

R.D. Strayton



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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Columbus, Ohio 43215

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

JUN 26 2000

OHIO EPA/CDDO
JUN 27 2000
RECEIVED
CERTIFIED MAIL

Roland Harrison, President
COMACO, Inc.
413-15 South Main Street
Pittsburgh, PA 15215

RE: Issuance of Covenant Not To Sue for Kingsford Ornamental Building Products 99NFA072

Dear Mr. Harrison:

I am happy to inform you that the Director of the Ohio Environmental Protection Agency ("Director") issued a Covenant Not To Sue ("Covenant") to COMACO, Inc., for the Kingsford Ornamental Building Products property, 310 Baltimore-Somerset Road, Baltimore, Ohio on JUN 26 2000. The Covenant was issued as Final Findings and Orders pursuant to Ohio Revised Code ("ORC") Chapter 3746 and the Ohio Administrative Code ("OAC") Chapter 3745-300. You will find the certified copy of the Covenant Not To Sue/Final Findings and Orders enclosed.

Please be aware that the Covenant will not become effective until the Amended and Restated Declaration of Restrictions ("Amended Declaration"), identical to that attached in Exhibit 4 of the Covenant, has been filed and recorded in the deed records of the Fairfield County Recorder's Office. You will need to record this Amended Declaration, together with the Covenant and Exhibits 1, 2 and 3 of the Covenant, within sixty (60) days after the issuance date of the Covenant. If the Amended Declaration is not recorded within sixty (60) days after the issuance date of the Covenant, the Covenant will be void. You are required to send a copy of the recorded Amended Declaration to the Director within fourteen (14) days after you record the Amended Declaration.

Upon the effective date of these Orders, and subject to the conditions outlined in the Covenant, the Ohio EPA will covenant not to sue and release COMACO, Inc., and its agents, employees, shareholders, officers, directors and successors or assigns, 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 Phase I and Phase II Property Assessments, completed in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

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

Issuance Date: JUN 26 2000
Effective Date: JUN 26 2000

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

COMACO, Inc.
413-15 South Main Street
Pittsburgh, PA 15215

Regarding property known as:

Kingsford Ornamental Building Products
310 Baltimore-Somerset Road
Baltimore, Ohio 43105

Covenant Not to Sue
Director's Final Findings
and Orders

OHIO E.P.A.
JUN 26 2000
ENTERED DIRECTOR'S JOURNAL

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

FINDINGS

1. An original No Further Action Letter, No. 99NFA072 (the "NFA Letter"), was submitted on September 14, 1999 to Ohio EPA's Division of Emergency and Remedial Response, Voluntary Action Program ("VAP") on behalf of COMACO, Inc. (the "Volunteer" or "Current Owner"), by Atul Pandey, a certified professional, No. CP224, 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 8.58 acre property currently known as Kingsford Ornamental Building Products, located at 310 Baltimore-Somerset Road, Baltimore, Fairfield County, Ohio, 43105 (the "Property"). An exact legal description of the Property is attached hereto as Exhibit 1 and is contained in the deed recorded in Volume 538, Page 337, located in the Fairfield County Recorder's Office. A site location map is attached hereto as Exhibit 2. The NFA Letter includes an Executive Summary and is attached hereto as Exhibit 3.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.
By: Zonia K. Clements Date: 6-26-00

3. Based upon the information contained in the NFA Letter, the following investigational and remedial activities were undertaken on behalf of the Volunteer and completed regarding the Property:
 - a. a Phase I Property Assessment, in accordance with OAC 3745-300-06, to determine whether there is any reason to believe that any release of hazardous substances or petroleum has or may have occurred at or emanated 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. an institutional control contained in a Declaration of Restriction on the Property was recorded on September 1, 1999, in the Fairfield County Recorder's Office, Deed Volume 690, Page 267, Instrument No. 19990025174 (the "Declaration"), which restricts the Property to commercial and industrial uses only.
4. 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 VAP, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws and regulations.
5. At the time that analyses were performed, EA Group was a certified laboratory, No. CL0015, as defined in ORC 3746.01(D) and OAC 3745-300-01(A)(7), whose services were used in support of the NFA for the Property (the "Certified Laboratory").
6. According to information provided by the Certified Laboratory in an affidavit contained in the NFA Letter, the Certified Laboratory performed analyses for which it was certified and qualified, 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.
7. The Declaration was recorded on September 1, 1999, in the Fairfield County Recorder's Office, in accordance with ORC 3746.14 and OAC 3745-300-13(E)(13).

The Declaration limits the use of the Property to commercial and industrial land uses only.

8. The Volunteer will record in the deed records of the Fairfield County Recorder's Office an Amended and Restated Declaration of Restrictions ("Amended Declaration") identical to that attached hereto as Exhibit 4, within sixty (60) days after the issuance date of these Orders. Once the Amended Declaration is properly recorded, the Amended Declaration will supercede and revoke the Declaration filed on September 1, 1999. The Amended Declaration requires the Volunteer to acknowledge the Amended Declaration and provide the recording location of the Amended Declaration upon conveyance in any instrument conveying any interest in the Property or any portion of the Property.
9. Based on the information contained in the NFA Letter, and upon the recording of the Amended Declaration and all other conditions set forth herein, the Property meets the applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for commercial and industrial land use and for unrestricted potable ground water use, including but not limited to:
 - a. Commercial/Industrial land use category direct contact soil standards for hazardous substances in accordance with Tables III, IV, V and VI of OAC 3745-300-08 for generic numerical standards at a point of compliance from the surface to a depth of 2 feet.
 - b. Unrestricted potable ground water use standards in accordance with Table VII of OAC 3745-300-08 in the shallow zone of saturation and the regional aquifer at all points underlying the Property.
10. Based on the information contained in the NFA Letter, the Property is eligible to receive a covenant not to sue in accordance with ORC 3746.12(A), and, subject to all conditions set forth herein, including the placement of the Amended Declaration on the Property as set forth herein, the voluntary action for the Property is protective of public health and safety and the environment.

ORDERS

Covenant

1. Upon the completion of the requirements contained in Order No. 2, and subject to the conditions set forth herein, Ohio EPA hereby covenants not to sue and releases COMACO, Inc. and its agents, employees, shareholders, officers, directors and successors or 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 and Phase II Property Assessments completed in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

Effectiveness of the Covenant

2. The Covenant Not to Sue provided in Order No. 1 shall not become effective, and the Orders set forth below shall not be applicable, until the Amended Declaration, identical to that attached hereto as Exhibit 4, has been recorded in the deed records of the Fairfield County Recorder's Office. If the Amended Declaration is not filed in accordance with this paragraph within sixty (60) days after the issuance date of these Findings and Orders, or within such other time frame as approved in writing by the Director, these Findings and Orders shall be void.

Conditions and Limitations

3. The Covenant provided in Order No. 1 shall only apply to the approximately 8.58 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.
4. 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.
5. 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 Amended Declaration), voids the Covenant on and after the commencement of the noncomplying use.
6. Pursuant to ORC 3746.21 and 3746.171, authorized representatives of the Director shall be granted access to the Property for inspection or investigational purposes.

7. The Covenant shall not apply to releases of hazardous substances or petroleum:
 - a. that occur after the submittal of the NFA Letter to Ohio EPA; or
 - b. on or emanating from the Property, that are not described in 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.

8. 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; or
 - 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.

9. 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.

10. 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

11. A copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Site Map), 3 (Executive Summary) and 4 (Amended Declaration), shall be recorded in the Fairfield County Recorder's Office, in the same manner as a deed to the

Property, within sixty (60) days after the issuance date of these Findings and Orders.

Transfer

12. Pursuant to ORC 3746.14 and OAC 3745-300-13(K), the NFA Letter and the Covenant may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.
13. In any instrument the Volunteer uses to convey any interest in the Property or any portion of the Property, the Volunteer shall include a notice of the Amended Declaration in accordance with paragraph 5 of the Amended Declaration attached hereto as Exhibit 4.

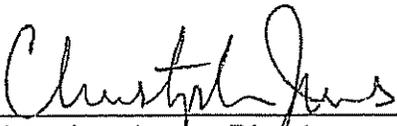
Notice of Transfer or Assignment of Covenant or Property

14. Pursuant to ORC 3746.12(A)(2)(b), the transferor of the Covenant or the Property shall give written notice to the Director of any transfer or assignment of the Covenant or Property whenever such transfer or assignment occurs.

Notice of Recordation of Amended Declaration

15. Within fourteen (14) days after the Volunteer records the Amended Declaration in the deed records of the Fairfield County Recorder's Office, the Volunteer shall submit a written copy of the recorded Amended Declaration to the Director.

IT IS SO ORDERED:



Christopher Jones, Director
Ohio Environmental Protection Agency

JUN 26 2000
Date

WARRANTY DEED

National Graphics Corp., Colo., D.
Form No. 1-12-4

Know all Men by these Presents

That Gladys J. Tinker, unmarried, and John M. Bowsher, married, whose wife, Eleanor L. Bowsher joins in the execution of this deed for the purpose of releasing her contingent right of dower and for no other purpose

of the _____ of _____, County of _____ and State of Ohio, Grantor^s, in consideration of the sum of One Dollar and other valuable consideration to them paid by COMACO, INC., a Pennsylvania corporation

of the _____ of _____, County of _____ and State of _____, Grantee, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said Grantee, COMACO, INC.

its successors and assigns forever, the following Real Estate situated in the County of Fairfield in the State of Ohio, and in the Township of Walnut and bounded and described as follows:

Being a part of Section No. 19, T 16, R 18, Fairfield County, Ohio and bound as follows: beginning at an iron pin located 4062.4 ft. West and thence North 0° 20' East, 536.11 ft. distant from the Southeast corner of Section 19; thence North 0° 20' East 394.0 ft. to an iron pin; thence East 948.80 ft. to an iron pin; thence South 0° 27' West 394.0 ft. to an iron pin; thence West 947.96 ft. to the place of beginning, containing 8.58 acres, more or less.

Subject to all easements, conditions, restrictions and covenants of record and legal highways and taxes and assessments not yet due and payable.

Said premises also being described by new survey recorded in Survey Record 34-10883 of the Office of the Fairfield County Engineer as follows:

(See attached Exhibit "A")

TRANSFERRED

DEC 12 1985

James P. Reid
County Auditor, Fairfield County, Ohio

REAL ESTATE CONVEYANCE
Fee \$ 175.00
Exempt # _____

James P. Reid
Auditor, Fairfield County Ohio

RECORDED
INDEXED
BY H-7/12/85 DATE 12/11/85
31/16005

Description of 8.58 Acres

Situated in the State of Ohio, Fairfield County, Walnut Township, Township 16, Range 18, Section 19.

Being all of the 8.58 acre tract described in a deed to Gladys J. Tinker and John M. Bowsher and recorded in volume 416, page 519 of the deed records in the Office of the Recorder of Fairfield County, Ohio and being more fully described as follows:

Beginning at a one inch iron pipe (found) which is marking the south-west corner of the aforementioned 8.58 acre tract, said point is located by previous description as West a distance of 4062.4 feet and North 00° 20' 00" East a distance of 536.13 feet from the southeast corner of Section 19;

thence North 00° 20' 00" East a distance of 393.81 feet to a 3/4 inch iron pipe found;

thence North 89° 58' 39" East a distance of 949.16 feet to a 3/4 inch iron pipe found;

thence South 00° 29' 25" West a distance of 394.19 feet to a 3/4 inch iron pipe found;

thence North 90° 00' 00" West a distance of 948.07 feet to the point of beginning, containing 8.580 acres.

Together with an easement for ingress and egress which is of record in volume 336, page 370.

The above described tract subject to all legal easements and rights-of-way of previous record.

Bearings are based on the south line of the 8.580 acre tract being North 90° 00' 00" West by previous description. For further information see plat of survey which was made in conjunction with and considered an integral part of this description. This description is based on a survey made in November 1985 by Tobin-McFarland and Associates and was prepared by Thomas E. Tobin, Registered Professional Surveyor No. 6363.

Thomas E. Tobin
Thomas E. Tobin, P.S.
November 21, 1985

LAST TRANSFER: Deed Record Volume, *416*

, Page *519*

To have and to hold *said premises with all the privileges and appurtenances thereunto belonging, to the said Grantee, COMACO, INC.*

its successors and assigns forever.

And the said Grantors, Gladys J. Tinker and John M. Bowsher

for themselves and their heirs, do hereby covenant with the said Grantee, COMACO, INC.

its successors and assigns, that they are lawfully seized of the premises aforesaid, that the said premises are Free and Clear from all Incumbrances whatsoever except:

Reservations and restrictions contained in Deed Book 336, Page 367 and Easement contained in Deed Book 336, Page 370, Recorder's Office, Fairfield County, Ohio.

and that they will forever Warrant and Defend the same with the appurtenances unto the said Grantee, COMACO, INC.

its successors and assigns against the lawful claims of all persons whomsoever except as noted herein.

In Witness Whereof the said Grantors, Gladys J. Tinker and John M. Bowsher together with Eleanor L. Bowsher, wife of John L. Bowsher

who hereby release her right of dower in the premises, have herunto set their hands this 8th day of November (Gladys J. Tinker signed December 11th,) in the year of our Lord one thousand nine hundred and eighty-five (19 85)

Signed and acknowledged in presence of

Norman T. Smith (Notary Public)
Charles E. Reed (witness)
Norman T. Smith as (witness)
Alfred H. Reed (witness)

Gladys J. Tinker
John M. Bowsher
Eleanor L. Bowsher

The State of OHIO
FRANKLIN County } ss

Be it Remembered That on this 8th day of November A. D. 19 85 before me the subscriber, a notary public in and for said county, personally came the above named John M. Bowsher and Eleanor L. Bowsher

the Grantors in the foregoing Deed, and acknowledged the signing of the same to be their voluntary act and deed, for the uses and purposes therein mentioned

In Testimony Whereof, I have herunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Norman T. Smith
Notary Public
Norman T. Smith, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO
My commission expires on 01/01/86
Section 10723 B.C.

This instrument was prepared by Norman T. Smith

75477
Notary Public

Gladys J. Tinker
Sally G. Tinker
Eleanor Tinker
TO

Conveyance

Transferred _____ 19__

COUNTY AUDITOR
STATE OF OHIO

COUNTY RECORDER
COUNTY RECORDER
RECEIVED
RECORDED
INDEXED
at _____ DECEMBER 12 1985

and RECORDED
Deed Book _____

Recorded in Fairfield County, Ohio
COUNTY RECORDER
RECORDERS FEE \$ _____

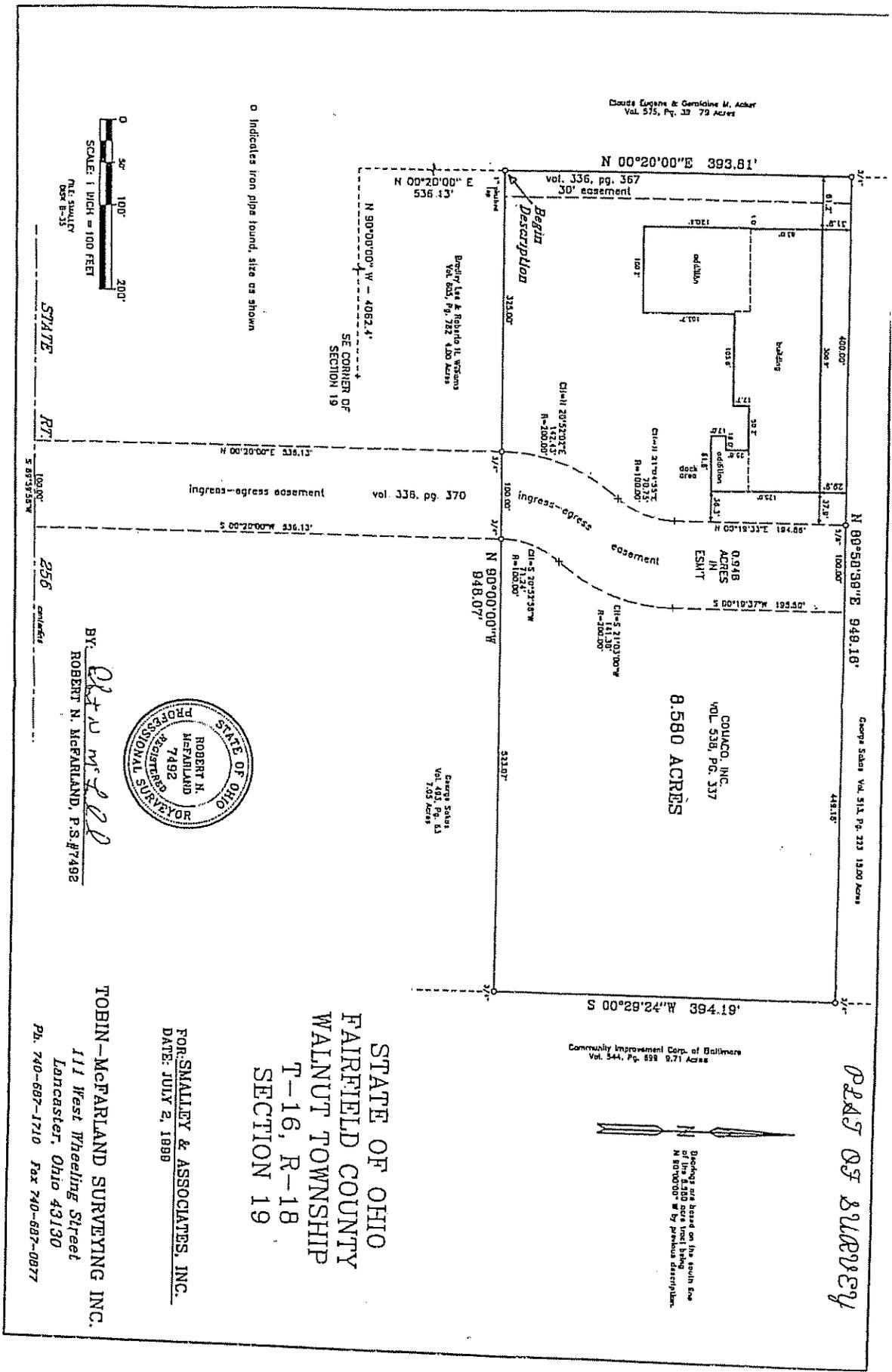
18-1c-19

STATE OF OHIO
~~XXXXXXXXXX~~ COUNTY: 55.
FAIRFIELD

DE IT REMEMBERED that on this 11th day of November A.D., 1985, before me, the subscriber, a notary public in and for said county, personally came the above named Gladys J. Tinker, the Grantor in the foregoing Deed, and acknowledged the signing of the same to be her voluntary act and deed, for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Charles E. [Signature]
Notary Public

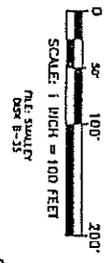


Clouds Eugene & Geraldine M. Acker
Vol. 575, Pg. 37 79 Acres

Dorely Lee & Roberto H. Wilson
Vol. 605, Pg. 782 400 Acres

SE CORNER OF
SECTION 19

o Indicates iron pipe found, site as shown



Beating was based on the south line
N 80°58'39\"/>

Community Improvement Corp. of Baltimore
Vol. 544, Pg. 898 9.71 Acres

COUGO, INC.
VOL. 538, PG. 317
8.580 ACRES

George Solus
Vol. 401, Pg. 43
705 Acres



BY: *[Signature]*
ROBERT N. MCFARLAND, P.S.#7492

STATE OF OHIO
FAIRFIELD COUNTY
WALNUT TOWNSHIP
T-16, R-18
SECTION 19

FOR: SMALLEY & ASSOCIATES, INC.
DATE: JULY 2, 1999

TOBIN-MCFARLAND SURVEYING INC.
111 West Wheeling Street
Lancaster, Ohio 43130
Ph. 740-687-1710 Fax 740-687-0877

PLAT OF SURVEY

**OHIO ENVIRONMENTAL PROTECTION AGENCY
VOLUNTARY ACTION PROGRAM**

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

for

*The Kingsford Products Property
310 Baltimore - Somerset Road
Baltimore, Ohio 43105*

VOLUNTEER:

*COMACO, INC.
413-15, South Main Street
Pittsburgh, Pennsylvania 15215*

CERTIFIED PROFESSIONAL ISSUING THE NFA:

*Atul Pandey, P.E.
CP #224
Smalley & Associates, Inc.
2670 North Columbus Road
Lancaster, Ohio 43130*

1.0 INTRODUCTION

A No Further Action Letter was submitted to the Ohio Environmental Protection Agency (Ohio EPA), Division of Emergency and Remedial Response (DERR) Voluntary Action Program (VAP) on behalf of *Comaco, Inc.*, by *Atul Pandey, P.E., Smalley & Associates, Inc., CP#224.*

The NFA describe the Phase I and Phase II Property Assessments for the *8.58 acres of* property known as the *The Kingsford Products property*, located at *310 Baltimore-Somerset Road, Baltimore, Ohio 43105.*

A complete copy of the NFA letter is on file and will be available by the Ohio EPA, Department of Emergency and Remedial Response, Voluntary Action Program in accordance with the filing requirements of OAC 3745-300-13(J).

2.0 SUMMARY OF NO FURTHER ACTION LETTER

The Certified Professional, Atul Pandey, issued an NFA Letter based upon Phase I and Phase II Property Assessments for the subject property. A deed restriction on the property restricting the property use to commercial and/or industrial use only was filed with the Fairfield County Recorder.

A summary of the Phase I and Phase II Property Assessments is provided below. Complete copies of the Phase I and Phase II Property Assessments are contained in the NFA Letter.

2.1 Phase I Property Assessment

A Phase I Property Assessment was conducted over the period of May and June, 1999. A Final Phase I Assessment Report was completed in June, 1999.

The Phase I assessment included a determination of eligibility for entry into the Ohio VAP, a review

of historic and current uses of the property and surroundings properties, an environmental history review, a review of the history of hazardous substance or petroleum releases, a property inspection and identification of "identified areas" as defined in OAC 3745-300-06(F). A summary of the Phase I Property Assessment is as follows.

The property consists of 8.58 acres in Baltimore, Ohio. The site location is shown in the attached Figure from the NFA. The property is currently used to manufacture exterior home improvement products such as wrought iron fencing and aluminum railings. The subject property is situated in a small industrial park and has two buildings located on it. Prior to its development as an industrial site, the property was used for farming. The site is bordered on the east, west, and north by farms and undeveloped land. A bowling alley (i.e., Starlite Lanes, Inc.) borders the site on the south while Sakas Inc., a commercial establishment borders the site to the southeast. State Route 256 lies further south of the subject property. Approximately, half of the subject property (east of the main building) is wooded and undeveloped land. A complete legal description of the property is also attached hereto.

A review of historic and current uses of the property and surroundings properties included a detailed examination of Sanborn Insurance Maps, city directories, historical topographical maps, and a chain-of-title search back to the first commercial and retail operations located in the the building on the subject property. A review of the environmental history of the site did indicate that the site has had environmental impacts from known or suspected releases of hazardous substances or petroleum. The site is also found on Ohio EPA's Master Sites List (MSL) as a result of a preliminary assessment (PA) performed by the Ohio EPA in 1990. The site then received a "low priority" based on the results of the PA. The site also had a RCRA status of a Large Quantity Generator (LQG). Due to process changes, the site currently does not generate any hazardous waste.

On the basis of the Phase I Property Assessment, seven areas were identified as requiring further investigation.

1. **Paint Line Wash Area**

This area is located west of the northwest corner of the building. Two empty 55-gallon drums are buried here. They were part of a french drain into which cleaning fluids from the paint line inside were discharged. This is the area that Ohio EPA recommended to sample in their PA.

2. **Compressor Blow-Off Area**

Air compressor blow off hoses were previously located north of the northwest corner of the building. Compressor oil staining can still be seen on the side of the building. Soil beneath the hoses has been removed and replaced, although the extent to which they have been removed was unknown.

3. **Paint Overflow Pipes Area**

Two pipes used to drain overflow from paint dip tanks are located on the north side of the building, near its center. This is also the area that Ohio EPA recommended to sample in their PA.

4. **Metal Rinse Tank Discharge Area**

Three tanks are located inside the building that are used to clean and prepare metal parts for dipping in paint. These tanks have been drained in the past onto the ground north of the building. Patches in the outside metal walls can be seen where they used to discharge, east of the paint overflow pipe area.

5. **Paint Drum Storage Area**

Off of the northeast corner of the building is a concrete pad used to store mostly empty 55-gallon drums of paint. Drums are placed on the pad or grass around it.

6. Incinerator Area (Trash Burning Area)

East of the loading docks is a metal container used to incinerate cardboard and some other trash. The cardboard is often covered with paint.

7. Ash Disposal Area

Ash from the incinerator (trash burning) operations had been dumped in the past in piles on the eastern part of the property. This area extends to approximately 100 feet in the wooded lot. Beyond approximately 100 feet, no evidence of ash disposal was found.

The potential chemicals of concern generically at the property were expected to be chemicals related to plant operations, i.e., Volatile Organic Compounds (xylene, in particular), Semi Volatile Organic Compounds, Metals (chromium, in particular) and related degradation products.

The Certified Professional determined that the property was eligible for entry into the Ohio VAP. The subject property or any portion thereof is not described by Paragraphs (C)(1) through (C)(10) of OAC 3745-300-02. The Certified Professional inspected the site on May 14, 1999, to verify the Phase I findings.

2.2 Phase II Property Assessment

A Phase II Property Assessment was conducted over the period of May and June, 1999. The purpose of the Phase II Assessment was to determine if chemicals at concentrations of concern exist in the "identified area" in the Phase I Assessment for the subject property.

The Phase II Assessment included field investigations, a pathway completeness determination, determination of applicable standards, a determination of groundwater yield, and a determination of impact to shallow ground water. The complete Phase II Assessment Report is contained in the NFA

on file with the Ohio EPA. A summary of Phase II findings is provided below.

2.2.1 Soil Investigation and Findings

The information contained in the Phase I Assessment was used to guide the Phase II Assessment.

19 soil borings were advanced to a maximum depth of 10 feet to assess the seven identified areas. The chemicals of concern that were identified in the sample analysis results consisted of chemicals typical of plant processes, i.e., Volatile Organic Compounds and metals. The actual concentrations of chemicals detected in the soils are reported in the Phase II Property Assessment report of the NFA on file with the Ohio EPA.

Soil sample results were compared to commercial and/or industrial land use standards. The concentrations reported for the chemicals of concern met the applicable commercial and/or industrial land use standards.

2.2.2 Groundwater Investigation and Findings

Based on historical yields reported on ODNR well logs and the Groundwater Resources Map of Fairfield County, the regional groundwater in the vicinity of the subject property would be considered a Critical Resource under OAC 3745-300-10(C). This regional ground water was sampled through a deep process water well at the site and was found to be not impacted by the releases of hazardous substances or petroleum on the property.

In addition, a shallow zone of saturation was tested on the subject property by the installation of three shallow ground water monitoring wells. The results of the yield testing indicate that this shallow saturated zone would qualify as VAP Class B ground water. This shallow zone was also found to be unimpacted by the releases of hazardous substances and/or petroleum at the site.

There are known users of groundwater within one-half mile of the subject property. These potable wells are screened in the lower regional aquifer.

2.2.3 Exposure Pathway Assessment

An Exposure Pathway Assessment was prepared to evaluate potentially exposed human receptors, current and future, and identify potential exposure pathways associated with the property. The Exposure Pathway Assessment is found in the Phase II Report. The preferred land use designation for the property is commercial and/or industrial, as defined by OAC 3745-300-08(2)(c)(ii) and (c)(iii). The Exposure Pathway Assessment demonstrated that there are three complete pathways of exposure under present or future land use scenarios. These pathways are: direct contact of soils, construction worker exposure, and leaching of chemicals to ground water.

2.2.4 Determination of All Applicable Standards

The direct contact for soils pathway was analyzed by comparing highest on-site concentrations in the 0 to 2 ft below ground surface (bgs) horizon with cumulatively adjusted VAP commercial and/or industrial land use direct contact standards. On-site concentrations did not exceed the VAP standards, hence, this pathway was not found to cause an unacceptable risk.

The construction worker exposure scenario was analyzed. The concentration of chemicals of concern in subsurface soils were not found to cause an unacceptable risk to the construction worker. In addition, leaching of chemicals of concern to shallow ground water was assessed using the generic leaching values and the SESOIL model. The results of this assessment indicate that chemicals of concern will not leach to the regional ground water in excess of VAP unrestricted potable use standards. Therefore, no remedial activities or engineering controls are required at the subject property.

2.3 Deed Restriction

A deed restriction restricting the property to commercial and/or industrial land use only, as that term is defined in OAC 3745-300-08(B)(2)(c)(ii) and (c)(iii), respectively was placed on the property.

3.0 CONCLUSION

The foregoing is a summary of the NFA Letter submitted for Comaco, Inc. by Atul Pandey of Smalley & Associates, Inc., as Certified Professional (CP224), pursuant to OAC Rule 3745-300-05.

Mr. Pandey is the contact at Smalley & Associates, Inc. regarding questions of the NFA Letter. Mr. Pandey can be contacted at (614) 834-8777.

A complete copy of the NFA Letter is on file with the Ohio EPA, Department of Emergency and Remedial Response, Voluntary Action Program. The NFA Letter will be made available by the Agency upon request. The number for the Ohio EPA/DERR/VAP is (614) 644-2924.

**AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS**

This Amended and Restated Declaration of Restrictions ("Amended Declaration") is made this _____ day of _____, 2000 by **COMACO, Inc.**, for the property located at 301 Baltimore-Somerset Road, Baltimore, Fairfield County, Ohio 43105 ("the Property"). A legal description of the Property is attached as Appendix A.

This Amended Declaration supercedes and revokes in its entirety the Land Use Restriction recorded in the Fairfield County Recorder's Office on September 1, 1999, which is located in Deed Volume 690, Page 266 and known as Instrument Number 199900025174.

1. **Use Restriction.** 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 and/or petroleum on the Property described herein, this Property shall be restricted to commercial and/or industrial use only, as set forth in Ohio Administrative Code ("OAC") rule 3745-300-08(B)(2)(c)(ii) and 3745-300-08(B)(2)(c)(iii), as effective on December 16, 1996. The commercial and industrial land uses are defined in this rule as follows:

- (i) Commercial land use category

Commercial land use is land use with potential exposure of adult workers during a business day and potential exposures of adults and children who are customers, patrons, or visitors to such facilities. Commercial land use includes potential exposures of adults to dermal contact with soil, inhalation of vapors and particles from soil, and ingestion of soil. Exposures to soil on the property must be short and infrequent. The current or intended use of the property includes, but is not limited to, facilities which supply goods or services and are open to the public. Examples of commercial land uses include, but are not limited to: warehouses, building supply facilities, retail gasoline stations, automobile service stations, automobile dealerships, retail warehouses, repair and service establishments for appliances and other goods, professional offices, banks and credit unions, office buildings, retail businesses selling food or merchandise, hospitals and clinics, religious institutions, hotels, motels, personal service establishments, and parking facilities.

- (ii) Industrial land use category

Industrial land use is land use with exposure of adult workers during a business day. Industrial and use must reliably exclude general public and children from access to the facility. Industrial land use involves potential exposure of adults to dermal

contact with soil, inhalation of vapors and particles from soil, and ingestion of soil. The current or intended use for the property includes, but is not limited to, transportation or the manufacture and assembly of goods such as parts, machines or chemicals. Examples of industrial land uses include, but are not limited to: lumber yards, power plants, manufacturing facilities such as metal working shops, plating shops, blast furnaces, coke plants, oil refineries, brick factories, chemical plants, and plastic plants, assembly plants, non-public airport areas, limited access highways, railroad switching yards, and marine port facilities.

2. **Amended Declaration to be Binding and Run with the Land.** This Amended Declaration shall run with the land and shall be binding upon all current owners, and all successors and assigns, of the Property described herein, or any portion thereof, including any leasehold interests thereon.
3. **Enforcement.** Compliance with the Amended Declaration contained herein may be enforced by a legal or equitable action brought in a court of competent jurisdiction by one or more of the following parties: (i) any party referenced in Paragraph Two (2) of this Amended Declaration, (ii) the Ohio Environmental Protection Agency or its representative, or (iii) any other party with an interest in the Property or which may incur liability as a result of any failure of compliance with this Amended Declaration. Any delay on the part of any of the foregoing parties to take any action to enforce compliance with the Amended Declaration shall not bar any subsequent enforcement with respect to the failure to compliance in question, nor shall any delay or failure on the part of any of the foregoing parties to take any action to enforce compliance with the Amended Declaration be deemed a waiver of the right of any such party to take any such action with respect to any future failure of compliance.
4. **Miscellaneous.** If any one or more provisions of this Amended Declaration shall be found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. This Amended Declaration shall be governed by and interpreted in accordance with the laws of the State of Ohio, and, specifically, Ohio Revised Code Chapter 3746 and the OAC rules adopted thereunder. All headings used herein are for convenience and shall not be used to interpret or qualify the terms of the Amended Declaration.
5. **Notice of Amended Declaration upon Conveyance.** Any instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a recital acknowledging the Amended Declaration and providing the recording location of the Amended Declaration upon such conveyance substantially in the following form: "The real property described herein is subject to the 'Amended and

Restated Declaration of Restrictions' made by COMACO, Inc., and recorded with the Fairfield County Recorder's Office on the _____ day of _____, 20____, in Fairfield County Deed Records, Deed Volume _____, Page _____ and Instrument Number _____, as if the same were fully set forth herein."

COMACO, Inc., has executed this Amended Declaration, by its duly authorized representative, Roland Harrison, President, COMACO, Inc., on _____, 2000.

Signed and Acknowledged
in the presence of:

COMACO, Inc.

By: _____

Signature

Roland Harrison, President
COMACO, Inc.
413-15 South Main Street
Pittsburgh, PA 15215

Print Name

Signature

Print Name

State of Ohio
County of Fairfield

The foregoing instrument was acknowledged before me on _____, 2000, by Roland Harrison, President, COMACO, Inc., for and on behalf of the said corporation.

NOTARY PUBLIC

WARRANTY DEED

National Graphics Corp., Colo., O.
Form No. L 11-4

Know all Men by these Presents

That Gladys J. Tinker, unmarried, and John M. Bowsher, married, whose wife, Eleanor L. Bowsher joins in the execution of this deed for the purpose of releasing her contingent right of dower and for no other purpose

of the _____ of _____ County of _____ and State of Ohio, Grantor's, in consideration of the sum of One Dollar and other valuable consideration to them paid by COMACO, INC., a Pennsylvania corporation

of the _____ of _____ County of _____ and State of _____ Grantee, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said Grantee, COMACO, INC.

its successors and assigns forever, the following Real Estate situated in the County of Fairfield in the State of Ohio, and in the Township of Walnut and bounded and described as follows:

Being a part of Section No. 19, T 16, R 18, Fairfield County, Ohio and bound as follows: beginning at an iron pin located 4062.4 ft. West and thence North 0° 20' East, 536.13 ft. distant from the Southeast corner of Section 19; thence North 0° 20' East 194.0 ft. to an iron pin; thence East 948.80 ft. to an iron pin; thence South 0° 27' West 394.0 ft. to an iron pin; thence West 947.96 ft. to the place of beginning, containing 8.58 acres, more or less.

Subject to all easements, conditions, restrictions and covenants of record and legal highways and taxes and assessments not yet due and payable.

Said premises also being described by new survey recorded in Survey Record 54-10883 of the Office of the Fairfield County Engineer as follows:

(See attached Exhibit "A")

TRANSFERRED

REAL ESTATE CONVEYANCE
Fee \$ 175.00
Exempt of _____

RECORDED BY _____ DATE 12/11/85

DEC. 12 1985
James P. Reid
County Auditor, Fairfield County, Ohio

James P. Reid
Auditor, Fairfield County, Ohio

Description of 8.58 Acres

Situated in the State of Ohio, Fairfield County, Walnut Township, Township 16, Range 18, Section 19.

Being all of the 8.58 acre tract described in a deed to Gladys J. Tinker and John M. Bowsher and recorded in volume 416, page 519 of the deed records in the Office of the Recorder of Fairfield County, Ohio and being more fully described as follows:

Beginning at a one inch iron pipe (found) which is marking the southwest corner of the aforementioned 8.58 acre tract, said point is located by previous description as West a distance of 4062.4 feet and North 00° 20' 00" East a distance of 536.13 feet from the southeast corner of Section 19;

thence North 00° 20' 00" East a distance of 393.81 feet to a 3/4 inch iron pipe found;

thence North 89° 58' 39" East a distance of 949.16 feet to a 3/4 inch iron pipe found;

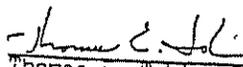
thence South 00° 29' 25" West a distance of 394.19 feet to a 3/4 inch iron pipe found;

thence North 90° 00' 00" West a distance of 948.07 feet to the point of beginning, containing 8.580 acres.

Together with an easement for ingress and egress which is of record in volume 336, page 370.

The above described tract subject to all legal easements and rights-of-way of previous record.

Bearings are based on the south line of the 8.580 acre tract being North 90° 00' 00" West by previous description. For further information see plat of survey which was made in conjunction with and considered an integral part of this description. This description is based on a survey made in November 1985 by Tobin-McFarland and Associates and was prepared by Thomas E. Tobin, Registered Professional Surveyor No. 6363.


Thomas E. Tobin, P.S.
November 21, 1985

LAST TRANSFER: Deed Record Volume, 416, Page 519
To have and to hold said premises, with all the privileges and appurtenances
thereunto belonging, to the said Grantee, COMACO, INC.
its successors and assigns forever.

And the said Grantors, Gladys J. Tinker and John M. Bowsher
for themselves and their heirs,
do hereby covenant with the said Grantee, COMACO, INC.

its successors and assigns, that they are lawfully seized of the premises
aforesaid, that the said premises are Free and Clear from all Incumbrances whatsoever
except:

Reservations and restrictions contained in Deed Book 316,
Page 367 and Easement, contained in Deed Book 336, Page 370,
Recorder's Office, Fairfield County, Ohio.

and that they will forever Warrant and Defend the same with the appurtenances, unto the said Grantee, COMACO, INC.

its successors and assigns against the lawful claims of all persons whomsoever except as noted herein.

In Witness Whereof the said Grantors, Gladys J. Tinker and John M. Bowsher together with Eleanor L. Bowsher, wife of John L. Bowsher

who hereby release s her right of dower in the premises, have hereunto set their hands this 8th day of November (Gladys J. Tinker signed December 11th,) in the year of our Lord one thousand nine hundred and eighty-five (19 85)

Signed and acknowledged in presence of

Charles E. Reed, Notary Public
Norman T. Smith, Attorney at Law
Alfred H. Daldemar, Attorney at Law

Gladys J. Tinker
John M. Bowsher
Eleanor L. Bowsher

The State of OHIO
FRANKLIN County } ss.

Be it Remembered That on this 8th day of November A. D. 19 85 before me, the subscriber, a notary public in and for said county, personally came the above named John M. Bowsher and Eleanor L. Bowsher

the Grantors in the foregoing Deed, and acknowledged the signing of the same to be their voluntary act and deed, for the uses and purposes therein mentioned.

In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Norman T. Smith
Notary Public
Norman T. Smith, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO
My Commission Expires on 01/01/1988
Section 11723 C, C.

This instrument was prepared by Norman T. Smith

75177
Notarized Deed

Gladys J. Tinker
Selling to
Eleanor J. Tinker
TO

Transferred _____ 19

STATE OF OHIO
COUNTY ADDRESS

COUNTY RECORDS
RECEIVED
RECORDED
at _____
DEC 12 1985
Deed Book _____
Recorder - Fairfield County, Ohio
COUNTY RECORDS

RECORDERS FEE \$ _____

18-11-19

STATE OF OHIO
FAIRFIELD COUNTY: SS:
FAIRFIELD

BE IT REMEMBERED that on this 11th day of November A.O., 1985, before me, the subscriber, a notary public in and for said county, personally came the above named Gladys J. Tinker, the Grantor in the foregoing Deed, and acknowledged the signing of the same to be her voluntary act and deed, for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Charles E. Reed
Notary Public

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, 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 Director's Final Findings and Orders/Covenant Not to Sue entered in the Ohio EPA Director's Journal on June 26, 2000 regarding the property known as Kingsford Ornamental Building Products located at 310 Baltimore-Somerset Road, Baltimore, Fairfield County, Ohio, and further described in the attached document (see Exhibit 1 therein).

Zona L Clements

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this 26th day of June, 2000.

Frances M. Kovac
Notary Public
State of Ohio

Permanent Commission
no expiration, R.C. 147.03

Frances M. Kovac
Notary Public - State of Ohio
My Commission Has No Expiration Date

This instrument prepared by:

Luann L. Hoover, Staff Attorney
Ohio EPA Legal Office
122 S. Front Street
Columbus, Ohio 43216



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
122 S. Front Street
Columbus, Ohio 43215

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

MAILING ADDRESS:

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

MEMORANDUM

TO: Ron Hohman, Administrator, Tax Equalization Division
Bob Stempfer, Department of Development

FROM: Christopher Jones, Director, Ohio Environmental
Protection Agency

DATE: JUN 26 2000

RE: Covenant Not to Sue Issued

As Director of the Ohio Environmental Protection Agency, I certify that COMACO, Inc. has and is performing remedial activities at the property listed below and has been issued a Covenant Not to Sue under the authority of Ohio Revised Code(ORC)Chapter 3746. This information is being provided in satisfaction of ORC Section 5709.87(B).

Property address: Kingsford Ornamental Building Products
310 Baltimore-Somerset Road
Baltimore, Ohio 43105

Volunteer: COMACO, Inc.
413-15 South Main Street
Pittsburgh, PA 15215
Attn: Roland Harrison, President

Lot Number: Parcel No. 049-02521

County: Fairfield

Taxing District: Liberty Union-Thurston School District

Date Covenant
Not to Sue Issued: JUN 26 2000

If additional information regarding the property is required, I would suggest that your first point of contact be the certified professional for the property, Atul Pandey of Smalley & Associates, Inc. at (740) 654-0112. In the alternative, you can contact Frank Robertson, with the Voluntary Action Program, at (614) 644-2306.

cc: VAP Files

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