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OHIO EPA/CDO  
BEFORE THE

ENTERED DIRECTOR'S JOURNAL

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Crewville, Ltd.  
150 East Broad Street  
Suite 800  
Columbus, Ohio 43215

Covenant Not to Sue

Director's Final Findings  
and Orders

Regarding property known as:

Former Columbus Auto Parts Property  
575 Hudson Street  
Columbus, Ohio 43202

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. An original No Further Action Letter, No. 00NFA084 (the "NFA Letter"), was issued on February 17, 2000, and submitted on February 18, 2000 to the Ohio Environmental Protection Agency ("Ohio EPA") Division of Emergency and Remedial Response, Voluntary Action Program ("VAP") on behalf of Crewville, Ltd. (the "Volunteer") by Jim Smith and Mark Butler, each a certified professional, Nos. CP121 and CP137 respectively, as defined in ORC 3746.01(E) and OAC 3745-300-01(A)(8) (the "Certified Professionals").
2. The Certified Professionals submitted to Ohio EPA an addendum to the NFA Letter, dated July 19, 2000, and an addendum to the NFA Letter dated January 23, 2001. For the purposes of these Findings and Orders, the term "NFA Letter" includes the addenda.
3. The NFA Letter describes investigational and remedial activities undertaken at the approximately 32.35 acre property, known as the Former Columbus Auto Parts property, located at 575 Hudson Street, Columbus, Franklin County, Ohio (the "Property"). An exact legal description of the Property is attached hereto as Exhibit

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: Donna Smith Date: 3-5-01

1. A site location map is attached hereto as Exhibit 2. The NFA Letter includes an Executive Summary, which is attached hereto as Exhibit 3.
  
4. Based upon the information contained in the NFA Letter, the following investigational and remedial activities were undertaken 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 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 in affected media, to assess environmental conditions related to any release of hazardous substances and petroleum;
  - c. a demonstration that compliance with applicable standards has been achieved through the use of a Property-specific risk assessment in accordance with OAC 3745-300-09;
  - d. the removal from Property buildings, during the period 1999 through 2000, of all manufacturing and process equipment previously used in the production of automobile parts. Machine pits, waste oils, and brick-lined tunnels were also excavated and removed from the Property during this period;
  - e. institutional controls contained in the Amended and Restated Declaration of Restrictions, recorded on April 25, 2000 in the Franklin County Recorder's Office, Instrument No. 200004250079988 of the Deed Records (the "Declaration"), which restrict the Property to commercial uses only; and prohibit 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
  - f. engineering controls described in an Operation and Maintenance ("O&M") Plan and O&M Agreement for the Property, providing for:
    - i. an interim remedy / engineering controls to be implemented upon any breach of the top two feet of soil (the 2-foot point of compliance), including, but not limited to, the installation of a temporary layer of clean soil and other security, until the 2-foot point of compliance is

- restored or the permanent engineering control is installed, and implementation of a risk mitigation plan for all subsurface construction activities, during and after Property redevelopment;
- ii. the installation of a permanent engineering control using pavement as a barrier to contaminated soils; and
  - iii. the maintenance, inspection, reporting, record keeping, financial assurance and other requirements as set forth in the O&M Plan and O&M Agreement.
5. The Certified Professionals have 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.
  6. At the time that analyses were performed, DLZ Laboratories, Inc., Geoanalytical Laboratories, American Analytical Laboratories, Inc., and Test America, Inc., were each a certified laboratory, Nos. CL0014, CL0008, CL0010 and CL0018 respectively, 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").
  7. According to information provided by each of the Certified Laboratories in affidavits contained in the NFA Letter, each Certified Laboratory performed analyses for which it was 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 Professionals.
  8. The Declaration was recorded on April 25, 2000 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. limits the use of the Property to commercial land uses only; and
    - 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.

9. To provide for implementation of the engineering controls for the Property, Ohio EPA and the Volunteer have entered into an O&M Agreement, which is incorporated by reference as if fully written into these Findings and Orders. The O&M Agreement includes and incorporates by reference an approved O&M Plan. The O&M Agreement is attached hereto as Exhibit 5.
  
10. Based on the information contained in the NFA Letter, and upon the implementation of the O&M Agreement (as applicable) and all other 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 land use including but not limited to:
  - a. commercial land use category direct contact soil standards for hazardous substances, in accordance with Tables III and VI of OAC 3745-300-08 for generic numerical standards, supplemental generic standards derived by Ohio EPA for other properties under Technical Assistance, or OAC 3745-300-09(D), for those standards derived through Property-specific risk assessment procedures, at a point of compliance from the surface to a depth of two feet at the Property;
  - b. commercial land use category direct contact soil standards for petroleum in accordance with OAC 3745-300-08(B)(3)(a)(i) for generic numerical standards, at a point of compliance from the surface to a depth of two feet at the Property;
  - c. soil standards based on construction / utility worker exposures, derived through Property-specific risk assessment procedures in accordance with OAC 3745-300-09(D), for human receptor exposures not related to direct contact by commercial receptor populations at the Property; and
  - d. ground water standards based on construction / utility worker 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 shallow "Class A" ground water zone underlying the Property.
  
11. Based on the information contained in the NFA Letter and subject to all conditions set forth in these Findings and Orders, the Property is eligible to receive a covenant not to sue in accordance with ORC 3746.12(A), and upon implementation of the O&M Agreement as applicable, the voluntary action for the Property is protective of public health and safety and the environment.

## ORDERS

### **Covenant**

1. Upon the effective date of these Findings and Orders, and subject to the conditions set forth herein, including but not limited to the terms and conditions of the O&M Agreement (Exhibit 5), Ohio EPA hereby covenants not to sue and releases Crewville Ltd., 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 and Phase II Property Assessments completed in accordance 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 32.35 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 institutional controls 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 institutional controls 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 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.
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. Pursuant to ORC 3746.12(A)(2)(c), the Covenant shall be revoked if the engineering controls are violated or are no longer in place and the Volunteer or subsequent property owner has not reinstated the controls within a reasonable period of time as determined by the Director in accordance with the Covenant.

#### **Recordation in Deed Records**

10. A copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Site Map), 3 (Executive Summary) and 5 (O&M Agreement), 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, the Covenant Not to Sue/Findings and Orders and the O&M Agreement may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.

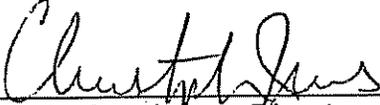
**Notice of Use Restrictions upon Property Conveyance**

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 5 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.

**Notice of Transfer or Assignment of Covenant or Property**

13. Pursuant to ORC 3746.12(A)(2)(b), the transferor of the Covenant Not to Sue/Findings and Orders, or the Property or any portion of the Property, shall give written notice to the Director of any such transfer or assignment whenever such transfer or assignment occurs.

**IT IS SO ORDERED:**

  
\_\_\_\_\_  
Christopher Jones, Director  
Ohio Environmental Protection Agency

MAR 5 2001  
\_\_\_\_\_  
Date

Former Columbus Auto Parts  
Director's Final Findings and Orders / Covenant Not to Sue

**Exhibit 1**  
**Legal Description**



## **LEGAL DESCRIPTION**

**21.884 ACRE  
CREWVILLE, LTD. PROPERTY**

## 21.884 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, Lot 22, Quarter Township 4, Township 1, Range 18, United States Military Lands, and being the remainder of that tract as conveyed to Crewville, Ltd. of record in Instrument Number 199906070144361, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning, for reference, at a concrete monument found in the southerly right-of-way line of Hudson Street as conveyed to the City of Columbus in Deed Book 2237, Page 270, said monument being at the northwesterly corner of Perpetual Highway Easement Parcel No. 11 for Interstate 71 as recorded in Franklin County Common Pleas Court Entry 203810, said monument being in a northerly line of that 10.461 acre tract as conveyed to the State of Ohio (Ohio Expositions Commission) of record in Instrument Number 200004250079990;

thence North  $86^{\circ} 23' 18''$  West, with said southerly right-of-way line, a northerly line of said 10.461 acre tract, a distance of 71.95 feet to an iron pin set at the northwesterly corner of said 10.461 acre tract, the True Point of Beginning;

thence with the westerly perimeter of said 10.461 acre tract, the following courses:

South  $02^{\circ} 39' 34''$  East, a distance of 38.64 feet to an iron pin set at a point of curvature;

with a curve to the left, having a central angle of  $52^{\circ} 14' 44''$ , a radius of 228.00 feet, a chord bearing and distance of South  $28^{\circ} 46' 48''$  East, a distance of 200.78 feet to an iron pin set at a point of tangency;

South  $54^{\circ} 54' 09''$  East, a distance of 132.43 feet to an iron set at a point of curvature;

with a curve to the right, having a central angle of  $75^{\circ} 00' 00''$ , a radius of 57.00 feet, a chord bearing and distance of South  $17^{\circ} 24' 09''$  East, 69.40 feet to an iron pin set at a point of tangency;

South  $20^{\circ} 05' 51''$  West, a distance of 71.16 feet to an iron pin set at a point of curvature;

with a curve to the left, having a central angle of  $80^{\circ} 17' 27''$ , a radius of 136.00 feet, a chord bearing and distance of South  $20^{\circ} 02' 52''$  East, 175.37 feet to an iron pin set at a point of reverse curvature;

with a curve to the right, having a central angle of  $18^{\circ} 26' 24''$ , a radius of 964.00 feet, a chord bearing and distance of South  $50^{\circ} 58' 23''$  East, 308.92 feet to an iron pin set at a point of tangency;

South  $41^{\circ} 45' 11''$  East, a distance of 256.72 feet to an iron pin set at a point of curvature;

with a curve to the left, having a central angle of  $07^{\circ} 52' 17''$ , a radius of 536.00 feet, a chord bearing and distance of South  $45^{\circ} 41' 20''$  East, 73.58 feet to an iron pin set at a point of tangency;

South  $49^{\circ} 37' 28''$  East, a distance of 34.81 feet to an iron pin set at the southeasterly corner thereof, being in a westerly line of that tract as conveyed to the State of Ohio (Ohio Expositions Commission) of record in Official Record 32051B12;

21.884 ACRES

-2-

thence South 03° 23' 18" West, with said westerly line, a distance of 557.53 feet to a point 0.53 feet easterly of a concrete monument found at the southwesterly corner thereof, being in the northerly line of that 323.396 acre tract owned by the State of Ohio (Ohio Expositions Commission);

thence North 86° 09' 23" West, with the northerly line of said 323.396 acre tract, a distance of 867.08 feet to an iron pin set in the easterly line of the N & W Railroad;

thence with said easterly railroad line, the following courses:

With a curve to the right, having a central angle of 13° 24' 45", a radius of 1875.00 feet, a chord bearing and distance of North 09° 32' 14" West, 437.92 feet to a concrete monument found at a point of tangency;

North 02° 49' 55" West, a distance of 634.52 feet to an iron pin set;

thence South 86° 21' 30" East, partly with said easterly railroad line and partly with the southerly line of Parcels 1-3 as conveyed to the State of Ohio-Ohio Arts Facilities Commission of record in Official Record 31894J11, a distance of 246.21 feet to an iron pin found at the southeasterly corner of said parcel 2;

thence with the easterly line of said Parcel 2, the following courses:

North 02° 50' 37" West, a distance of 142.30 feet to an iron pin found;

North 03° 40' 10" West, a distance of 357.62 feet to a concrete monument found at the northeasterly corner thereof, being in the southerly right-of-way line of said Hudson Street;

thence South 86° 23' 18" East, with said southerly right-of-way line, a distance of 32.97 feet to the point of beginning and containing 21.884 acres of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

The bearings herein are based on North 03° 58' 15" West as determined between Monuments Frank 62 and Frank 62 AZ.

EVANS, MECHWART, HAMBLETON, & TILTON, INC.

*John C. Dodgion* 11/10/00

John C. Dodgion  
Registered Surveyor No. 8069

JCD:km/nov00





## **LEGAL DESCRIPTION**

**10.461 ACRE  
STATE OF OHIO PROPERTY**

CONNOR LAND TITLE BVA

100607

LIMITED WARRANTY DEED

Instr: 200004250079988 04/25/2000  
Pages: 3 Fee: \$18.00 11:13AM  
Richard B. Metcalf T2000053486  
Franklin County Recorder BXCONNOR L.

CREWVILLE, LTD., an Ohio limited liability company (hereinafter referred to as "Grantor"), for valuable consideration paid, grants, with limited warranty covenants, to STATE OF OHIO under the jurisdictional control of the Ohio Expositions Commission by and through the Department of Administrative Services, whose tax mailing address is 4200 Surface Road, Columbus, Ohio 43228, the following described real property:

Situated in the State of Ohio, County of Franklin and City of Columbus, and being more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Premises").

Tax District and Parcel Number: 010-76538 (part only)

Prior Instrument Reference: Instrument No. 199906070144361,  
Recorder's Office of Franklin County, Ohio

The Premises is subject to (a) taxes and assessments now or hereafter due and payable, (b) restrictions, reservations, conditions, covenants, easements and rights-of-way of record, including, without limitation, the restrictions described below, (c) public streets and highways, and (d) zoning and building laws and regulations. The rights, benefits and burdens under this Deed, including, without limitation, the restrictions described below, shall run with the land (i.e. the Premises) and bind the owner of the Premises, its successors and assigns.

The real property described herein is subject to the Amended and Restated Declaration of Restrictions on the Use of Property and Extraction of Groundwater made by Crewville, Ltd. dated April 19, 2000, and filed for record with the Franklin County Recorder on April 25, 2000 in the Franklin County Official Records as Instrument No. 200004250079988 as if the same were fully set forth herein.

IN WITNESS WHEREOF, Grantor, acting by its managing member, has executed and delivered this Limited Warranty Deed as of April 19, 2000.

Signed and acknowledged  
in the presence of:

CREWVILLE, LTD., an Ohio limited liability  
company ("Grantor")

By: CAP Partners, Ltd., an Ohio limited liability  
company, its managing member

Thomas R. Davis  
Print Name: Thomas R. Davis

Franklin E. Kass  
By: Franklin E. Kass, Manager

Nannette C. Buel  
Print Name: Nannette C. Buel

STATE OF OHIO  
COUNTY OF FRANKLIN

The foregoing instrument was acknowledged before me this 19th day of April, 2000 by Franklin E. Kass, Manager of CAP Partners, Ltd., an Ohio limited liability company ("CAP Partners"), on behalf of CAP Partners and on CAP Partners' behalf as the managing member of Crewville, Ltd., an Ohio limited liability company, on behalf of Crewville, Ltd.

Nannette C. Buel  
Notary Public

This instrument prepared by:  
T. R. Davis, Esq.  
Continental Real Estate Companies  
150 East Broad Street, Suite 305  
Columbus, Ohio 43215



TRANSFERRED  
APR 21 2000  
JOSEPH W. TESTA  
AUDITOR  
FRANKLIN COUNTY, OHIO

903899  
CONVEYANCE TAX  
EXEMPT  
A  
JOSEPH W. TESTA  
FRANKLIN COUNTY AUDITOR

## EXHIBIT A

(Page 1 of 2)

10.461 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, Lot 22, Quarter Township 4, Township 1, Range 18, United States Military Lands and being part of Exhibit "B" of that tract conveyed to Crewville, Ltd. by deed of record in Instrument Number 199906070144361 (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and more particularly bounded and described as follows:

Beginning at a concrete monument found in the southerly right-of-way line of Hudson Street as conveyed to the City of Columbus by deed of record in Deed Book 2237, Page 270, said monument being at the northwesterly corner of Perpetual Highway Easement Parcel No. 11 for Interstate 71 as recorded in Franklin County Common Pleas Court Entry 203810;

thence with the perimeter of said City of Columbus tract, the northerly perimeter of said Parcel No. 11 and the northerly perimeter of Parcel No. 11-LA of said Court Entry 203810, the following courses and distances:

South 86° 23' 18" East, a distance of 240.41 feet to an iron pin set;

North 3° 36' 42" East, a distance of 62.00 feet to a P.K. Nail set;

South 89° 38' 08" East, a distance of 141.23 feet to a P.K. Nail set; and

North 3° 36' 42" East, a distance of 30.00 feet to a P.K. Nail set in the centerline of said Hudson Street, being the northeasterly corner of said City of Columbus tract;

thence South 86° 23' 18" East, with said centerline, being a northerly line of said Parcel 11-LA, a distance of 189.48 feet to a P.K. Nail set at the northwesterly corner of that tract conveyed to Gilligan Oil Company by deed of record in Instrument Number 199804080084189;

thence South 3° 21' 57" West, with a westerly line of said Gilligan Oil Company tract, a distance of 215.00 feet to an iron pin set;

thence South 21° 55' 11" East, with a westerly line of said Gilligan Oil Company tract, a distance of 399.23 feet to an iron pin set at a southwesterly corner of that tract conveyed to Board of Education of The City School District of Columbus, Ohio by deed of record in Official Record 13964G17;

thence South 3° 23' 18" West, partially with an easterly line of said Parcel 11-LA and partially with the westerly line of that tract conveyed to the State of Ohio (Ohio Expositions Commission) of record in Official Record 32051B12, a distance of 523.72 feet to an iron pin set;

thence crossing said Crewville, Ltd. tract, the following courses and distances:

North 49° 37' 28" West, a distance of 34.81 feet to an iron pin set at a point of curvature to the right;

With the arc of said curve (Delta = 07° 52' 17", Radius = 536.00 feet), a chord bearing and distance of North 45° 41' 20" West, 73.58 feet to an iron pin set at a point of tangency;

Continued.....

**EXHIBIT A**  
**(Page 2 of 2)**

10.461 ACRES

- 2 -

North 41° 45' 11" West, a distance of 256.72 feet to an iron pin set at a point of curvature to the left;

With the arc of said curve (Delta = 18° 26' 24", Radius = 964.00 feet), a chord bearing and distance of North 50° 58' 23" West, 308.92 feet to an iron pin set at a point of reverse curvature;

With the arc of said curve (Delta = 80° 17' 27", Radius = 136.00 feet), a chord bearing and distance of North 20° 02' 52" West, 175.37 feet to an iron pin set;

North 20° 05' 51" East, a distance of 71.16 feet to an iron pin set at a point of curvature to the left;

With the arc of said curve (Delta = 75° 00' 00", Radius = 57.00 feet), a chord bearing and distance of North 17° 24' 09" West, 69.40 feet to an iron pin set;

North 54° 54' 09" West, a distance of 132.43 feet to an iron pin set at a point of curvature to the right;

With the arc of said curve (Delta = 52° 14' 44", Radius = 228.00 feet), a chord bearing and distance of North 28° 46' 48" West, 200.78 feet to an iron pin set; and

North 02° 39' 34" East, a distance of 38.64 feet to an iron pin set in the southerly right-of-way line of said Hudson Street;

thence South 86° 23' 18" East, with said southerly right-of-way line, a distance of 71.95 feet to the point of beginning, containing 10.461 acres of land, more or less, of which 7.680 acres are within the right-of-way of Interstate 71, leaving a net acreage of 2.781 acres of land, more or less.

Subject, however, to all legal rights-of-ways and/or easements, if any, of previous record.

Bearings for this description are based on F.C.G.S. Monuments Frank 62 and Frank 62 AZ, with a bearing of North 3° 58' 15" East between said monuments.

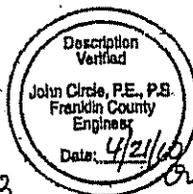
EVANS, MECHWART, HAMBLETON & TILTON, INC.

*Matthew A Kirk 27 FEB 00*

Matthew A. Kirk  
Registered Surveyor No. 7865

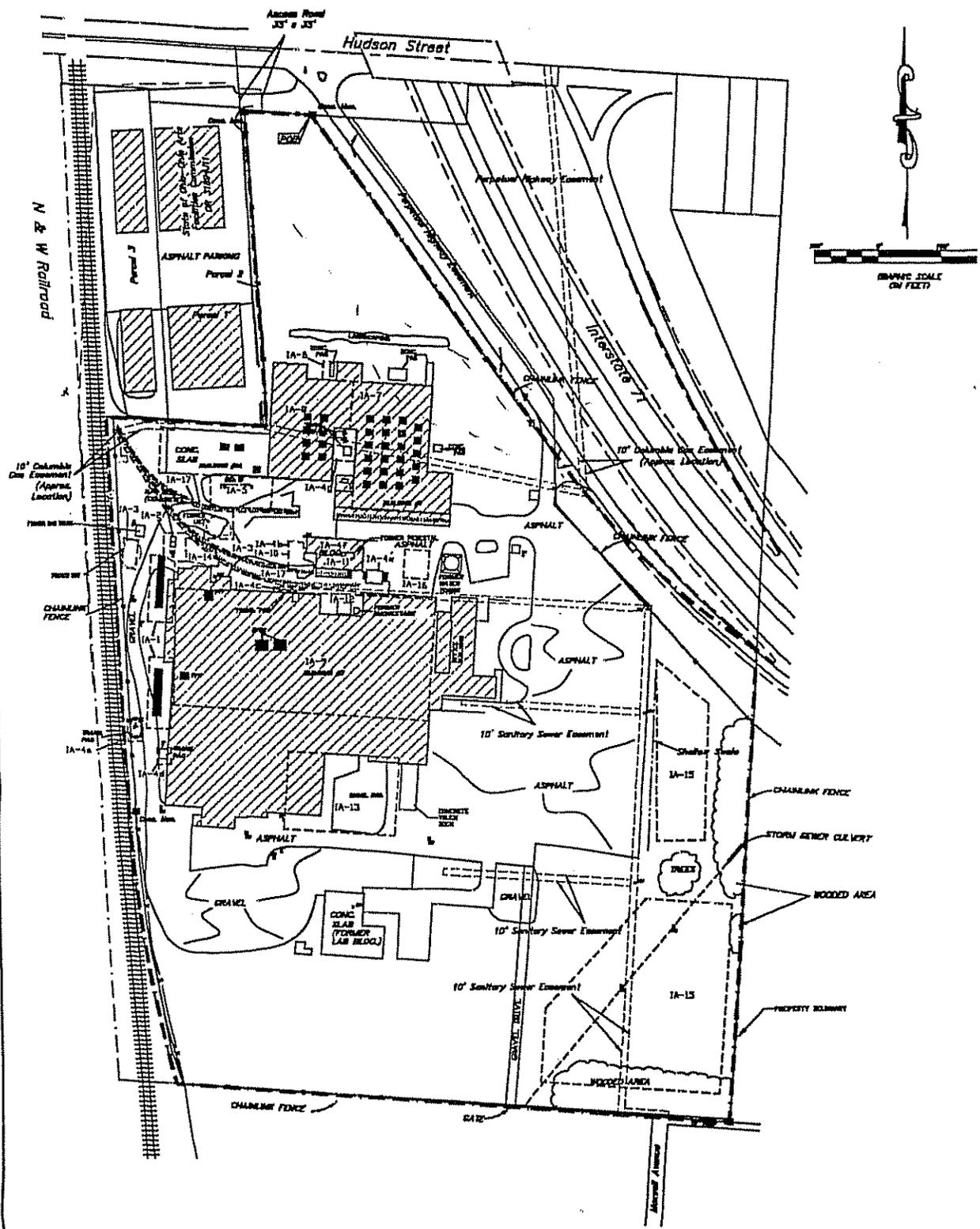
MAK/m7Feb00

*0-16  
SPLIT  
10.461 AC.  
OUT OF  
(010)  
76538*



Former Columbus Auto Parts  
Director's Final Findings and Orders / Covenant Not to Sue

**Exhibit 2  
Site Map**



**IDENTIFIED AREAS**

- |   |   |
|---|---|
| <p>IA-1 FORMER OIL EXPLANATION PITS WEST OF BUILDING 82</p> <p>IA-2 OIL-WATER SEPARATOR NEAR NORTHWEST CORNER OF BUILDING 82</p> <p>IA-3 FORMER DIESEL LIST'S</p> <p>IA-4 FORMER TRANSFORMER/CAPACITOR AREAS</p> <p>IA-4a - TRANSFORMER PAD ALONG WEST PROPERTY LINE</p> <p>IA-4b - TRANSFORMER PAD WEST OF POWER HOUSE</p> <p>IA-4c - TRANSFORMER PAD NORTH OF BUILDING 82</p> <p>IA-4d - TRANSFORMER PAD WEST OF BUILDING 82</p> <p>IA-4e - TRANSFORMER AREA SOUTHEAST OF POWER HOUSE</p> <p>IA-4f - CAPACITORS IN POWER HOUSE</p> <p>IA-4g - TRANSFORMER PADS BETWEEN BUILDING 1 &amp; IA</p> <p>IA-5 FORMER LIST'S CONTAINING DIESEL AND CUTTING OIL SOUTH OF BUILDING 1A</p> <p>IA-6 SIFT COLLECTOR/WHEELABRATOR AREA NORTH OF BUILDING 81A</p> <p>IA-7 BUILDING 81 - MACHINE PITS</p> | <p>IA-8 BUILDING 81A</p> <p>IA-9 BUILDING 82 - AREAS OF MACHINE PITS, PARTS WASHES, GALVANIZING &amp; HEAT TREATING</p> <p>IA-10 FUEL TANKS WEST OF POWER HOUSE</p> <p>IA-11 POWER HOUSE</p> <p>IA-12 PAINT STORAGE AREA, PAINT DIPPING ROOM NORTH OF BUILDING 82</p> <p>IA-13 LEADING DUCK AREA SOUTH OF BUILDING 82</p> <p>IA-14 MATERIAL STORAGE AREA CONCRETE PAD NORTH OF BUILDING 82 EAST OF OIL-WATER SEPARATOR</p> <p>IA-15 FILL AREA/AREAS OF BARE EARTH ON EASTERN PORTIONS OF PROPERTY</p> <p>IA-16 FORMER GAS PRODUCER HEARTE AT NORTHEAST CORNER OF BUILDING 82</p> <p>IA-17 FORMER RAIL SPURS ON PROPERTY</p> |
|---|---|



**FIGURE 1**  
 PROPERTY BOUNDARIES AND IDENTIFIED AREAS

**COLUMBUS AUTO PARTS**  
 HUDSON ST. & COLUMBUS, OHIO

PREPARED BY: K. LARO DATE: 02/25/78 P. 02

Former Columbus Auto Parts  
Director's Final Findings and Orders / Covenant Not to Sue

**Exhibit 3**  
**Executive Summary**



# EXECUTIVE SUMMARY AND FILING DOCUMENT OF NO FURTHER ACTION LETTER

Former Columbus Auto Parts Property  
575 Hudson Street  
Columbus, Franklin County, Ohio

January 23, 2001

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## 1.0 INTRODUCTION

This Executive Summary and Filing Document of No Further Action (NFA) Letter and the attached NFA Letter Form were completed in accordance with OAC 3745-300-13 of the Voluntary Action Program (VAP). These documents were prepared by Mr. Jim C. Smith (Certified Professional No. CP 121) and Mr. Mark D. Butler (Certified Professional No. 137) of SAS Environmental, Inc. (SAS). The documents were completed on January 23, 2001. This work was conducted on behalf of Crewville, Inc. (the Volunteer) as part of a brownfield redevelopment project. The specific property that is the subject of this NFA was formerly known as the Columbus Auto Parts (CAP) manufacturing facility and is described more particularly within the attached documents. The property consists of approximately 32 acres and is located within the corporate boundary of the City of Columbus, at the southwest corner of the intersection of Hudson Street and Interstate I-71.

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 and will be available from the Ohio EPA, Department of Emergency and Remedial Response, Voluntary Action Program in accordance with the filing requirements of OAC 3745-300-13 (H).

## 2.0 SUMMARY OF NO FURTHER ACTION LETTER

Based on the findings of the assessment work performed on this property, it was determined that the property meets the applicable standards for the issuance of this NFA without any further assessment, or remedial actions. The intended future land use is commercial. This NFA is contingent upon institutional controls limiting future land use to commercial purposes and prohibiting the use of ground water on the property for potable purposes and upon implementation of an engineering control as stipulated in an Operation and Maintenance Plan prepared for this site. Documents supporting the issuance of this NFA and considered to be an integral part of the NFA documentation include the following:

- VAP Phase I Property Assessment (Geoenvironmental Consultants, Inc.- October, 1999)
- VAP Phase II Property Assessment (SAS - February 17, 2000)

- NFA Letter Form - "Checklist" (SAS - January 10, 2001)
- NFA Amendment 1 (SAS - July 19, 2000)
- NFA Amendment 2 (SAS - January 10, 2001)
- Operation and Maintenance Plan (SAS - January 23, 2001)
- Risk Mitigation Plan (SAS - January 10, 2001)

Collectively, these documents, in conjunction with this Executive Summary and Filing Document of NFA Letter, 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 3745-300-13).

### **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, conduct an environmental review including the history of any hazardous substance or petroleum releases, perform a property inspection, and establish the presence of any "identified areas" as defined in OAC 3745-300-06(F). A preliminary VAP Phase I Property Assessment was conducted by GCI in 1996. An update of this Phase I work was performed by GCI in August and September, 1999, and a final Phase I Property Assessment report was issued in October 1999, for this project.

The Phase I assessment of this property indicated that the demolition of the structures at the site was occurring at the time of the last Phase I property inspection in September of 1999. The major structures formerly present on the property consisted of: three manufacturing buildings (numbered 1, 1A, and 2) totaling 206,000 square feet; a 20,000 square foot office building; a 3,000 square foot power house; and a 75,000 gallon water tower. Two sets of railroad spurs serviced the manufacturing buildings on the west side of the property. The past uses of the property were investigated by reviewing historical city street directories, Sanborn™ maps, topographic maps, aerial photographs, a Chain of Title Report, and interviews with persons likely to have knowledge regarding historical activities at the site. These sources of information substantiate that the first commercial/industrial use of the property appears to have been the Union Bolt Works which occupied the site from circa 1902 until 1914 and the Standard Bolt Company which owned and operated the facility until 1928 when it was sold to CAP. The property was owned and operated by CAP from 1928 until the property was abandoned in 1991.

The environmental history was also investigated by reviewing available local, state, and federal agency records regarding environmental compliance issues at the site. Agencies contacted for potentially pertinent information included the U.S. EPA, the Ohio EPA, the Ohio Department of Natural Resources, the Ohio Bureau of Underground Storage Tank Regulations, the Columbus Fire Department, and the Columbus Health Department. No official notices of violation or records of noncompliance involving site activities were present in the available files or databases of any of these agencies. However, in 1966 there was correspondence between CAP and the Ohio Department of Health regarding industrial waste water being discharged from the site into a ditch that flowed southwest from the property. Again, in the late 1970's, there was correspondence between CAP and the Ohio EPA regarding industrial waste water discharge to the Columbus city sewers. Based on the nature of the correspondence, these conditions appear to have been resolved by the installation of wastewater pretreatment and pollution control systems. Ohio EPA files also contained documentation related to a US EPA Region V Time-Critical Removal Action (TCRA) conducted at the site in late 1994 to early 1995. The TCRA resulted in the removal of corrosive and oily wastes including: eight petroleum underground storage tanks (USTs), several drums of various wastes, PCB-contaminated electrical equipment, one above-ground pressurized ammonia tank, and oil contained in machine pits inside the buildings and the open pits west of building #2. Subsequently, in 1996, the Ohio EPA recommended to the US EPA Region V that the CAP property receive a designation of No Further Remedial Action Planned (NFRAP) with respect to CERCLIS.

A property inspection was performed by Mr. Jim Smith (Certified Professional No. CP 121) in October of 1996 and on May 27, 1999 prior to demolition activities, again on August 19, 1999 while demolition of the site was in progress, and on October 21, 1999 after the structures had been completely razed. Property inspections were also performed by Mr. Mark Butler (CP 137) before, during, and after demolition activities at the site. The initial site inspections confirmed that the property had been used in an industrial capacity and contained several large abandoned buildings associated with manufacturing processes. The locations of identified areas determined in the Phase I Property Assessment were verified at the site. The subsequent site inspections confirmed the demolition of the buildings on the property.

Based on the Phase I Property Assessment, several on-site source areas of hazardous substances and/or petroleum were identified. A total of 17 Identified Areas (IA-1 through IA-17) were determined to be present on the property and included portions of the property related to typical industrial activities/facilities such as machine oil pits, electrical transformers, USTs, railroad spurs, dust collectors,

a power house, paint storage, and a gas producer house. The chemicals of concern (CoCs) varied within the specific Identified Areas but, in general, represented families of compounds such as volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), Total Petroleum Hydrocarbons (TPH), polynuclear aromatic hydrocarbons (PAHs), metals, and polychlorinated biphenyls (PCBs). The area containing USTs removed during the USEPA's 1994 TCRA received NFA status from the Bureau of Underground Storage Tanks (BUSTR) and therefore does not preclude the property's eligibility in the VAP program. VAP eligibility criteria were carefully reviewed, and no other eligibility issues were identified in relation to the CAP property.

## **2.2 Phase II Property Assessment**

The assessment of the Former Columbus Auto Parts facility under the VAP Phase II rule (OAC 3745-300-07) was performed in a series of phased investigations which began in November and December of 1996 and were concluded in December of 1999. SAS, working under the authority of various clients, conducted or supervised all field activities (assessment and remedial operations) that have been completed for reliance by the Certified Professionals with respect to demonstrating the NFA status of the property under the VAP.

Preliminary evaluations of the property, initiated in late 1996 and early 1997 under the VAP program, were conducted prior to the completion of a VAP Phase I Property Assessment and were designed to evaluate specific environmental issues thought to most likely represent areas of highest contamination based on previously completed (non-VAP) property assessments. Investigations completed in January 1997 were conducted to evaluate areas where BUSTR-regulated underground storage tanks (USTs) had been removed by the USEPA during their 1994 TCRA. A more extensive evaluation of the CAP site, undertaken in December 1998 and January 1999, was focused on property line compliance issues and a more comprehensive the evaluation of the property. The final and most comprehensive field assessment and remedial activities were conducted from August through December 1999 after completion of a preliminary VAP Phase I Property Assessment and the finalized list of Identified Areas and Chemicals of Concern. The initial work conducted in August of 1999 primarily entailed completing work at the BUSTR-regulated UST pits for which a No Further Action (NFA) letter would be required as a condition of eligibility of the property under the VAP. Work conducted from September through December of 1999 focused on assessing the various Identified Areas and follow-up assessment work resulting from the

evaluation of field data. Field operations consisted of extensive drilling activities, soil and ground water sampling, excavation of test pits, collection of shallow (depth of compliance) soil samples, and focused remedial activities designed to remove impacted (i.e., above direct-contact Generic Numerical Standard) soils and separate phase petroleum hydrocarbons from the property. These field operations were concluded on December 23, 1999 and were deemed by the Certified Professionals to have met all requirements for assessment and remediation of the former Columbus Auto Parts property as defined under OAC 3745-300-07 and -15 at that time.

NFA documentation was prepared and submitted to the Ohio EPA on February 17, 2000. Based on the agency's review of this original NFA submittal, the Ohio EPA requested re-sampling of two groundwater monitoring wells (MW-18 and MW-59) located near the eastern and southern property boundaries to ensure that unrestricted potable use standards were met.

Also, between April 12 and May 3, 2000, Sanborn Head Associates (SHA) conducted additional soil and groundwater sampling and analyses as part of a "due diligence" investigation on behalf of Lowes Home Improvement Center (Lowes), a prospective buyer of a portion of the Property.

In addition, site construction preparation activities (such as removal of the concrete floors of the former buildings) and the building of a roadway (Silver Creek Extension) has occurred on the Property between May and November, 2000. These activities have resulted in the discovery of the following previously hidden environmental conditions:

- concrete pits with oil stained soils
- isolated pockets of free oil
- a brick lined tunnel filled with water
- two manholes filled with water

Evaluation and remediation, as necessary, of these previously hidden environmental features was performed under the supervision of a Certified Professional.

Two separate amendments (dated July 19, 2000 and January 10, 2001) describing the additional sampling and remediation performed since the February 17, 2000 completion of the original NFA have been prepared and submitted to the Ohio EPA. These NFA amendments are considered to be part of the NFA documentation for this Property and the results reported in the NFA amendments are included in the following summaries of findings.

### 2.2.1 Soil Investigation and Findings

Soil samples at CAP were obtained from hand auger holes, test pits, and borings advanced with a drilling rig. A hand auger was generally used to collect soil samples from shallow soil to confirm compliance with direct-contact Generic Numerical Standards (GNS) within the point-of-compliance (i.e., zero to two feet). A total of 88 shallow soil samples were obtained from the site using hand augers. Test pits (a total of 32) were excavated for the purpose of visually observing subsurface conditions at specific locations and to obtain soil samples from varying depths. A total of 59 soil borings were advanced using a drilling rig and hollow stem augers to log the subsurface soil strata and obtain soil samples for analysis from discrete soil horizons.

As indicated in the Phase I Property Assessment Summary (Section 2.1), the Chemicals of Concern (COCs) at the property were broadly designated in order to reflect the wide range of industrial activities that occurred at the property over a relatively long time period (i.e., approximately 90 years). As a result, families of compounds were generally identified as COCs rather than individual compounds during Phase II assessment and remediation activities. The analytical results obtained during the Phase II assessment work demonstrate that the concentrations of COCs were below direct-contact GNSs for commercial land use within the zero to two foot point-of-compliance across the property except in portions of specific Identified Areas as described in this paragraph. Identified Area IA-3 and IA-5, which encompass the former UST areas, contained TPH concentrations which exceeded the commercial land use GNS. The TPH standard was also exceeded in point-of-compliance samples within IA-1 (former oil reclamation pits), IA-2 (oil/water separator), IA-8 (vicinity of machine pits in Building #1A), IA-12 (flammable materials storage building), and IA-13 (loading dock area). IA-13 also contained concentrations of lead and PAHs that exceeded their respective commercial land use direct-contact GNS. Each Identified Area containing concentrations of COCs that exceeded their respective GNS within the zero to two foot point-of-compliance was remediated by excavating impacted soil to the depth of compliance (at a minimum) and replacing the void with clean fill.

Separate phase hydrocarbon (oily product) was measured in two monitoring wells installed by SAS, MW-29 at the oil/water separator and MW-44 near the machine pits in Building #1. The product measured in MW-29 was remediated by excavating the well and saturated soils as part of the soil removal action around the oil/water separator (IA-2). Water that infiltrated the excavation around the oil/water separator initially accumulated small amounts of product which was successfully removed after three

separate fluid vacuuming events. No product remained at the time that the excavation was backfilled on November 5, 1999. Product that accumulated in MW-44 along the east side of Building #1 (IA-7) resulted in the removal of that well as part of the excavation of an oil product recovery pit. Small amounts of product accumulated in the recovery pit, which was effectively remediated after four separate fluid vacuuming events. The recovery pit was backfilled on November 15, 1999. No product was present on the water at the time the pit was backfilled.

In April, 2000, an additional 32 soil borings were completed by SHA on the portion of the Property to be occupied by the proposed Lowes facility. The depths of the borings ranged from 15 to 35 feet below grade. The results of the soil samples analyzed from these additional borings further support the conclusion that the soils meet the commercial land use direct-contact GNS within the zero to two foot point-of-compliance.

### **2.2.2 Ground Water Investigation and Findings**

Ground water conditions were investigated by installing a total of 30 ground water monitoring wells and collecting a total of 39 ground water samples during the course of the Phase II assessment. Most of the 17 Identified Areas potentially contained impacted ground water and were evaluated accordingly. The COCs for the ground water mimicked those selected for the soil investigations and consisted of families of compounds (i.e., VOCs, SVOCs, TPH, PAHs, PCBs, and metals). Only five compounds were detected in the ground water at concentrations exceeding unrestricted potable use standards: benzo-a-pyrene at 1.1 ug/L in MW-41; lead at 18.5 ug/L in MW-39; chromium and cadmium at 121 ug/L and 5.15 ug/L, respectively, in MW-37; and bis (2-ethylhexyl) phthalate at 12.8 ug/L in MW-26. None of these groundwater monitoring wells were located at the points-of-compliance (i.e., CAP property boundaries). Two property boundary monitoring wells (MW-18 and MW-59) were re-sampled on April 25, 2000 at the request of the Ohio EPA because low, potentially spurious, concentrations of bis (2-ethylhexyl) phthalate and lead were originally detected in these wells. Neither the re-sample nor the re-sample duplicate from either monitoring well produced detectable concentrations of either compound. Also, additional ground water sampling performed by SHA did not detect any COCs at concentrations in excess of generic unrestricted potable use standards.

The ground water zone was determined to be discontinuous across the site and some borings advanced for the purpose of installing ground water monitoring wells yielded dry conditions (i.e., did not produce actionable amounts of ground water). A pumping test conducted on the saturated zone determined

a sustained yield of three gallons per minute and the saturated zone was classified as Class A ground water. The ground water zone, where present at the site, is underlain by glacial till and shale bedrock. The shale is reported to yield a maximum of two gallons per minute of ground water.

### **2.2.3 Surface Water and Sediments Investigation and Findings**

No Identified Areas at this site contained surface water or sediments, therefore no investigation or evaluation of these media was performed during the Phase II assessment of the 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 to the following human receptors: current trespassers to the abandoned property; construction workers during redevelopment work; and workers and visitors at future commercial facilities on the property. Prior to implementation of remedial measures and/or institutional controls on the property, these human receptors could have been exposed to soils at the surface of the property that exceeded the direct-contact GNSs for commercial land use. In addition, a complete pathway existed to potential future human receptors that may have used the ground water on the property for potable purposes. An off-site ground water exposure pathway to human receptors is not complete because the ground water emanating from the property was determined to meet unrestricted potable use standards and it was demonstrated through modeling that the ground water emanating from the property will continue to meet unrestricted potable use standards for at least the next 100 years. Furthermore, there is currently no potable use of ground water within a ½ mile radius of the site because this area is supplied by a municipal water service. An inhalation exposure pathway could also be potentially complete from subsurface volatile contaminants in the soil and/or ground water to future workers and visitors to commercial facilities planned to be constructed on the property.

No exposure pathways to ecological receptors was found to be complete. There are no surface water bodies present on the property and ground water does not discharge to a surface water body within a ½ mile radius of the property.

## **2.3 Determination of Applicable Standards**

The impacted media at the property are limited to soil and ground water. The applicable standards

for the soil are the direct-contact GNS for commercial land use. This standard was applied to soils on the property from a depth of zero to two feet of existing grade (i.e., the point-of-compliance). The applicable ground water standard is the GNS for unrestricted potable use which was applied to all actionable ground water encountered at the site.

Sediments and surface water were not impacted media at this property. Therefore, sediment benchmarks, bioassay standards, and surface water standards were not applicable at this property.

#### **2.4 Determination of Compliance with Applicable Standards**

Remedial activities and institutional controls were employed in order to meet the applicable standards at this site. Remedial actions (see Section 2.5) consisted of removing free product encountered in the subsurface and excavating soil exceeding applicable standards and replacing it with clean fill. The institutional controls include deed restrictions limiting future use of the property to commercial purposes and prohibiting the use of ground water on the property for potable purposes. Incorporating the institutional controls, all applicable standards are met at the time of issuance of this NFA.

During construction activities and site redevelopment, the zero to two foot point-of-compliance will be breached. Therefore, an Operation and Maintenance (O&M) Plan describing interim protective measures (during construction) and permanent engineering controls (i.e., a paved parking lot) has been prepared as part of this NFA. The interim measures consist of security fencing and/or temporary covering of exposed soil contamination to reliably prevent direct-contact with subsurface contaminants. A permanent engineering control consisting of a paved parking lot will be constructed and maintained to prevent direct contact with subsurface contamination (primarily lead) in portions of Identified Area-13. A Risk Mitigation Plan (RMP) has also been prepared to outline precautions for construction workers excavating and handling contaminated subsurface material at this property. These precautions will reliably reduce the direct-contact exposure of on-site construction workers to acceptable levels.

##### **2.4.1 Methods for Demonstrating Compliance**

The maximum concentrations of COCs in the soil and ground water samples from each Identified Area were compared to their respective GNS. Risk assessment methods were used to establish Site Specific Levels (SSLs) for eight chemicals (acetone, benzo[a]anthracene, benzo[k]fluoranthene, chrysene, dibenz[a,h]anthracene and indeno[1,2,3-cd]pyrene in groundwater; chloromethane in ground water and soil; and 1,2,4 trichlorobenzene in soil) that did not have a GNS. The concentrations of these chemicals

were all determined to be below their respective SSLs within the zero to two foot point-of-compliance for soil and the property boundaries for ground water.

Modeling of COC fate and transport was conducted to demonstrate that the exposure pathway of volatile COCs to indoor air was not a complete pathway. Ground water concentrations of each of the five COCs exceeding their respective GNS were modeled to demonstrate that the maximum concentrations identified for these contaminants would not migrate to the property boundary (i.e., point-of-compliance) at levels that would exceed unrestricted potable use standards.

#### **2.4.2 Compliance with Generic Numerical Standards**

The COCs within the zero to two foot point-of-compliance for the direct contact exposure pathway primarily consisted of TPH, lead, PAHs, and PCBs. A comparison of the direct-contact GNS to the maximum concentration of each COC at the site was used to demonstrate compliance. Compliance with applicable GNSs was used to eliminate the direct contact to soil exposure pathway to current site occupants. An O&M Plan for the construction and maintenance of an engineering control (i.e., a paved parking lot) will eliminate direct contact to soil in the future in areas where the zero to two foot point-of-compliance will be compromised by planned excavation and grading. An institutional control prohibiting on-property ground water use for potable purposes eliminated the on-site ground water ingestion exposure pathway. Compliance with the GNS for unrestricted potable water use at the property boundary was used to eliminate the off-property ingestion of ground water exposure pathway. Cumulative adjustments to GNS were evaluated and determined not to be required for multiple chemicals or exposure pathways.

#### **2.4.3 Risk Assessment Findings**

Human health risk assessment tasks were conducted in order to calculate SSLs for chemicals without a GNS and to model COC fate and transport with respect to off-property ground water ingestion and indoor air exposure pathways as described in Section 2.4.1. These risk assessment tasks demonstrated that off-property ground water ingestion and indoor air inhalation exposure pathways were incomplete. Risk assessment of future construction worker exposure to soil and ground water exceeding direct-contact GNSs demonstrated that this exposure pathway is potentially complete. The Risk Mitigation Plan prepared for this property must be implemented for any intrusive construction work to be performed in areas of the property containing residual contamination. Implementation of the Risk Mitigation Plan will mitigate the construction worker exposure pathway for this property.

No ecological receptors were identified at this property and no ecological risk assessment was performed.

#### **2.4.4 Determination of Whether Remedial Activities are Required**

Remedial activities were required in order to achieve compliance with the direct-contact soil GNS for commercial land use. The remedial actions consisted of excavation and removal of the soil exceeding the applicable GNS and replacement with clean fill. The primary COCs involved in these remedial actions were TPH, PAHs, and lead. These removal actions within the zero to two foot point-of-compliance eliminated the exposure pathway to humans via direct contact with contaminated soil.

#### **2.5 Remedial Activities**

Soil removal and replacement activities were conducted in specific Identified Areas in order to achieve compliance with direct-contact GNSs for commercial land use. Petroleum contaminated soil was removed from the vicinity of the former underground storage tank cavities. Oil product was also removed from the soil in the isolated locations in which it was encountered in the subsurface. Subsurface structures (e.g., concrete walled sumps or pits) were encountered during removal of the old concrete floor slabs. These structures were cleaned and filled. Trapped water was removed from a brick lined tunnel and disposed of at an off-site waste water treatment plant. Water samples from two other water filled manholes discovered during site preparation work was analyzed and determined to not contain any COCs above unrestricted potable use standards. In addition, two institutional controls have been placed on the property in order to comply with applicable standards: a deed restriction prohibiting on-property use of ground water for potable purposes and a deed restriction limiting future use of the property to commercial purposes. An O&M Plan has been prepared describing the construction and maintenance of a parking lot over a portion of Identified Area-13 which will be used to prevent direct contact with underlying soils that will exceed GNSs for commercial land use after site grading cuts into the current zero to two foot point-of-compliance.

#### **2.6 Planned Operation and Maintenance Remedies**

According to current grading plans for the proposed site redevelopment, a portion of Identified Area-13 and possibly other areas will be cut into and/or below the current zero to two foot point-of-compliance. In order to restore a protective barrier to direct contact with subsurface contamination in these areas, an engineering control is planned. The engineering control consists of an asphalt and/or concrete



parking lot pavement placed over a subbase of clean aggregate. A Risk Mitigation Plan has been prepared to mitigate construction worker exposure to the subsurface contaminants during installation of the engineering control. An O&M Plan has been prepared to specify the construction and maintenance of this engineering control.

### 3.0 CONCLUSIONS

Based on the Phase I and Phase II Property Assessment work and remedial activities performed at this property, the Certified Professionals conclude that the property is eligible for participation in the VAP. The property was impacted by petroleum and hazardous substances during its long-term use for industrial purposes. The property has been thoroughly and appropriately assessed and remediated, as necessary, in accordance with the VAP rules. The property currently meets the applicable VAP standards and will continue to meet VAP standards contingent upon implementation of the institutional and engineering controls stipulated herein. Therefore, it is the opinion of the Certified Professionals that the property has met all appropriate standards to achieve NFA status under the VAP and receive a Covenant-Not-To-Sue.

Former Columbus Auto Parts  
Director's Final Findings and Orders / Covenant Not to Sue

**Exhibit 4**  
**Declaration of Restrictions**

AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS ON THE  
USE OF PROPERTY AND EXTRACTION OF GROUNDWATER

THIS AMENDED AND RESTATED DECLARATION OF RESTRICTIONS (the "Restated Declaration") is made this 19th day of April, 2000 by CREWVILLE LTD., an Ohio limited liability company, whose address is 150 East Broad Street, Suite 800, Columbus, Ohio 43215 ("Declarant").

BXCNNOR LAND TITLE CO

1. Amendment and Restatement of Original Declaration. This instrument is recorded by Crewville, Ltd., owner of the real property described in Attachment A (the "Property"), to amend and restate in its entirety the Declaration of Restrictions on the Use of Property and Extraction of Groundwater by Crewville, Ltd. dated February 2, 2000, as filed for record on February 2, 2000 as Instrument No. 200002020023646, Recorder's Office of Franklin County, Ohio (the "Original Declaration"). This Restated Declaration shall supersede the Original Declaration in its entirety. The Original Declaration is hereby cancelled and released in its entirety.

2. Purpose. The purpose of this Restated Declaration is to establish restrictions on the use of the Property and upon the extraction of ground water on and underlying the Property, as part of the process of obtaining from Ohio EPA a Covenant Not To Sue under Ohio EPA's Voluntary Action Program established by Chapter 3746, Ohio Revised Code, and implementing regulations appearing at Ohio Administrative Code Chapter OAC 3745-300.

606 X7

3. Restrictions on Use of the Property. Effective upon issuance of a Covenant Not to Sue from the Ohio EPA in accordance with Ohio Revised Code Chapter 3746, and for so long as such Covenant Not to Sue remains in full force and effect, the Property shall be used only for commercial uses, as defined in OAC 3745-300-08(B)(2)(c)(ii), as effective December 16, 1996. That paragraph provides as follows:

"(ii) 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 exposure 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."

4. Restriction on the Extraction of Ground Water. Effective upon the issuance of a Covenant Not to Sue from the Ohio EPA in accordance with Ohio Revised Code Chapter 3746, and for so long as such Covenant Not to Sue remains in full force and effect, neither the Declarant (the current owner), its successors or assigns, nor any subsequent purchasers or transferees, shall extract the ground water located in, on or underlying the Property. Notwithstanding any of the foregoing provisions, ground water may be extracted from the Property upon, and subject to any conditions contained in, the prior written consent of the Ohio Environmental Protection Agency that such extraction will not result in the revocation of the Covenant Not to Sue.

TRANSFERRED  
NOT NECESSARY

APR 21 2000  
JOSEPH W. TESTA  
AUDITOR  
FRANKLIN COUNTY, OHIO

CONVEYANCE TAX  
EXEMPT

5. Notice of Use Restrictions Upon Conveyance. Any instrument hereafter conveying an interest in the Property or any portion of the Property shall contain a recital acknowledging this Restated Declaration and providing the recording location of this Restated Declaration upon such conveyance substantially in the following form:

"The real property described herein is subject to the Amended and Restated Declaration of Restrictions on the Use of Property and Extraction of Groundwater made by Crewville, Ltd. dated April 19, 2000, and filed for record with the Franklin County Recorder on April \_\_\_\_\_, 2000 in the Franklin County Official Records as Instrument No. \_\_\_\_\_ as if the same were fully set forth herein."

6. Restrictions to be Binding and Run with the Land. The above restrictions shall run with the land and shall be binding and inure to the benefit of all current owners, and all successors and assigns, of the Property, or any portion thereof, including any leasehold interests thereon.

7. Enforcement. The restrictions set forth above may be enforced by a legal or equitable act brought in a court of competent jurisdiction by one or more of the following parties; (a) any party referred to in Paragraph 6 above; (b) the Ohio Environmental Protection Agency; or (c) any other party with an interest in the Property, the Covenant Not To Sue, or which may incur liability as a result of any failure to comply with this Restriction. Any delay on the part of any of the foregoing parties to take any action to enforce compliance with these Restrictions shall not bar any subsequent enforcement with respect to any failure of 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 these Restrictions be deemed a waiver of the right of any party to take any such action with respect to any future failure of compliance.

8. Miscellaneous. If any one or more provisions of these Restrictions is 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. These Restrictions 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 rules adopted thereunder. All headings used herein are for convenience and shall not be used to interpret or qualify the terms of these Restrictions.

IN WITNESS WHEREOF, Crewville, Ltd. has caused this instrument to be executed effective as of the \_\_\_\_\_ day and year first set forth above.

Signed and acknowledged  
in the presence of:

Thomas K. Davis  
Print Name: Thomas K. Davis

Nannette C. Buel  
Print Name: Nannette C. Buel

CREWVILLE, LTD., an Ohio limited  
liability company

By: CAP Partners, Ltd., an Ohio limited liability  
company, its managing member

Franklin E. Kass  
By: Franklin E. Kass  
Franklin E. Kass, Manager

STATE OF OHIO  
COUNTY OF FRANKLIN

The foregoing instrument was acknowledged before me this 19th day of April, 2000, by Franklin E. Kass, Manager of CAP Partners, Ltd., an Ohio limited liability company ("CAP Partners"), on behalf of CAP Partners and on Cap Partners' behalf as the managing member of Crewville, Ltd., an Ohio limited liability company, on behalf of Crewville, Ltd.

*Dannette C. Bue*  
Notary Public



DANNETTE C. BUE  
Notary Public, State of Ohio  
My Commission Expires 11-24-02

This instrument prepared by:  
T. R. Davis, Esq.  
Continental Real Estate Companies  
150 East Broad Street, Suite 305  
Columbus, Ohio 43215

32.345 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, Lot 22, Quarter Township 4, Township 1, Range 18, United States Military Lands and being that tract as conveyed to B-W Associates LLC of record in Instrument Number 199903220070157, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at a concrete monument found in the southerly right-of-way line of Hudson Street as conveyed to the City of Columbus in Deed Book 2237, Page 270, said monument being at the northwesterly corner of Perpetual Highway Easement Parcel No. 11 for Interstate 71 as recorded in Franklin County Common Pleas Court Entry 203810;

thence with the perimeter of said City of Columbus tract, the northerly perimeter of said Parcel No. 11 and the northerly perimeter of Parcel No. 11-LA of said Court Entry 203810, the following courses:

South 86° 23' 18" East, a distance of 240.41 feet to a point;

North 03° 36' 42" East, a distance of 62.00 feet to a point;

South 89° 38' 08" East, a distance of 141.23 feet to a point;

North 03° 36' 42" East, a distance of 30.00 feet to a point in the centerline of said Hudson Street, being the northeasterly corner of said City of Columbus tract;

thence South 86° 23' 18" East, with said centerline, being a northerly line of said Parcel 11-LA, a distance of 189.48 feet to the northeasterly corner thereof;

thence with the easterly perimeter of said Parcel 11-LA, the following courses:

South 03° 21' 57" West, a distance of 215.00 feet to a point;

South 21° 55' 11" East, a distance of 399.23 feet to a point;

South 03° 23' 18" West, a distance of 448.31 feet to a point 0.09 feet northerly and 0.23 feet easterly of a concrete monument found at the southeasterly corner thereof, being the northwesterly corner of that tract as conveyed to the State of Ohio Expositions Commission of record in Official Record 32051B12;

thence South 03° 23' 18" West, with the westerly line of said State of Ohio Expositions Commission tract, a distance of 632.93 feet to a point 0.53 feet easterly of a concrete monument found in the northerly line of a tract owned by the State of Ohio and being in the northerly line of a 10 foot alley as shown on the plat entitled "Winnis Summit Addition" of record in Plat Book 8, Pages 10A, 10B, being the southwesterly corner of said State of Ohio Expositions Commission tract;

32.345 ACRES

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thence North 86° 09' 23" West, with the northerly line of said State of Ohio Expositions tract, a distance of 867.08 feet to an iron pin found in the easterly line of the N & W Railroad;

thence with said easterly railroad line, the following courses:

With a curve to the right, having a central angle of 13° 24' 45" and a radius of 1875.00 feet, a chord bearing and distance of North 09° 32' 14" West, 437.92 feet to a concrete monument found at a point of tangency;

North 02° 49' 55" West, a distance of 634.52 feet to an iron pin set;

thence South 86° 21' 30" East, continuing with said railroad line and the southerly line of Parcels 1-3 as conveyed to the State of Ohio-Ohio Arts Facilities Commission of record in Official Record 31894J11, a distance of 246.21 feet to an iron pin found at the southeasterly corner of said parcel 3;

thence with the easterly line of said Parcel 3, the following courses:

North 02° 50' 37" West, a distance of 142.30 feet to an iron pin found;

North 03° 40' 10" West, a distance of 357.62 feet to a concrete monument found at the northeasterly corner thereof, being in the southerly line of said City of Columbus tract;

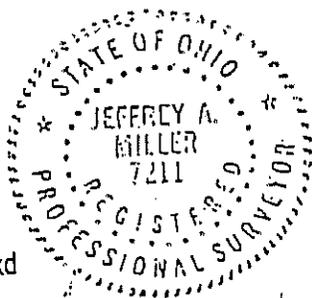
thence South 86° 23' 18" East, with the southerly line of said City of Columbus tract, a distance of 104.92 feet to the point of beginning and containing 32.345 acres of land, more or less, of which 7.680 acres reside in the right-of-way of Interstate 71, leaving a net acreage of 24.665 acres of land, more or less;

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

The bearings herein are based on North 03° 58' 15" West as determined between Monuments Frank 62 and Frank 62 AZ.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

*Jeffrey A. Miller* 5-12-99  
Jeffrey A. Miller  
Registered Surveyor No. 7211



JAM:kd