



west virginia department of environmental protection

Office of Environmental Remediation
601 57th Street, SE
Charleston, WV 25304
(304) 926-0455
(304) 926-0457 fax

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
dep.wv.gov

August 22, 2011

Certified Mail #

Mr. Richard Garlitz
Bradburne, Briller & Johnson, LLC
1641 Saw Mill Run Blvd
Pittsburg, PA 15210

RE: Land Use Covenant for Ames True Temper Plant 1, VRP # 06786
3801 Camden Avenue, Parkersburg, Wood County, West Virginia

Dear Mr. Garlitz,

Enclosed is the signed and notarized Land Use Covenant for the subject parcel. Please arrange to have the Land Use Covenant properly recorded with the Wood County Clerk, and request the Clerk return a copy of the recorded instrument to my attention:

Mr. Ken Ellison
WVDEP, Division of Land Restoration
601 57th Street
Charleston, WV 25304

The Land Use Covenant will become part of the Certificate of Completion to be issued for the subject site, once the Final Report is completed and approved.

Thank you for your attention to this matter, and please feel free to contact Program Manager Patty Hickman (304-926-0499, ext. 3517) or me if you have any questions.

Sincerely,

Ken Ellison
Director

Enclosure

cc: Catherine Guynn, Project Manager
Patty Hickman
File #06786

LAND USE COVENANT

This is an environmental covenant executed pursuant to the Voluntary Remediation and Redevelopment Act, West Virginia Code Chapter 22, Article 22, and the Uniform Environmental Covenants Act, West Virginia Code Chapter 22, Article 22B, to restrict the activities on, and uses of, the following described property:

The former Ames True Temper is a former garden tool manufacturing facility located at 3801 Camden Avenue in Parkersburg, West Virginia. See Attachment A for a copy of the legal description of the property.

Activities on and uses of the above describe property that may result in excessive human exposure or in the release of a contaminant that was contained as part of the remedial action related to this covenant are prohibited. Those activities and uses include, but are not limited to:

1. All activities on the property which may interfere with the remedial action required by the Agreement.
2. Excavation, drilling or penetration through the protective cover or removal of existing building floors and foundations unless such activities are either performed by a qualified and knowledgeable contractor that is aware of any potential release of a contaminant and has a Health and Safety Plan to protect the public and workers; or a contractor is working under the direct supervision of a Licensed Remediation Specialist (LRS) or a similarly qualified individual or organization in areas where the soils exceed the Industrial De Minimis Risk-Based Standard.
3. Extraction of groundwater at the site for any use except for ground water monitoring and/or remediation.
4. Uses of the property for any purpose other than nonresidential use as defined by the Voluntary Remediation Act (West Virginia Code §22-22-2, et seq).

The current owners of record of the property, and their contact information, are:

Surnaik Holdings of WV, LLC
c/o IEI, Inc.
8815 Center Park Drive, Suite 400
Columbia, MD 21045

Any person, including a person that owns an interest in the real property, the state, or federal agency, determining or approving the environmental response project pursuant to which an environmental covenant is created, or a municipality or other unit of local government, may be a holder of an environmental covenant. The following are all of the holders of this covenant:

Surnaik Holdings of WV, LLC
c/o IEI, Inc.
8815 Center Park Drive, Suite 400
Columbia, MD 21045

Ames True Temper
465 Railroad Avenue
Camp Hill, PA 17011

The facts regarding the remediation response project at this property are stated below. During soil and groundwater sampling activities performed from 2004 through 2009, the following impacts were determined:

- Soil and groundwater impacted with chlorinated solvents above (Paint Pit Area) was discovered in the southeast portion of the main building;
- Soil impacted with constituents related to petroleum (Heat Treat Area) was discovered in the west central portion of the main building, and
- Soil impacted with lead (Clean Cap Area) was discovered in area adjacent to the northeast corner of the main building.

Refer to Figure 1 for a Site Plan Showing the Approximate Boundaries of the Remediated Areas and Figure 2 for a Site Plan Showing the Approximate Boundaries of Site-wide Restricted Groundwater Use. Refer to Table 1 for a table showing Contaminants of Concern at the property. In Summer 2007 BB&J oversaw the removal of 158 tons and 199 tons of impacted soil from the Heat Treat Area and the Paint Pit Area, respectively. Both excavations were then backfilled with clean fill and finished with 3-6 inches of concrete. Due to the existence of load-bearing columns, soil exhibiting concentrations of constituents of concern above WVDEP VRRRA De Minimis Risk-Based Standards for soil at industrial sites remains on the sidewalls of both excavations. Assuming an industrial or commercial use for the property, results of the risk assessment using non residential exposure assumptions performed for the property indicated that all exposure pathways were eliminated with the exception of the dermal and ingestion routes in the adjacent to the northeast corner of the main building (Clean Cap Area). Consequently, a remedial action consisting of the installation of an approximately 6,500-square foot clean soil cap atop an area of lead-impacted soil was undertaken. Under an agreement with the WVDEP, the clean soil cap was installed at a thickness of two feet and was seeded with a vegetative cover. Groundwater sampling and modeling were used to show that groundwater impacted above the WVDEP VRRRA De Minimis Risk-Based Standards for groundwater at industrial sites will not leave the property boundaries. Therefore, while the remedial action is completed, soil impacted with lead (Clean Cap Area), soil impacted with constituents related to petroleum (Heat Treat Area), and soil and groundwater impacted with chlorinated solvents (Paint Pit Area) in concentrations above WVDEP VRRRA De Minimis Risk-Based Standards for soil and groundwater at industrial sites remain at the site.

The owner(s) of the property shall provide written notice to the Secretary of the Department of Environmental Protection within 10 days following transfer of a specified interest in the property

subject to this covenant, changes in use of the property, application for building permits regarding the property, or proposals for any site work affecting the contamination on the property.

The owner(s) shall conduct inspections of the property to monitor compliance with this Land Use Covenant at least *one time[s]* per year, and shall submit two (2) signed copies of the inspection monitoring report to the WVDEP, DLR headquarters in Charleston, within thirty (30) days of the inspection.

This covenant relieves the applicant and subsequent successors and assigns from all civil liability to the state as provided under West Virginia Code Article 22 of Chapter 22 and shall remain in effect so long as the property complies with the applicable standards in effect at the time this covenant was issued.

This covenant shall not be amended, modified or terminated except by written instrument executed in accordance with W. Va. Code § 22-22B-10, by and between the Owner at the time of the proposed amendment, modification or termination, the Secretary of the West Virginia Department of Environmental Protection, and the holders of this covenant. Within 5 days of executing an amendment, modification or termination of this Land Use Covenant, the Owner shall record such amendment, modification or termination with the Clerk of the County Commission, and within 5 days thereafter, the Owner shall provide a true copy of the recorded amendment, modification or termination to the Secretary of the Department of Environmental Protection.

The administrative record for the environmental response project reflected in this covenant is maintained in the West Virginia Department of Environmental Protection, Division of Land Restoration, Office of Environmental Remediation and is titled Ames True Temper Plant 1 (VRP 06786).

The West Virginia Department of Environmental Protection is granted full right of access to the property for the purpose of implementation or enforcement of this covenant.

All restrictions and other requirements described in this covenant shall run with the land and shall be binding upon all holders and their grantees, lessees, authorized agents, employees or persons acting under their direction or control.

IN WITNESS WHEREOF, the following holders have executed this covenant on the dates indicated.

SIGNED: Daniel Yurovich

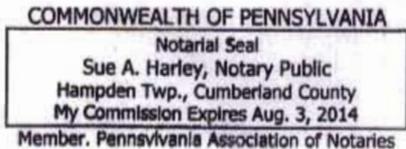
Date: 4/12/11

Mr. Daniel Yurovich
Ames True Temper

I, Sue A. Harley, a Notary Public in and for the County of Cumberland, State of Pennsylvania, do hereby certify that the holder(s) whose (name is) (names are) signed above, this day executed this document in my presence or this day acknowledged same to be the true act and deed of said holder(s).

Given under my hand this the 12th day of April, 2011.

My commission expires August 3, 2014.



Sue A. Harley
Notary Public

SIGNED: Upenda Naik

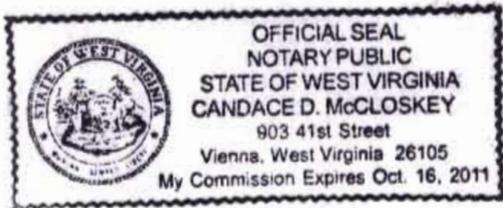
Date: 4/12/11

Dr. Upenda Naik
Surnaik Holdings of WV, LLC

I, Candace D. McCloskey, a Notary Public in and for the County of Wood, State of West Virginia, do hereby certify that the holder(s) whose (name is) (names are) signed above, this day executed this document in my presence or this day acknowledged same to be the true act and deed of said holder(s).

Given under my hand this the 8th day of July, 2011.

My commission expires Oct 16, 2011.



Candace D. McCloskey
Notary Public

SIGNED: Ken Ellison

Date: 8/22/11

Mr. Ken Ellison

Secretary, WV Department of Environmental Protection

I, Jessica A. Henson, a Notary Public in and for the County of Kanawha, State of West Virginia, do hereby certify that Ken Ellison, whose name is signed to the writing above as the representative of the agency, has this day executed this document in my presence or this day acknowledged same to be the true act and deed of said holder.

Given under my hand this the 22nd day of August, 2011.

My commission expires April 7, 2020.

Jessica A. Henson

Notary Public

The Clerk will return the recorded document to:

Mr. Ken Ellison, Director
WVDEP, DLR
601 57th Street
Charleston, West Virginia 25304



ATTACHMENT A
LEGAL DESCRIPTION

EXHIBIT A

Situate in the District of Tygart, County of Wood and State of West Virginia, being more particularly described as follows:

FIRST TRACT: Tax Map 6, Parcel C2.1

BEGINNING at the intersection of the northerly line of a tract of 6.95 acres, more or less, as conveyed to Junkyard, Inc. by William Cook, P.L.C., by deed dated April 20, 1993, and of record in the Office of the Clerk of the County Commission of Wood County, West Virginia, in Deed Book 919, at page 656, and the easterly line of the Baltimore and Ohio Railroad, said point marked by an iron rod; thence along said northerly line of the aforesaid tract of 6.95 acres N. 65 degrees 50' E. passing through the westerly line of a 30 foot railroad spur right of way at 80.59 feet for a total distance of 110.59 feet to an iron rod lying in the easterly line of said spur (said spur reference a plat by Schulties's, Incorporated, dated July 7, 1990); thence continuing along said easterly line of said spur S. 39 degrees 21' 39" E. 33.36 feet to a point at the beginning of a curve having a radius of 515 feet; thence continuing along said line along the chord of said curve S. 35 degrees 39' 23" E. 62.83 feet to an iron rod; thence leaving said spur line N. 65 degrees 50' E. a distance of 184.97 feet to an iron rod; thence N. 81 degrees 49' 29" E. a distance of 99.07 feet to an iron rod; thence S. 67 degrees 30' 32" E. 126.04 feet to an iron rod; thence S. 50 degrees 23' 38" E. 189.05 feet to an iron rod lying at the northwesterly corner of a 60 foot right of way; thence S. 31 degrees 23' 43" E. 60.04 feet to an iron rod at the southwest corner of the above mentioned right of way; thence S. 58 degrees 45' 19" W. a distance of 255.96 feet to an iron rod; thence S. 24 degrees 02' 40" E. 330.19 feet to an iron rod in the northerly line of a tract of 4.71 acres conveyed to Junkyard, Inc. by William Cook, P.L.C., as the First Tract, by deed dated April 15, 1993, and of record in said Clerk's Office in Deed Book 919, at page 653; thence with the northerly boundary of said tract S. 65 degrees 57' 20" W. 20.00 feet to an iron rod in the easterly line of a tract now owned by O. Ames Co.; thence with said easterly line N. 24 degrees 02' 40" W. for 599.80 feet to a 9 inch steel pipe; thence with another line of O. Ames Co. S. 65 degrees 50' W. passing through a 9 inch steel pipe at 400 feet for a total distance of 474.40 feet to an iron rod in the aforesaid easterly line of said railroad; thence with said easterly line of said railroad N. 15 degrees, 50' E. 188.45 feet to a point; thence continuing with said easterly line of said railroad N. 7 degrees 46' E. 70 feet to the point of beginning, containing 3.23 acres.

Prior Title Reference: Deed Book 937, Page 436

FURTHER conveying to Grantee and subject to the terms and conditions contained therein, all of Grantors interest in that certain right of way easement dated October 31, 1994 from Junkyard, Inc., and recorded in Deed Book 937, page 440, more fully described as follows:

BEGINNING at the intersection of the northerly line of a tract of 6.95 acres, more or less, conveyed to Junkyard, Inc., by William Cook, P.L.C. by deed dated April 20, 1993, and of record in the Office of the Clerk of the County Commission of Wood County, West Virginia, in Deed Book 919, at page 656, and the westerly line of the Baltimore and Ohio Railroad; thence along said westerly line of said railroad S. 53 degrees 42' E. 426.70 feet to an iron rod, said point being the true point of beginning; thence continuing along said westerly line of said railroad S. 53 degrees 42' E. 64.97 feet to an iron rod; thence leaving said line S. 58 degrees 45' 19" W. a distance of 114.33 feet to an iron rod in the easterly line of a tract of 3.23 acres to be conveyed to O. Ames Co.; thence along said easterly line of said tract N. 31 degrees 23' 43" W. 60.04 feet to an iron rod; thence leaving said line N. 58 degrees 45' 11" E. a distance of 89.67 feet to the true point of beginning, containing 0.14 acres, as more particularly shown as right of way "B" on the plat dated October 6, 1994 by Paul M. Cochran, of record in Deed Book 937, page 440.

Grantor further conveys to Grantee, its successors and assigns a perpetual easement and right of way over and across that certain real estate referenced as "B and O Railroad" on said plat.

SECOND TRACT: Tax Map 6, Parcel B

Parcel 1: BEGINNING at a point on the north side of an 80 foot street leading from the Little Kanawha River to the lands of the West Virginia Fair, and now called Broadway, which point is N. 65 deg. E. 170 feet from a stone monument that marks the N.E. corner of said Broadway and another 80 foot street running at right angles to said Broadway, at the point of intersection, now known as Camden Avenue, and the latter being the same street on which the tracks of the P. M. & I. Railway Company are now, or were formerly located, until Broadway is reached; thence a straight line at right angles to Broadway and parallel to, and 170 feet from the east line of Camden Avenue until the latter changes its course, N. 25 deg. W. 1100 feet to a stake; thence at right angles and parallel to the line of Broadway, N. 65 deg. E. 400 feet to a stake; thence at right angles and parallel to the first line of the tract hereby

conveyed S. 25 deg. E. 1100 feet to a stake in the north line of Broadway; thence along the north line of Broadway, S. 65 deg. W. 400 feet to the place of beginning, containing 10.10 acres; and being the same land conveyed to Baldwin Tool Works by The Baldwin Forging and Tool Company by deed dated January 31, 1911, and recorded in the Office of the Clerk of the County Commission of Wood County, West Virginia, in Deed Book 155, page 397.

Subject, however, to the reservation in that certain deed dated August 4, 1910, conveying the same described land from the Parkersburg Industrial Company to the Baldwin Forging and Tool Company, which deed is of record in the above mentioned County Clerk's Office in Deed Book No. 154, page 527, under which there was reserved to said Parkersburg Industrial Company, a West Virginia corporation, its successors and assigns, a right of way over and upon the above described tract of land for a railroad switch or side tract twenty-five (25) feet wide, entering said tract at a point 100 feet west of the northernmost corner thereof; and traversing said tract diagonally toward the southeast until the eastern boundary line is intersected at a point 150 feet from said northernmost corner; together with the right of said Parkersburg Industrial Company, its successors and assigns, to build, construct, lay, maintain, use and operate said switch or side track, for all purposes of an industrial siding and railroad switch or side track, said switch or side track being shown by the line marked: "proposed main siding to industrial sites," on the plat attached to said deed dated August 4, 1910.

Parcel 2: BEGINNING as shown on a plat of Fairplains and the Ward Farm recorded in Plat Book No. 2, page 75, at the northeasterly corner of Camden Avenue and Broadway, thence with the easterly line of Camden Avenue towards Myrtle Street, a distance of 735 feet to a stake which is between Broadway and Myrtle Street and is 122.25 feet from Myrtle Street; thence towards the Kanawha River in a line parallel to said Broadway and Myrtle Street, a distance of 170 feet and to the westerly line of the tract of land conveyed to Baldwin Tool Works by The Baldwin Forging and Tool Company, by deed dated January 3, 1911, of record in said County Clerk's Office in Deed Book No. 155, page 397; thence with the westerly line at the tract now owned by said Baldwin Tool Works a distance of seven hundred and thirty five (735) feet and to the northerly side of said Broadway; thence with the northerly side of said Broadway a distance of one hundred and seventy (170) feet and to the point of beginning, being the same land conveyed to Baldwin Tool Works by Parkersburg Industrial

Company by deed dated May 3, 1919, recorded in said Clerk's Office in Deed Book No. 172, page 127.

THIRD TRACT: Tax Map 6, Parcel 2

BEGINNING on the east side of Camden Avenue 50 feet south of the southeast corner of Camden Avenue and Myrtle Street and running thence with the easterly line of Camden Avenue S. 25 deg. E. 50 feet to a point; thence at right angles 150 feet to a 20 foot alley; thence with the west line of said alley N. 25 deg. W. 50 feet to a point; thence at right angles 150 feet to Camden Avenue, the place of beginning, being the same property conveyed to Baldwin Tool Works by Harold Cunningham and Pauline H. Cunningham, by deed dated August 1, 1929, and recorded in said County Clerk's Office in Deed Book No. 199, page 614, subject to a certain building restriction set forth in the deed from Parkersburg Industrial Company to John Walker, dated November 29, 1910, and recorded in the said Clerk's Office in Deed Book 155, page 267, in which it is provided that no dwelling shall be erected within twenty (20) feet of Camden Avenue.

FOURTH TRACT: Tax Map 6, Parcel 1

BEGINNING at the southeast corner of Myrtle Street and Camden Avenue, thence with Camden Avenue S. 25 deg. E. 50 feet to a point; thence at right angles, and in an easterly direction 150 feet to a 20 foot alley; thence with said alley N. 25 Deg. W. 50 feet to Myrtle Street; thence at right angles 150 feet to Camden Avenue, the place of beginning, being the same real estate conveyed to Baldwin Tool Works by Wood County Security Company, Trustee, by deed dated August 6, 1930, of record in said Clerk's Office in Deed Book No. 202, page 577, subject to a certain building restriction set forth in the deed from Parkersburg Industrial Company to John Walker, dated November 29, 1910, and recorded in said County Clerk's Office in Deed Book No. 155, page 266, in which it is provided that no dwelling house shall be erected within twenty (20) feet of Camden Avenue.

FIFTH TRACT: Tax Map 6, Parcel 4

Parcel 1: A portion of a twenty (20) foot alley bounded as follows:

BEGINNING in the southerly line of Myrtle Street at the northeasterly corner of that certain parcel of land conveyed to Baldwin Tool Works by Wood County Security Co., Trustee, by deed dated August 6, 1930, and recorded in Book No. 202, page 577; thence southerly along the easterly line of said parcel, and

continuing along the easterly line of that certain parcel conveyed to Baldwin Tool Works by Harold Cunningham and Pauline H. Cunningham by deed dated August 1, 1929, and recorded in Deed Book 199, page 614, and along said easterly line of said Cunningham parcel extended southerly a total distance of 122.25 feet to the northerly line of that certain parcel of land conveyed to Baldwin Tool Works by Parkersburg Industrial Co., by deed dated May 3, 1919, and recorded in Deed Book 172, page 127; thence easterly along said north line of said parcel last mentioned above, a distance of twenty (20) feet to the westerly line of a certain parcel of land conveyed to Baldwin Tool Works by the Baldwin Forging and Tool Co., by deed dated January 3, 1911, recorded in Deed Book No. 155, page 397; thence northerly along said westerly line of said parcel last mentioned above a distance of 122.25 feet to the southerly line of Myrtle Street; thence westerly along said southerly line of Myrtle Street, a distance of twenty (20) feet to the place of beginning.

Parcel 2: Also, that certain parcel of land bounded as follows: BEGINNING at the easterly line of Camden Avenue at the southwesterly corner of a certain parcel of land conveyed to Baldwin Tool Works by Harold Cunningham and Pauline H. Cunningham, by deed dated August 1, 1929, and recorded in Deed Book 199, page 614; thence easterly along the southerly line of said Cunningham parcels, a distance of 150 feet to the southeasterly corner thereof; thence southerly along the easterly line of said Cunningham parcel, extended southerly a distance of 22.25 feet to the northerly line of a certain parcel of land conveyed to Baldwin Tool Works by Parkersburg Industrial Company, by deed dated May 3, 1919, and recorded in said Clerk's Office in Deed Book 172, page 127; thence westerly along the northerly line of said last mentioned parcel, a distance of 150 feet to the easterly line of Camden Avenue; thence northerly along the easterly line of Camden Avenue, a distance of 22.25 feet to the place of beginning.

And being the same tract or parcels conveyed unto Ames Baldwin Wyoming Shovel Co., a Delaware Corporation, by Union Trust and Deposit Company, Surviving Trustee under the Last Will and Testament of Frank M. Baldwin, and others by deed dated August 18, 1931, and of record in the Office of the Clerk of the County Commission of Wood County, West Virginia, in Deed Book No. 210, at page 310.

Parcel 3: A 60-foot street known as "Myrtle Street", extending in a northeasterly direction from Camden Avenue to the line of McDonough Co. property, and with said line a lesser width of

approximately, 20 feet, northeasterly, northwesterly and southerly, to a railroad siding.

It is intended to convey that parcel shown on Tygart District Tax Map 6 as Parcel 4, which includes Myrtle Street east of Camden Avenue and the alley way adjoining Tracts A, 1 and 2 as shown on Tax Map 6.

SIXTH TRACT: Tax Map 6, Parcel A

BEGINNING on the northeasterly corner of Myrtle Street and the right of way of The Baltimore and Ohio Railroad siding; thence with the northerly line of Myrtle Street N. 65 degrees E. 138.12 feet to a twenty-foot alley; thence with the westerly line of said alley N. 25 degrees W. 183.13 feet to a stake; thence at right angles S. 65 degrees W. 54.87 feet, more or less to the said right of way of The Baltimore and Ohio Railroad siding; thence with said right of way S. 6 degrees 27' W 33.9 feet to a stake; thence S. 3 degrees 09' W. 79.46 feet to a stake; thence S. 6 degrees 51' E. 86.71 feet to Myrtle Street, the place of beginning, containing .427 acres; and being the same tract or parcel conveyed unto Baldwin Wyoming Company, a corporation, by John Mitchell Dandson and others by deed dated July 12, 1950, and of record in the aforementioned Clerk's Office in Deed Book No. 335, page 515.

Situate in the City of Parkersburg, County of Wood, State of West Virginia, and being more particularly described as follows:

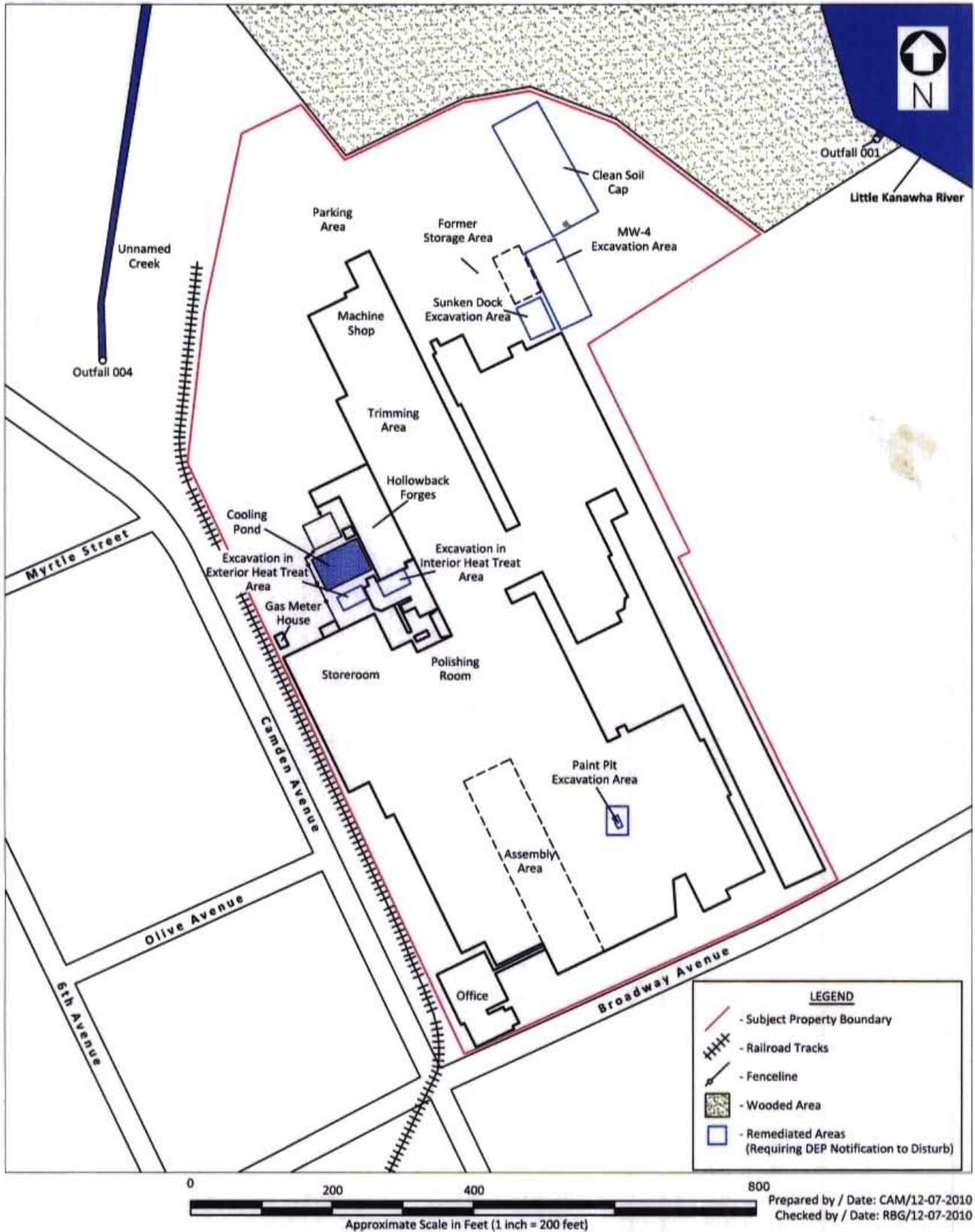
SEVENTH TRACT: Tax Map 5, Parcel B1

BEGINNING at an existing drill hole in the pavement at the Northeastern corner of the Norandex property adjacent to the intersection of Broadway and Camden Avenue; thence S. 68 degrees 52' W. with the Northerly property line of said property a distance of 193 feet to an iron pin set; thence S. 21 degrees 08' E. a distance of 257 feet to an iron pin set; thence N. 68 degrees 52' E. a distance of 193 feet to an iron pin set; thence N. 21 degrees 08' W. a distance of 257 feet to an existing drill hole in the pavement at the point of beginning containing 1.139 acres, more or less, and being the same tract or parcel conveyed unto McDonough Co. by Norandex, Inc., a corporation, by deed dated January 30, 1980, and of record in the aforementioned Clerk's Office in Deed Book No. 733, at page 652.

Prior Title Reference: Deed Book 308. Page 565

FIGURE

Source: Site sketch based on soil and groundwater assessment activities performed by Ms. Nina Carpic of BB&J LLC in September and October 2006.



Ames True Temper
 Former Plant 1
 3801 Camden Avenue
 Parkersburg, West Virginia



Bradburne, Briller & Johnson, LLC
 www.bbgroup.com

Site Plan Showing Approximate
 Boundaries of the Area which Requires
 DEP Notification to Disturb

Project No. R0700009 Figure 1