summer of 2001, after the soil remediation program was completed, and after the removal of the identified chemical source. Results of this round of sampling showed that nickel was still present in the groundwater above the VAP standard in the vicinity of the source area, however, the nickel concentration in the groundwater at the point of compliance for the property was below the VAP standard (the unrestricted potable use standard).

Groundwater was pumped from all of the monitoring wells for the purpose of well development, and the flow rate that could be maintained at all wells was greater than 3 gallons per minute. Based on these pumping rates, the groundwater was classified as Class A. The deeper water bearing zone beneath the site area is the dolomitic limestone

bedrock. The potential for migration of chemicals of concern from the site into this bedrock unit was assessed, and it was determined that such downward chemical migration would not occur.

Finally, there is an Urban Settings Designations for this site property and groundwater at the facility cannot be used. Water for this property will be supplied by the City of Columbus.

2.2.3 Surface Water and Sediments Investigation and Findings

There were no surface water or sediments on the site property.

2.2.4 Exposure Pathway Assessment

An exposure pathway assessment was prepared to evaluate potential exposure to human and ecological receptors, current and future, and identify potential exposure pathways associated with the property in accordance with OAC 3745-300-09. Potentially complete exposure pathways were identified for the site before the remedial work was conducted. Since the site is not developed, the only potentially impacted people would have been individuals trespassing on the property. These individuals could have been exposed to the soils at the surface of the property that exceeded the generic direct-contact soil standards for commercial land use. In addition, any animals crossing the property could have been exposed to these same soil materials.

The off-site groundwater exposure pathway to human receptors was not complete because the groundwater emanating from the property met the unrestricted potable use standard. In addition, since the source area of the groundwater contamination was removed, and in fact all soil materials exceeding the VAP standard were excavated from the site, there is no potential for continuing groundwater impact. Nickel concentrations in the groundwater will continue to decrease over time.

Groundwater beneath the site will not be used for any purposes after the site is developed, because all water is supplied by the City of Columbus. The site is under an Urban Settings Designation, which prohibits the use of groundwater. Therefore, the exposure pathway for groundwater on the site property was not complete.

When the soil remediation program was completed, all soil materials that exceeded the generic direct-contact standard for lead and nickel (commercial land use) were removed from the property. Therefore, at the present time, there is no complete exposure pathway for the soil materials at the site.

2.3 Determination of Applicable Standards

The impacted media at the property were the soil and groundwater. The applicable standards for the soil were the generic direct-contact standards for commercial land use. This standard was applied to the soils throughout the property and at all depths. The applicable groundwater standard was the unrestricted potable use standard, which was applied to the groundwater both on-site and off-site. Sediments and surface water were not present on the site property.

2.4 Determination of Compliance with Applicable Standards

Remedial activities were employed in order to meet the applicable standards for soil on the site property. The remedial actions are described in Section 2.5 of this Executive Summary, and they consisted of removing all soil material from the site that was in excess of the VAP standards. The metals concentrations in the soil were measured to verify that the remediation was complete and all soils were found to meet the applicable VAP standards.

The unrestricted potable use standard was used to evaluate groundwater quality. Metals concentrations do not migrate beyond the property boundary above the unrestricted potable use standards, and therefore, there can not be exposures beyond the property boundary. Within the property metals concentrations in groundwater do exceed the unrestricted potable use standard and a deed restriction prohibiting groundwater usage has been filed. Therefore, exposures within the property boundaries are protected. In addition, the depth to groundwater (approximately 20 feet) is below typical construction depths, and therefore, workers will not be exposed. Finally, the Scioto River is not a complete pathway since water quality standards are met at the property boundary.

2.4.1. Methods for Demonstrating Compliance

The maximum concentrations of the metals in the soil throughout the site area were compared to their respective generic direct-contact soil standards. After remediation, it was found that all soil materials at the site were below these standards. The concentration of the chemicals of concern in the groundwater (nickel) was determined to be below the unrestricted potable used standard at the point of compliance, which is the property boundary.

2.4.2. Compliance with Generic Numerical Standards

The chemicals of concern at this site were lead, nickel and chromium. It was found that lead and nickel exceeded the VAP standards in the soil, and nickel was the only metal that exceeded the VAP standard in the groundwater within the site property.

A comparison of the generic direct-contact soil standard to the maximum concentration of each chemical of concern at the site was used to demonstrate compliance. All soil materials exceeding the VAP standards for lead and nickel were

removed from the site, and the remaining soil materials do not exceed the VAP standards.

Groundwater is not used at the site because it is under an Urban Settings Designation, and water is provided by the City of Columbus. In addition, the concentration of nickel in the groundwater at the property boundary (the point of compliance) is below the unrestricted potable use standard specified in the VAP.

2.4.3 Risk Assessment Findings

There was no risk assessment conducted for this site.

2.4.4 Determination of Whether Remedial Activities Are Required

Remedial activities were required to achieve compliance with the generic direct-contact soil standards for commercial land use. The remedial actions consisted of excavation and removal of all soil material that exceeded the VAP standards.

2.5 Remedial Activities

The remedial program for the site consisted of soil excavation, and removal of the underground storage tanks which were located beneath the floor of the old site buildings.

The Phase II soil investigation found that lead and nickel were the only two metals in exceedence of the VAP standard. The total quantity of soil material containing these elevated metals concentrations was approximately 10,000 tons, and these soils were removed from the site.

The underground storage tanks associated with the historical plating operation were removed from the site and properly disposed. The sludge materials in these containers had been identified as the source of the groundwater contamination. Thus, the

remedial program removed all soil and waste material that exceeded the VAP standards for commercial land use.

2.6 **Planned Operation and Maintenance Remedies**

There are no operation and maintenance remedies required at this site.

3.0 **CONCLUSIONS**

Based on the Phase I and Phase II property assessment work, as well as the remedial activities that have been performed at this site, the Certified Professional has concluded that the property is eligible for participation in the VAP. The property was impacted by metals during its historical use for commercial purposes, and the property has been thoroughly and appropriately assessed and remediated, in accordance with the VAP rules. The property meets the applicable VAP standards and will continue to meet the VAP standards in the future. Therefore, it is the opinion of the Certified Professional that the property has met all appropriate standards to achieve NFA status under the VAP and receive a Covenant Not to Sue.

Exhibit 4
Declaration of Institutional Controls



Instr: 200207030164645 07/03/2002
 Pages: 22 F: \$94.00 2:07PM
 Robert G. Montgomery T2002076533
 Franklin County Recorder BXM R L BO

POOR ORIGINAL

**DECLARATION OF INSTITUTIONAL CONTROLS
 BY THE HANDWELL COMPANY
 COLUMBUS, OHIO**

POOR ORIGINAL

This Declaration of Institutional Controls is made by The Handwell Company, an Ohio corporation, whose tax mailing address is P.O. 21352, Columbus, Ohio, 43221.

Whereas, The Handwell Company is the owner of real property located at 304 West Mound Street, Columbus, Franklin County, Ohio, being more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Property").

Whereas, The Handwell Company has undertaken a voluntary action with respect to the Property pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") chapter 3745-300.

Whereas, in connection with the remedy for the Property, The Handwell Company intends to restrict future use of the Property by making and recording this Declaration of Institutional Controls for the Property.

Now therefore, in consideration of the foregoing statements, The Handwell Company, for itself and its successors and assigns in ownership of the Property, hereby declares that the Property is and shall hereafter by owned, used, held, transferred, sold, conveyed, encumbered, leased, improved and occupied subject to the restrictions hereinafter set forth in this Declaration of Institutional Controls.

1. **Institutional Controls.** As a portion of the remedy under the Ohio Environmental Protection Agency ("Ohio EPA") Voluntary Action Program ("VAP") to protect against exposure to hazardous substances in impacted soil at the Property, and in ground water located at or underlying the Property, the following restrictions shall be in place for the Property:
 - a. **Prohibition Against Extraction of Ground Water.** No person shall extract the ground water located at or underlying the Property for any purpose, potable or otherwise, except for investigation or remediation of the ground water.
 - b. **Restriction to Commercial or Industrial Land Uses.** The Property is hereby restricted to commercial or industrial uses, as defined in OAC 3745-300-08(B)(2)(c)(ii) and (B)(2)(c)(iii) (effective December 16, 1996).
 - c. **Restriction Against Basements.** No basement or other permanent subsurface structure designed for routine human occupancy shall be constructed at the Property without the prior written approval of the Ohio EPA.

2. **Declaration of Institutional Controls to be Binding and Run with the Land.** This Declaration of Institutional Controls ("Declaration") shall run with the land and shall be

binding upon all current owners of the Property, and all successors and assigns of the Property, or any portion of the Property, including any leasehold interests on the Property or any portion of the Property.

3. **Enforcement.** Compliance with this Declaration may be enforced by a legal or equitable action brought in a court of competent jurisdiction by one or more of the following parties: (1) any party referenced in Paragraph Two of this Declaration; (b) Ohio EPA or its representative; or (c) any party with legal standing under applicable law. Any delay or failure on the part of any party to take action to enforce compliance with this Declaration shall not bar any subsequent enforcement with respect to the noncompliance in question and shall not be deemed a waiver of the right of any party to take action to enforce any noncompliance.
4. **Noncomplying Use.** Pursuant to ORC 3746.05, if the Property of any portion of the Property is put to a use that does not comply with this Declaration, the Covenant Not to Sue ("CNS") issued for the Property by Ohio EPA under ORC 3746.12 is void on and after the date of the commencement of the noncomplying use.
5. **Record in Deed Records.** This Declaration shall be recorded in the same manner as a deed in the Office of the Recorder of Franklin County, pursuant to ORC 3746.10(C) and 317.08(A), and shall be deemed incorporated by reference in any instrument hereafter conveying any interest in the Property or any portion of the Property.
6. **Severability.** If any one or more provisions of this Declaration is found unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
7. **Governing Law.** This Declaration shall be governed by and interpreted in accordance with the laws of the State of Ohio, including ORC Chapter 3746 and OAC Chapter 3745-300.
8. **Headings.** All headings used herein are for convenience and shall not be used to interpret or qualify the terms of this Declaration.
9. **Notice of Declaration upon Conveyance.** Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a recital acknowledging this Declaration and providing the recording location of this Declaration upon such conveyance substantially in the following form: "The real property described herein is subject to the 'Declaration of Institutional Controls' made by The Handwell Company, and recorded with the Office of the Recorder of Franklin County on the 3 day of July, 2002 in Franklin County Deed Records, Volume *, Page _____, as if the same were fully set forth herein."

* = 2002 07 03 016 4645

The foregoing notwithstanding, The Handwell Company and its successors and assigns reserve the sole and unlimited right to revoke any or all of the Declarations, or any of their provisions, if with respect to the Property, (a) the State of Ohio denies a request for a CNS pursuant to ORC 3746.12, (b) the State of Ohio fails to issue a CNS pursuant to ORC 3746.12, or (c) the State of Ohio revokes the CNS, or any provision therein, pursuant to ORC 3746.12.

The Handwell Company has executed this Declaration of Institutional Controls, by its duly authorized representative, Robert J. Atwell, President, on June ____, 2002.

Signed and acknowledged
In the presence of:

THE HANDWELL COMPANY

Signature Terry R. Madden

By: [Signature]

Print Name TERRY R. MADDEN

Signature Mary L. Shvener

Print Name MARY L. SHVENER

STATE OF OHIO)
)SS:
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this 21 day of June, 2002, by Robert J. Atwell, President of The Handwell Company, for and on behalf of said corporation.



TERRY R. MADDEN
Notary Public, State of Ohio
My Commission Expires 7-8-2006

[Signature]
Notary Public

This document was prepared by Stephen P. Samuels, Attorney at Law, Schottenstein, Zox and Dunn, L.P.A., in concert with Ohio EPA Legal in furtherance of a No Further Action letter under Ohio EPA's Voluntary Action Program.