



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 #

91 7108 2133 3938 4087 1828

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

RE: Land Use Covenant for Ames True Temper Plant 2, VRP # 06787
3301 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 #06787

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 3301 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, i.e., the four feet of clean fill atop the Impacted Soil Area (See Figure 1 - Site Plan Showing the Approximate Boundaries of the Impacted Soil Area), 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 IEL, 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: Soil and groundwater impacted with chlorinated solvents were discovered in an area south of the former production processing building and west of the former main building during soil and groundwater sampling activities performed from 2004 through 2009. Refer to Figure 1 for a Site Plan Showing the Approximate Boundaries of the Impacted Soil Area and Figure 2 for a Site Plan Showing the Approximate Boundaries of Restricted Groundwater Use. . 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 area south of the former production processing building and west of the former main building. Consequently, a remedial action consisting of the removal of approximately 140 cubic yards of impacted soil was undertaken. Under and agreement with the WVDEP, the excavation was terminated at four feet below ground surface. The excavation was backfilled with clean fill to grade. Groundwater sampling and modeling were used to show that groundwater impacted above the WVDEP VRRRA De Minimis Risk-Based Standards will not leave the property boundaries. Therefore, while the remedial action is completed, soil and groundwater impacted with chlorinated solvents in concentrations above WVDEP VRRRA De Minimis Risk-Based Standards for soil and groundwater at industrial sites remain in this area at depths below four feet.

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 2 (VRP 06787).

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: 18 May 11

Mr. Daniel Yurovich
Ames True Temper

I, Sue 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 18th day of May, 2011.

Sue A. Harley
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Sue A. Harley, Notary Public
Hampden Twp., Cumberland County
My Commission Expires Aug. 3, 2014
Member, Pennsylvania Association of Notaries

SIGNED: *[Signature]*

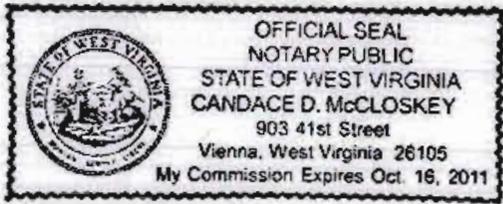
Date: 7/8/11

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

[Signature]
Secretary, WV Department of Environmental Protection

8/22/11
Date

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.

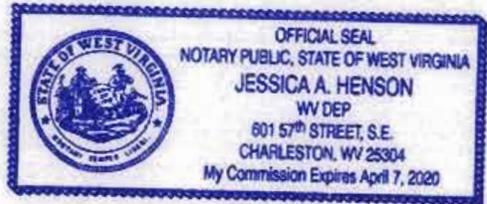
My commission expires April 7, 2020.

Notary Public

Jessica A. Henson

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

northwest side of Kanawha Street, Assessor's parcel number 08-04-0008, 08-4-000Q, 08-5-0052 and 08-5-0157, being more particularly described as follows: Tygart District, Wood County, West Virginia

BEGINNING AT A 1/2 INCH REBAR (SET) AT THE INTERSECTION OF THE NORTHERLY LINE OF CAMDEN AVENUE WITH THE WESTERLY LINE KANAWHA STREET (ALSO KNOWN AS CHERRY STREET), SAID POINT BEING THE BEGINNING CORNER OF PARCEL "A" FIRST TRACT OF PLANT II DESCRIPTION BEING DESCRIBED IN THAT CERTAIN DEED FROM THE McDONOUGH CO., A DELAWARE CORPORATION TO O. AMES CO., A DELAWARE CORPORATION DATED AUGUST 7, 1984 AND RECORDED IN THE OFFICE OF THE CLERK OF THE WOOD COUNTY COMMISSION IN DEED BOOK 808, PAGE 565, AND RUNNING THENCE FROM SAID BEGINNING POINT WITH THE NORTHERLY LINE OF CAMDEN AVENUE,

1. N. 44° 42' 49" W., 400.00 FEET TO A POINT AT THE ORIGINAL INTERSECTION OF THE NORTHERLY LINE OF CAMDEN AVENUE WITH THE EASTERLY LINE OF LOCUST STREET (ABANDONED JUNE 27, 1957); THENCE CONTINUING WITH THE LINE CAMDEN AVENUE AND A PART OF ABANDONED LOCUST STREET,
2. N. 44° 42' 49" W., 30.00 FEET TO A 1/2 INCH REBAR (SET) AT COMMON CORNER TO THE PARCEL OF LAND OWNED BY BADGER LUMBER COMPANY BEING DESCRIBED IN DEED BOOK 898, PAGE 40; THENCE LEAVING CAMDEN AVENUE AND RUNNING ALONG THE EXISTING 8 FOOT CHAIN LINK FENCE WITH THE COMMON LINE TO BADGER LUMBER COMPANY AND WITH THE ORIGINAL CENTERLINE OF LOCUST STREET (ABANDONED),
3. N. 45° 17' 11" E., 160.00 FEET TO A 1/2 INCH REBAR (SET); THENCE CONTINUING ON IN THE SAME STRAIGHT LINE ALONG EASTERLY SIDE OF EXISTING 8 FOOT CHAIN LINK FENCE,
4. N. 45° 17' 11" E., 10.00 FEET TO A 1/2 INCH REBAR (SET) AT THE COMMON CORNER TO SAID TRACTS; THENCE RUNNING ALONG 8 FOOT CHAIN LINK FENCE WITH ANOTHER COMMON LINE TO BADGER,
5. N. 44° 42' 49" W., 430.00 FEET TO A 1/2 INCH REBAR (SET) IN THE EASTERLY LINE OF PARMACO STREET (ALSO KNOWN AS ORCHARD STREET); THENCE RUNNING WITH THE EASTERLY LINE OF PARMACO STREET (ALSO ORCHARD STREET) BEING A 60.00 FOOT WIDE RIGHT-OF-WAY,
6. N. 45° 17' 11" E., 104.02 FEET TO A 1/2 INCH REBAR (SET); THENCE RUNNING WITH AN OFFSET IN SAID PARMACO STREET (ALSO ORCHARD STREET) WITH THE SOUTHERLY LINE OF THAT CERTAIN PARCEL OF LAND BEING 100 FEET BY 150 FEET OWNED BY O. AMES CO., DESCRIBED IN DEED BOOK 808, PAGE 565,
7. N. 57° 23' 49" W., 50.26 FEET TO A 1/2 INCH REBAR (SET) IN THE EASTERLY LINE OF PARMACO STREET (ALSO ORCHARD STREET); THENCE RUNNING WITH THE EASTERLY LINE OF PARMACO STREET (ALSO ORCHARD STREET),
8. N. 53° 21' 37" E., 61.30 FEET TO A 4 INCH PIPE, FENCE POST AT FENCE ANGLE OF THE O. AMES COMPANY; THENCE CONTINUING WITH THE EASTERLY LINE OF PARMACO STREET (ALSO ORCHARD STREET) WITH THE EXISTING 8 FOOT HIGH CHAIN LINK FENCE,
9. N. 53° 21' 37" E., 566.05 FEET TO A 4 INCH PIPE FENCE POST CORNER IN THE EXISTING BACKWATER AND SWAMP AREA; THENCE CONTINUING WITH SAID LINE OF PARMACO STREET (ALSO ORCHARD STREET).
10. N. 54° 46' 55" E., 165.10 FEET TO A 5/8 INCH REBAR AT THE - NORTHWESTERLY CORNER OF THE 1.4842 ACRE PARCEL OF LAND OWNED BY MARIETTA INDUSTRIAL ENTERPRISES, INC. BEING DESCRIBED BY DEED

LOTS NOS. 51, 52 AND 53 OF SAID ADDITION ALONG THE SOUTHERLY LINE OF ALLEY,

13. S. 44° 42' 49" E., 99.97 FEET TO A 1/2 INCH REBAR (SET) AT THE COMMON CORNER TO LOTS NOS. 53 AND 54 OF SAID ADDITION; THENCE RUNNING WITH THE COMMON DIVISION LINE BETWEEN SAID LOTS NOS. 53 AND 54,

14. S. 45° 17' 11" W., 130.00 FEET TO A 1/2 INCH REBAR (SET) IN THE NORTHERLY LINE OF HESSE STREET; THENCE CONTINUING ON IN THE SAME STRAIGHT LINE ACROSS HESSE STREET,

15. S. 45° 17' 11" W., 50.00 FEET TO A POINT ON THE NORTHERLY SIDE OF EXISTING METAL BUILDING; THENCE RUNNING WITH THE NORTHERLY LINES OF LOTS NOS. 64 THRU 70 ALONG SOUTHERLY LINE OF HESSE STREET,

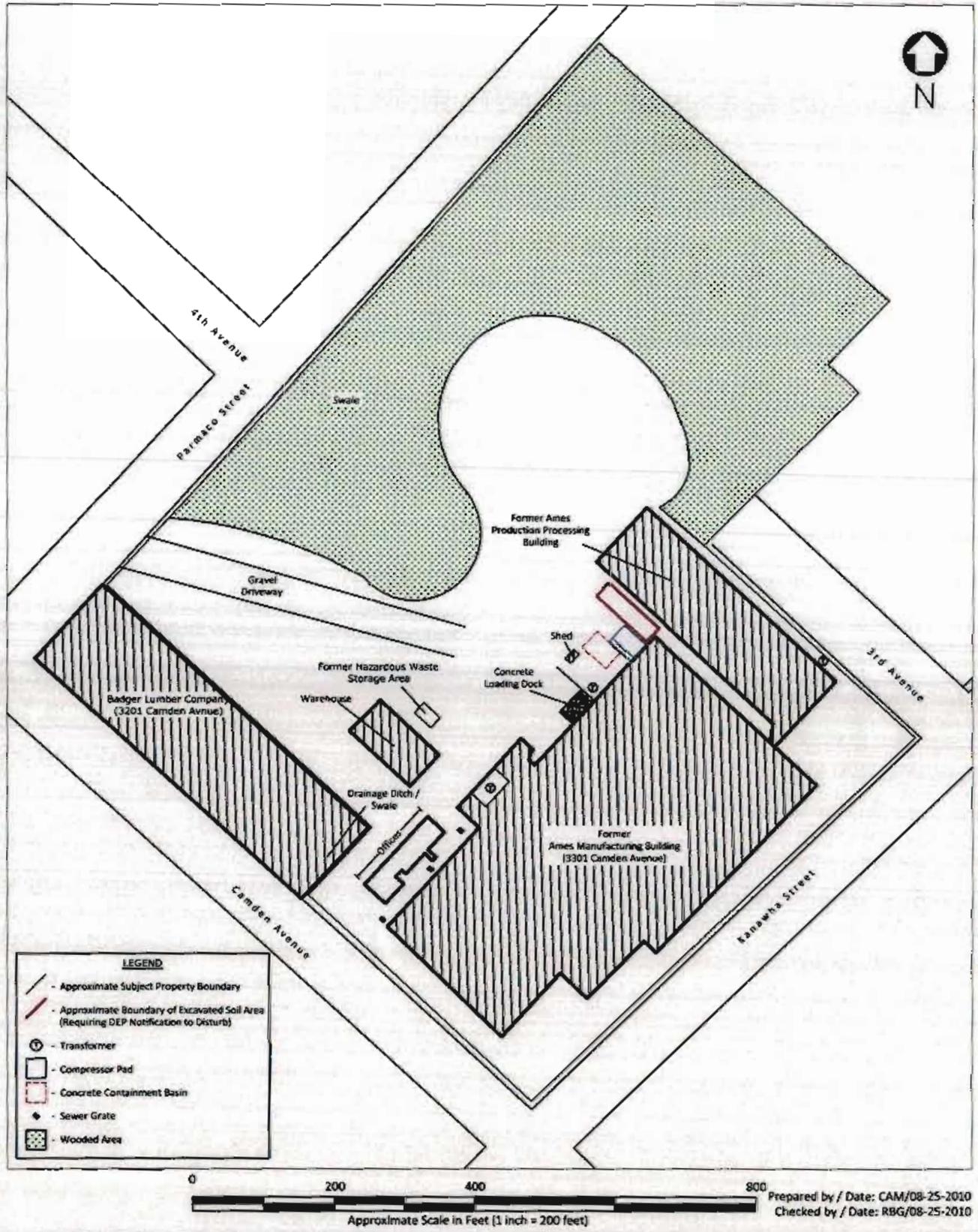
16. S. 44° 42' 49" E., 280.00 FEET TO AN OLD ROOF BOLT (FOUND) AT THE INTERSECTION OF THE SOUTHERLY LINE OF HESSE STREET WITH THE WESTERLY LINE OF KANAWHA STREET (ALSO KNOWN AS CHERRY STREET); THENCE RUNNING WITH THE WESTERLY LINE OF KANAWHA STREET (ALSO KNOWN AS CHERRY STREET),

17. S. 45° 17' 11" W., 679.60 FEET TO THE POINT OF BEGINNING, CONTAINING 15.9185 ACRES OR 693,410.23 SQUARE FEET, MORE OR LESS, BY SURVEY.

THE BEARINGS IN THE ABOVE DESCRIPTION ARE ORIENTED TO MAGNETIC NORTH MERIDIAN OF DECEMBER 21, 2001.

FIGURE

Sources: Site sketch based on soil and groundwater assessment activities performed by Ms. Nina Carpico of BB&J, LLC on September 19-22, 2006.



Former Ames True Temper
Former Plant #2
3301 Camden Avenue
Parkersburg, West Virginia



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

Site Plan Showing Approximate
Boundary of Required
DEP Notification to Disturb

Project No. R0700010

Figure 1

Table 1: Constituents of Concern¹

Constituent of Concern	Media Affected: Soil	Media Affected: Groundwater
Tetrachloroethene (PCE)	X	X
Trichloroethylene (TCE)		X
Chloroform		X
Vinyl Chloride		X
1,1,1,2-Tetrachloroethane (TeCA)		X

Notes:
¹ COC taken from BB&J Risk Assessment Report dated April 24, 2009