



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

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

***Certified Mail
Return Receipt Requested***

***Re: Eljer Plumbingware, Inc.
EPA ID # OHD 018 297 523
Decision Document of Corrective Action***

January 9, 2009

Eljer Plumbingware, Inc.
Attn: Mr. Louis Naugle
ReedSmith
435 Sixth Avenue
Pittsburg, Pennsylvania 15219-1886

Dear Mr. Naugle:

Here is the final Declaration and Decision Document for the Eljer Plumbingware, Inc. property in Salem, Ohio. Staff at Ohio EPA, Division of Hazardous Waste Management (DHWM), has reviewed Eljer Plumbingware, Inc.'s Summary of Findings Sample Report submitted for the property and issued a Statement of Basis seeking public input on the proposed remedies. The Agency did not receive comments concerning the Statement of Basis and, as such, there is no responsiveness summary for this final decision.

Since the proposed remedies appear to comply with applicable hazardous waste rules, the Declaration and Decision Document represent the selected remedy for the Eljer Plumbingware, Inc. property, in accordance with the policies of Ohio EPA and the statutes and regulations of the State of Ohio.

In accordance with the Ohio EPA's Evaluation of the Selected Remedy section of this report (section 4.2), use of the site will be restricted from residential or agricultural activity, and groundwater will be restricted from use as drinking water. Use of the site will be limited to industrial purposes only through enactment of an Environmental Covenant, an enforceable mechanism under Ohio law that can be used to restrict property use. The Environmental Covenant will include a legal description of the subject property, identifying the contaminated areas and describe acceptable and unacceptable land uses.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

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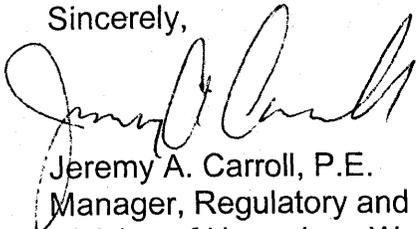
Eljer Plumbingware, Inc.
Mr. Louis Naugle
January 9, 2009
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You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, OH 43215

If you have any questions concerning the Corrective Action remedies selected, please call Paul Dolensky of Ohio EPA's Northeast District Office at (330) 963-1200.

Sincerely,



Jeremy A. Carroll, P.E.
Manager, Regulatory and Information Services Section
Division of Hazardous Waste Management

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cc: Edwin Lim/Cole Miller, ERAS, DHWM, CO
Harry Courtright,/Paul Dolensky, DHWM, NEDO
Carol Hester, PIC
Tracy Drake, Columbiana County Port Authority
DHWM, NEDO File
file

PUBLIC NOTICE

Columbiana County

OHIO EPA ISSUES DECLARATION AND FINAL DECISION DOCUMENT FOR ELJER PLUMBINGWARE, INC.

On January 9, 2009, Ohio EPA issued a Declaration and final Decision Document to the Eljer Plumbingware, Inc., located at 921 South Ellsworth Avenue, Salem, Ohio 44460. The EPA Identification Number for this facility is OHD018297523.

Why does Eljer Plumbingware, Inc. need a final Decision Document?

The Decision Document identifies Ohio EPA's selected remedy for the site, and explains the reasons for the selection of the remedy.

Eljer Plumbingware, Inc., will assume clean-up responsibilities at the Salem, Ohio site and agreed to incorporate an environmental covenant into the Columbiana County Port Authority land deed which restricts use of the property to industrial purposes only.

Can I appeal this final Decision Document?

Yes, if you are an officer of an agency of the state or of a political subdivision, acting in a representative capacity, or any person who would be aggrieved or adversely affected by the Decision Document, you have the right to appeal this Permit decision to the Environmental Review Appeals Commission (ERAC).

If I decide to appeal this final Decision Document, how and when must I make the appeal?

If you file an appeal, you must put it in writing no later than February 12, 2009. Your appeal must explain why you are appealing the action and the grounds you are using for your appeal. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. You must file your appeal, according to Ohio Revised Code § 3745.04 with ERAC at the following address: ***Environmental Review Appeals Commission***, 309 South Fourth Street, Room 222, Columbus, Ohio 43215. You must send a copy of the appeal to the director of Ohio EPA at the following address no later than three (3) days after you file it with ERAC: ***Chris Korleski, Director of Ohio EPA***, P.O. Box 1049, Columbus, Ohio 43216-1049.

DECLARATION

OHIO E.P.A.

JAN -9 2009

SITE NAME AND LOCATION

Columbiana County Port Authority
Former Eljer Plumbingware, Inc. Facility
921 South Ellsworth Avenue
Salem, Ohio (Columbiana County)

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: Will T. F. Hill Date: 1/9/09

STATEMENT OF BASIS AND PURPOSE

This Decision Document presents the selected remedial action for the former Eljer Plumbingware, Inc. (Eljer) facility in accordance with the policies of the Ohio Environmental Protection Agency, statutes and regulations of the State of Ohio. This Decision Document also represents Ohio EPA's approval of the Work Plan submitted by the facility.

ASSESSMENT OF THE SITE

In the March 1989 Preliminary Review/Visual Site Inspection (PR/VS), 21 Waste Management Units (WMUs) and three Areas of Concern (AOC) were identified. Many of these WMUs and AOCs were identified as having a low potential for release to soils or ground water and/or were located inside buildings that were later demolished. WMU #21 is a waste pile addressed by RCRA closure with a permanent cap and post-closure ground water monitoring. Of the remaining WMUs, four were identified as having a moderate or high potential for release to soils or ground water. A soil sampling plan was completed on October 3, 2007 and the analysis showed that the contamination level of arsenic and lead were above residential standards but below industrial use scenarios. Ohio EPA found that the implementation of the selected remedy will protect human health and the environment by permanently reducing risks to acceptable levels once the remedy is completed.

DESCRIPTION OF THE SELECTED REMEDY

The selected remedy will be an Environmental Covenant. An Environmental Covenant is a mechanism under Ohio law that can be used to restrict property use to industrial uses only.

STATUTORY DETERMINATIONS

Today's selection and required implementation of an Environmental Covenant is protective of human health and the environment, is in accordance to applicable State and federal laws and is responsive to public participation and input. The remedy utilizes a permanent solution to restrict the land usage to prevent residential contact with the contaminated soils at the former Eljer site which is now owned by the Columbiana County Port Authority. The effectiveness of the remedy will be reviewed regularly.



Chris Korleski
Director

January 9, 2009
Date

OHIO EPA DHWM

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**Decision Document for the Remediation of
ELJER PLUMBINGWARE, INC.
SALEM, OHIO
(Columbiana County)
OHD 018 297 523**

**Prepared By
The Ohio Environmental Protection Agency
January 2009**

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1.0 INTRODUCTION

1.1 Executive Summary

Ohio Environmental Protection Agency (Ohio EPA) has prepared this Decision Document for the remediation of the former Eljer Plumbingware, Inc. (Eljer) site in Salem, Ohio. This Decision Document identifies Ohio EPA's selected remedy, and explains the reasons for the selection of the remedies.

Under the Resource Conservation and Recovery Act (RCRA), the Corrective Action program was created to address threats to human health and the environment from historic or past waste management areas at RCRA treatment, storage or disposal facilities (TSDF). Eljer managed hazardous waste at their facility from 1980 until they ceased operations in March 2005. Eljer operated a hazardous waste pile from November 1980 until July 1983 under a permit by rule subjecting the waste pile to RCRA closure and the entire facility to RCRA Corrective Action. The hazardous waste pile was addressed under RCRA closure and certified closed in February 2000.

To address the facility's Corrective Action requirements, Eljer voluntarily agreed to work with the Ohio EPA Division of Hazardous Waste Management (DHWM), and has conducted soil sampling at the Eljer facility in Salem, Ohio. A summary of the facility investigation is discussed in Section 3.

Ohio EPA has reviewed Eljer's submittal that documents the results of the facility investigation and previously available information and has selected remedies to remediate the site. The evaluation criteria Ohio EPA used in selecting the remedies are discussed in Section 4.

In brief, Ohio EPA is proposing that an Environmental Covenant, a mechanism under Ohio law that can be used to restrict property use, be used to address environmental hazards caused by previous industrial activities. A summary of Ohio EPA's selected remedy is discussed in Section 5. Ohio EPA finds that this remedy will further protect human health and the environment by permanently reducing risks to acceptable levels once the remedies are implemented.

1.2 How the Corrective Action Process Works

The initial step in the Corrective Action process for facilities regulated under RCRA is site characterization or investigation to define the nature and extent of contamination at

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the facility. The information collected supports the selection and implementation of a remedy or remedies. This step culminates with the facility's submission of a report summarizing the investigation data. Eljer has completed a Soil Sampling Plan dated April 10, 2007, and submitted a Summary of Findings Sampling Report dated October 3, 2007, to Ohio EPA for review.

In the next step of the Corrective Action process, Ohio EPA generates a Statement of Basis which summarizes Ohio EPA's preferred remedies for the facility. This document is then made available to the public for review and comment. Ohio EPA issued the Statement of Basis for Eljer located at Salem, Ohio, on April 8, 2008. This document was made available to the public at the Ohio EPA Northeast District Office to review and comment on from April 9, 2008 to May 27, 2008. Ohio EPA issued a second Statement of Basis on October 23, 2008, because the first Statement of Basis did not adequately address the need to restrict the ground water to non-potable uses only. Ohio EPA did not receive any comments during the comment period.

After considering all comments received during the Public Comment period, Ohio EPA then issues a Decision Document. This document meets that purpose and is the Decision Document for the former Eljer Plumbingware, Inc. site in Salem, Ohio.

2.0 SITE HISTORY

Eljer is located at 921 South Ellsworth Avenue, Salem, Ohio, Columbiana County. The 67 acre site is surrounded by railroad tracks and industry to the north and east, mixed light industry and residential to the west and mixed woodlands, residential and light industry to the south.

Salem is located in the glaciated region of the county where soils were produced by erosion and deposited by glacial ice and running water. The soils beneath the Eljer property include sand, gravels, silts and generally brown to gray clays.

Ground water in the Salem area is present in both deep and shallow zones in two distinct aquifers. The first and deep aquifer is the Pennsylvanian sandstone bedrock and the second aquifer is the shallow, more permeable, glaciofluvial deposits of sand and gravel. The glaciofluvial deposits tend to be the major lines of drainage. Ground water movement in the sand and gravel generally follows the contour of the bedrock surface. In the region of Eljer, ground water above the bedrock floor flows through the glacial debris. Beneath the Eljer facility there is a mixture of sand lenses and clay lenses. These lenses form perched water tables. Ground water entering the sand and gravel aquifer near Eljer is either diverted northwest into the Little Beaver Creek or

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southeast into Stone Mill Run. A sewer line flowing to the southeast which is installed across Eljer property is located in the ground water perched zone which flows to the northeast. The ground water here will have a tendency to flow along the sewer line to the ditch near the southern boundary of the Eljer property and then eventually into the Stone Mill Run drainage system.

Eljer operated a manufacturing plant at the Salem location from 1908 until March 2005. Porcelain-enameled cast iron bathtubs, sinks and various fixtures such as faucets and spigots were manufactured at the facility. During World War II, the facility produced castings for diesel engines, fabricated heavy machinery for war use and fabricated 1,000 lb aerial bombs.

A primary raw material for the facility was scrap iron which was melted and then cast into the product forms. The melting process generated cupola baghouse dust, quencher dust and foundry sand at a rate of approximately seven cubic yards per week. The cast fixtures were sent to the blasting and grinding departments for cosmetic touch-ups and a "primer" coating was applied in the slush department. The fixture was then sent to enameling where powdered enamel was applied and heated in a double heating process to adhere to the cast iron. After enameling, the fixture was inspected and packed for shipping.

Prior to 1980, wastes generated by the various manufacturing processes at the Eljer facility were disposed of in the waste pile located in the southwest corner of the facility. The largest volume of waste disposed of in the pile was spent foundry sand. Beginning in November 1980, a specific area of the waste pile was designated by Eljer for placement of spent foundry sand that met the definition of a hazardous waste. Non hazardous waste materials were separated from the hazardous waste for reclamation of various materials such as iron, coke and slag.

As required by Ohio EPA, Eljer submitted a Resource Conservation and Recovery Act (RCRA) Part A permit application on November 17, 1980, and subsequently operated the hazardous waste pile under a permit by rule. Since July 1983, no additional hazardous wastes were placed on the pile. All hazardous wastes generated after July 1983 were disposed of at a permitted off-site hazardous waste disposal facility. On October 18, 1990, a consent decree was entered in United States vs. Eljer Industries et. al., Ohio Civil Action No. C87-2693Y, which established requirements for closure of the hazardous waste foundry sand pile.

The closure/post-closure plan for the hazardous waste pile was approved on May 26, 1998 and required closure of the waste pile as a landfill. Closure activities included soil sampling, capping the waste pile, collecting and disposing of leachate, ground water

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monitoring and fencing. Eljer submitted closure certifications on January 29, 1999, and May 28, 1999 and the closure performance standards as specified in Ohio Administrative Code Rule 3745-66-11 were met. Ohio EPA accepted Eljer's certification that the closure was completed properly on February 11, 2000.

Currently the closed unit is in the post-closure care period and is in compliance with the post-closure requirements specified in the approved post-closure plan. Post-closure care activities include ground water monitoring, inspecting and maintaining the landfill cap and fencing. The facility is also required to maintain financial assurance for the landfill to finance the post closure activities and does this through an Annuity Policy which makes annual payments into a trust account. Based upon a review of the 2006 Annual Ground Water Monitoring Report for Post-Closure Care, no problems or violations were identified with the ground water near the landfill. As required under the approved post-closure plan, post-closure care activities including ground water monitoring will be required for thirty years from the date of plan approval. Sometime prior to the expiration of the thirty-year post-closure care period, Ohio EPA will perform an assessment to determine if post-closure activities should continue.

Eljer ceased operations at the Salem facility on March 4, 2005, and began dismantling the foundry buildings on the eastern portion of the property. During an October 11, 2006 inspection, Ohio EPA confirmed that Eljer followed the applicable rules and removed all remaining waste from the site. On December 15, 2006, Eljer sold the property to the Columbiana County Port Authority with the understanding that the Port Authority would assume the responsibility for post-closure care of the closed RCRA unit and Eljer would address remaining environmental concerns. The Port Authority currently leases portions of the remaining buildings to small businesses.

3.0 SUMMARY OF THE FACILITY ASSESSMENT

3.1 Site Wide Soil

A Preliminary Review/Visual Site Inspection (PR/VSI) of the facility was conducted by A. T. Kearney, Inc., a U.S. EPA contractor, in March 1989. During this inspection, 21 Waste Management Units (WMUs) and three Areas of Concern (AOC) were identified. A waste management unit is defined as any discernible unit at which waste has been placed at any time, irrespective of whether the unit was intended to manage waste. Many of these WMUs and AOCs were identified as having a low potential for release to soils or ground water and/or were located inside buildings that were later demolished. WMU #21 is the waste pile addressed by RCRA closure with a permanent cap and post-closure ground water monitoring. Of the remaining WMUs, four were identified as

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having a moderate or high potential for release to soils or ground water. They are all located in the same vicinity just outside or near the west door of Building 3 between the iron melt furnace (cupola) and the cupola baghouse. These WMUs include:

WMU #12 -Quencher Dust Hopper – Collected larger fragments generated from cupolas including dusts, sand, coke and other process impurities including lead and cadmium.

WMU #15 -Cupola Baghouse – Captured larger fragments from the cupolas, including dusts, sand, coke and other impurities including lead, that could burn through the baghouse filter fabrics.

WMU #16 -Cupola Roll-Off Container- Standard 20 cubic yard roll-off container used to collect cupola baghouse dusts. The waste contained dusts and floor sweepings that contained lead.

WMU #18 -Slag Loading Area- Area used to load slag and cupola bottom-drop from the facility to dump trucks for placement on the waste pile (WMU 21). The slag was shown to be a non-hazardous waste according to facility personnel but the concentration of lead in the slag was not given.

Based upon a November 9, 2006, site inspection and a review of the PR/VS1 Report, Ohio EPA concluded that further site characterization was necessary in the area around the four WMUs. In a February 7, 2007 letter, Ohio EPA requested that Eljer submit a soil sampling plan to complete the characterization. A plan was submitted on April 10, 2007, and was approved by Ohio EPA on June 1, 2007. Ten soil samples were taken from a 0 to 2 foot depth on June 28, 2007. Eljer submitted a *Summary of Findings* sampling report on October 3, 2007. The soil sample results, shown in Table 1, indicated elevated levels of RCRA metals including lead and arsenic near the surface (0-2 feet).

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| <u>Constituent</u> | <u>95% UCL¹</u> | <u>Residential²</u> | <u>Industrial³</u> |
|--------------------|----------------------------|--------------------------------|-------------------------------|
| Arsenic | 10.8 | 3.87 | 80 |
| Barium | 418 | 5170 | 200,000 |
| Cadmium | 2.91 | 63.5 | 770 |
| Chromium | 172 | 210 | 8900 |
| Copper | 272 | 2860 | NONE |
| Lead | 727 | 245 ⁴ | 1096 |
| Mercury | 1.28 | 3.13 | 300 |
| Selenium | 1.75 | 387 | 15,000 |
| Silver | 1.64 | 365 | 15,000 |
| Zinc | 748 | 23,100 | 900,000 |

3.2 Ground water Investigation

Although there has been no site-wide ground water investigation, there has been semi-annual ground water monitoring done around WMU #21 (approximately one-third of the property area) since 1991. There are a total of six monitoring wells: one well is upgradient, one well is crossgradient, and the remaining wells are downgradient of WMU #21. The current contaminants that are being monitored are dissolved arsenic, barium, chromium, and lead. The upgradient well is used to provide a background statistic to compare the contaminants levels of the downgradient wells. In recent years, the downgradient levels for barium have not significantly exceeded the background numbers while chromium and lead analysis have shown that both contaminants have not been detected. Arsenic has been found to be above the background levels in multiple wells.

At the time the post-closure was approved, the amount of permissible dissolved arsenic in ground water was 50 parts per billion (ppb). Therefore, 50 ppb was the standard used

¹ The 95% Upper Confidence Limit on the mean, based on the most recent sampling event, calculated using USEPA's ProUCL Version 3.0. The UCL (upper confidence level) is the value that when calculated for a random data set equals or exceeds the true mean 95% of the time – thus, it is a conservative estimate of the mean.

² The unadjusted direct contact soil Generic Clean Number, residential use, as found in the Ohio EPA. (2006) *Closure Plan Review Guidance for RCRA Facilities*. Division of Hazardous Waste Management. Columbus, OH.

³ The unadjusted direct contact soils standards, industrial and commercial use, as found in the Voluntary Action Program Rule 3745-300-08 (3) (c).

⁴ The residential lead value is from Ohio EPA. (2006) *Closure Plan Review Guidance for RCRA Facilities*. Division of Hazardous Waste Management. Columbus, OH. The industrial lead value was calculated using the USEPA Technical Review Workgroup Adult Lead Model, Version 05/19/03.

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as the action level. This means that if arsenic is detected in an amount greater than 50 ppb, under the requirements of the post closure plan, Eljer would have to clean the ground water to beneath the action level. Arsenic has not been detected higher than 50 ppb at this facility. However, in 2004, the EPA changed the arsenic standard to 10 ppb. One of the wells frequently has had Arsenic concentrations higher than this level (approximately 20 to 30 ppb). In general, Ohio EPA has not sought to amend existing approved post-closure plans to adjust the Arsenic action level.

In this specific case, the data is inconclusive as to whether the arsenic is naturally occurring or is a result of the closed WMU #21. However, because the levels of arsenic have exceeded the current arsenic standard, Ohio EPA is proposing to restrict potable uses of ground water across the entire property.

3.3 SITE SUMMARY

Based upon a review of the Summary of Findings report, Ohio EPA determined that the concentrations of hazardous constituents, in this case metals, in the soils around the four WMUs are unacceptable when evaluated under a residential direct contact exposure scenario. This means these metals concentrations could potentially be harmful to residents who could be exposed to the soils through direct, continuous contact with them if this portion of the property was converted to residential use. But since this portion of the property and the immediate surrounding property will continue to be used for industrial purposes, Ohio EPA and Eljer considered only two potential remedies that are consistent with this use, not costly and are easily implemented. These remedies are described in the next section.

4.0 EVALUATION AND SELECTION OF REMEDIES

4.1 Description of the Evaluation Criteria

As part of the facility investigation/corrective measures/remedy study process, criteria for evaluating potential remedies were developed by U.S. EPA under the RCRA Corrective Action program. The evaluation criteria are found in U.S. EPA guidance documents. The criteria are used by Ohio EPA to evaluate the remedies for a facility when it is determined that environmental conditions on the property require some type of action to reduce the potential risk to human health and the environment, posed by the

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presence of environmental contaminants, to acceptable levels. The evaluation criteria are listed and described below:

Remedy Selection Evaluation Criteria

For a proposed remedy to be considered a viable remedy when implemented, it must meet the threshold criterion that it be protective of human health and the environment. An option of "no action" to be implemented to address the contaminated soils is not acceptable to Ohio EPA. Even though use of the property is industrial and the current levels of contaminants present in the soils are not harmful to workers on site who come into direct contact with these soils, there is no legally enforceable mechanism in place to prevent the property from being converted to residential use in the future.

To ensure the affected portion of the property continues to be used only for industrial purposes, Ohio EPA considered as a remedy that the property owner and Ohio EPA enter into an Environmental Covenant. An environmental covenant is a legally enforceable mechanism that would describe the property and limits its use to industrial purposes. The Covenant would list appropriate land use while also describing what uses would not be allowable. The Covenant would run with the land and attach to the property deed and could not be changed without the written agreement of both the property owner and Ohio EPA even if the property was sold at some point in the future. Ohio EPA would monitor the property periodically to ensure that its use was consistent with the allowed uses listed in the Covenant.

4.2 Ohio EPA's Evaluation of the Selected Remedy

Ohio EPA has reviewed the Summary of Findings Sampling Report submitted in October 2007 by Eljer. The following remedy was evaluated using the criteria described in Section 4.1.

Environmental Covenant – Ohio EPA proposes that use of the site will be restricted to industrial purposes only through enactment of an Environmental Covenant, an enforceable mechanism under Ohio law that can be used to restrict property use. This restriction will run with the land and will be binding upon all future property owners should the property be sold. The Environmental Covenant will include a legal description of the subject property, identifying the contaminated areas and describe acceptable and unacceptable land uses. Ohio EPA will monitor the property owner's adherence to the Environmental Covenant to ensure continued protection of human health and the environment. The types of limitations for this property include:

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Industrial land use limitations. The Property shall not be used for residential or agricultural activities, but may be used for certain industrial activities. The term "residential activities" shall include, but not be limited to, the following:

- a. Single and multi-family dwelling and rental units;
- b. Day care centers and preschools;
- c. Hotels and motels;
- d. Educational (except as a part of industrial activities within the Property) and religious facilities;
- e. Restaurants and other food and beverage services (except as a part of industrial activities within the Property);
- f. Entertainment and recreational facilities (except as a part of industrial activities within the Property);
- g. Hospitals and other extended care medical facilities (except as a part of industrial activities within the Property); and
- h. Transient or other residential facilities.

The term "industrial activities" shall include manufacturing, processing operations and office and warehouse use, including but not limited to production, storage and parking/driveway use.

Ground water restriction. With the exception of approved beneficial industrial purposes, the ground water located in the subsurface beneath the former Eljer property shall not be extracted. Beneficial industrial use of ground water includes monitoring the condition of ground water and using the ground water in other non-potable manners. Beneficial industrial use of ground water does not include any use for human consumption.

5.0 CONCLUSIONS

In conclusion, as it meets the threshold criteria for remedy acceptability, Ohio EPA has selected the remedy discussed in Section 4.2: Ohio EPA's Evaluation of the Selected Remedy. The action that the facility is required to take is to incorporate the environmental covenant into its land deed. Since the property is no longer owned by Eljer, the environmental covenant will be incorporated into the land deed that Columbiana County Port Authority holds.