

Debbie



State of Ohio Environmental Protection Agency

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AUG 31 2000
OHIO EPA/ODD
SEP 0 6 2000
RECEIVED

CERTIFIED MAIL

Mr. Steve Layman
Anderson-Layman Company
9 North Third Street
Newark, Ohio 43055

Mr. Dave Ellison
Pechiney Plastics Packaging, Inc.
8770 West Bryn Mart Avenue
Chicago, Illinois 60631

**RE: Issuance of Covenant Not To Sue for the Former American National
Can Property
00NFA089**

Dear Messrs. Layman and Ellison:

I am happy to inform you that on August 31, 2000, the Director of the Ohio Environmental Protection Agency ("Director") issued a Covenant Not To Sue ("Covenant") to Anderson Layman Company and Pechiney Plastic Packaging Inc., for the Former American National Can property located at 950 Brice Street, Newark, Ohio. The Covenant was issued and subsequently made effective as Final Findings and Orders pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300. You will find the certified copy of the Covenant enclosed.

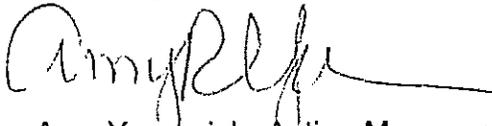
Upon the effective date of these Orders, and subject to the conditions outlined in the Covenant, Ohio EPA covenants not to sue and releases Anderson Layman Company and Pechiney Plastic Packaging Inc., and its agents, employees, shareholders, officers, directors, and assigns of the property, from all civil liability to the State of Ohio to perform additional investigational and remedial activities at the property for the releases of hazardous substances or petroleum identified in the Phase I and Phase II Property Assessments completed in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

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

The issuance of the Covenant is a final action of the Director and will be public noticed in accordance with OAC 3745-47-07. The action may be appealed to the Environmental Review Appeals Commission ("Commission"). 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 or issuance of the action. (See ORC 3745.04 and 3745.07.) A copy of the appeal must be served on the Director within three (3) days after the appeal is filed with the Commission. The appeal may be filed with the Commission at 236 East Town Street, Room 300, Columbus, Ohio 43215.

Many parties within the agency, Anderson Layman Company, Pechiney Plastic Packaging Inc. and Smalley & Associates, Inc. worked hard to remove the environmental barriers associated with redeveloping this property. Congratulations on the issuance of this Covenant. If you have any questions or concerns, please feel free to contact me at (614) 644-2285.

Sincerely,



Amy Yersavich, Acting Manager
Division of Emergency and Remedial Response
Voluntary Action Program

Enclosure

cc: Atul Pandey, CP, Smalley & Associates Inc.
Lisa Koenig, DDAGW, CO
Mike Allen, VAP, DERR
Mark Navarre, Legal Representative, VAP
CO DERR-VAP Files

3. The NFA Letter describes investigational and remedial activities undertaken at the approximately 16.572 acre property, formerly known as the American National Can property, located at 950 Brice Street, Newark, (Licking County) Ohio (the "Property"). An exact legal description of the Property is attached hereto as Exhibit 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 at or emanated from the Property;
 - b. a Phase II Property Assessment, in accordance with OAC 3745-300-07, including but not limited to investigations of all identified areas of concern and affected media, to assess environmental conditions related to any release of hazardous substances and petroleum;
 - c. Excavation and removal of contaminated soils from the property; and
 - d. a demonstration that compliance with applicable standards has been achieved through the demonstration that contamination in affected media is consistent with background concentrations, in accordance with OAC 3745-300-07, or the use of generic numerical standards in accordance with OAC 3745-300-08, or by use of a Property-specific risk assessment in accordance with OAC 3745-300-09.
5. The Certified Professional has verified by affidavit that the investigational and remedial activities undertaken at the Property comply with the applicable standards established in ORC Chapter 3746 and OAC Chapter 3745-300, that the Property is eligible to receive a Covenant Not to Sue under the VAP, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws and regulations.
6. At the time that analyses were performed, Blackhand Labs, EA Group, and Biological & Environmental Control Labs, Inc. were certified laboratories, No(s). CL0064, CL0015 and CL0007, 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 the Certified Laboratories in affidavits contained in the NFA Letter, the Certified Laboratories performed analyses for which they were certified and qualified, pursuant to ORC Chapter 3746 and OAC Chapter 3745-300, that formed the basis for the issuance of the NFA Letter by the Certified Professional.
8. Based on the information contained in the NFA Letter, the Property meets the applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for residential land use and unrestricted potable ground water use, including but not limited to:
 - a. Residential land use category direct contact soil standards for hazardous substances in accordance with [Tables II, V and VI] of OAC 3745-300-08 for generic numerical standards, or in accordance with OAC 3745-300-09(D) for those standards derived through Property-specific risk assessment procedures, or background concentrations in soils determined in accordance with OAC 3745-300-07(I)(1), at a point of compliance from the surface to a depth of 10 feet;
 - b. Residential land use category direct contact soil standards for petroleum in accordance with OAC 3745-300-08(B)(3)(a)(i) for generic numerical standards, or in accordance with OAC-3745-300-09(D) for those standards derived through Property-specific risk assessment procedures, or background concentrations in soils determined in accordance with OAC 3745-300-07(I)(1), at a point of compliance from the surface to a depth of 10 feet;
 - c. Unrestricted potable use ground water standards in accordance with Table VII of OAC 3745-300-08, or in accordance with OAC-3745-300-09(D) for those standards derived through Property-specific risk assessment procedures, or background concentrations in ground water determined in accordance with OAC 3745-300-07(I)(2), at all points underlying the Property;
 - d. Soil standards derived through Property-specific risk assessment procedures in accordance with OAC 3745-300-09(D), or background concentrations in soils determined in accordance with OAC 3745-300-07(I)(1), to satisfy the requirements in OAC 3745-300-10(E) to ensure the protection of ground water meeting unrestricted potable use standards in the shallow aquifer at all points underlying the Property, at a depth of 15 feet.

9. Based on the information contained in the NFA Letter, the Property is eligible to receive a covenant not to sue in accordance with ORC 3746.12(A), and subject to all other conditions set forth in these Findings and Orders, 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, Ohio EPA hereby covenants not to sue and releases Anderson Layman Company and Pechiney Plastic Packaging Inc. and their 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 16.562 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 3746.21, authorized representatives of the Director shall be granted access to the Property for inspection or investigation purposes.
5. 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.

6. 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.
7. 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.
8. Nothing in the Covenant shall be construed to limit or waive the Director's authority to revoke the Covenant in response to any of the circumstances for revocation of a covenant, as provided in ORC Chapter 3746 and OAC Chapter 3745-300.

Recordation in Deed Record

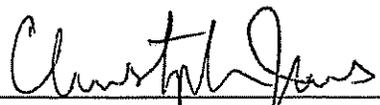
9. A copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Site Map), and 3 (Executive Summary), shall be recorded in the Licking County Recorder's Office, in the same manner as a deed to the Property, within sixty (60) days after the effective date of these Findings and Orders.

Transfer

10. Pursuant to ORC 3746.14 and OAC 3745-300-13(K), the NFA Letter and the Covenant Not to Sue/Findings and Orders may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.

Former American National Can property
Director's Final Findings and Orders/Covenant Not to Sue
Page 6

IT IS SO ORDERED:



Christopher Jones, Director
Ohio Environmental Protection Agency

AUG 31 2000

Date

Exhibit 1
Legal Description

This description was provided to Smalley & Associates, Inc by:

Jobs Henderson & Associates, Inc
59 Grant Street
Newark, Ohio 43055
Telephone: 740-344-5451

September 8, 1999

LEGAL DESCRIPTION OF RECORD

Being a portion of the land accepted for annexation to the City of Newark, Ohio, by Ordinance No. 70-12 of said City, passed March 2, 1970 (Plot Book reference: Book 10, pages 44-47 of the Licking County, Ohio Records).

The foregoing premises are now described in a survey by Bauer, Barowitz and Merchant, Inc., dated April 18, 1979, as follows:

Situated in the State of Ohio, County of Licking, City of Newark, being in Lot No. 2 and Lot No. 3 of Third Quarter, Township 2, Range 11, United States Military Lands, containing 16.572 acres of land, more or less, said 16.572 acres being those tracts of land designated as PARCEL ONE, PARCEL TWO and PARCEL THREE, as described in deeds to Continental Can Company, Inc., of record in Deed Book 456 at page 52 and Deed Book 458 at page 403, and being also that 1.661 acre tract of land described in a deed to Continental Can Company, Inc., of record in Deed Book 580 at page 420, all being of record in Licking County, Ohio, Recorder's Office, said 16.572 acres being more particularly described as follows:

Beginning at an iron pin at the northwesterly corner of said PARCEL ONE, the same being the northeasterly corner of that tract of land described in a deed to The Ohio Power Company, of record in Deed Book 379 at page 577, Recorder's Office, Licking County, Ohio, said iron pin also being in the southerly line of P.C.C. & St. L. Railroad right-of-way;

thence, from said point of beginning, N. 80 degrees 08 minutes 30 seconds E., with the northerly line of said PARCEL ONE and with the southerly line of said P.C.C. & St. L. Railroad right-of-way, passing an iron pin at the northeasterly corner of said PARCEL ONE, the same being the northwesterly corner of said PARCEL THREE, at a distance of 850.60 feet, a total distance of 1203.91 feet to an iron pin at the northeasterly corner of said PARCEL THREE;

thence S. 0 degrees 03 minutes 30 seconds E., with the easterly line of said PARCEL THREE and with the westerly line of that tract of land, now or formerly owned by Ralph S. Waltjen and Ruth J. Waltjen, a distance of 628.80 feet to an iron pin in the northerly limited access right-of-way line of State Route 16, said iron pin being located 100.00 feet left of and radially from Station 251+44 in the centerline of a survey made in 1963 by the Ohio Department of Highways of State Route 16, Section 23.48-28.41 in Licking County, Ohio;

thence S. 76 degrees 52 minutes 10 seconds W., with a northerly right-of-way line of said State Route 16, a distance of 120.87 feet to an iron pin in the southerly line of said PARCEL THREE and in a northerly line of that tract of land described in a deed to Rolland M. Barnes and Betty L. Barnes, of record in Deed book 554 at page 462, Recorder's Office, Licking County, Ohio;

thence S. 89 degrees 58 minutes 04 seconds W., with the southerly line of said PARCEL THREE and with the northerly line of said Barnes tract, a distance of 231.09 feet to an iron pin at the northwesterly corner of said Barnes tract, said iron pin being in the easterly line of said 1.661 acre tract;

thence S. 0 degrees 05 minutes 57 seconds E., with the easterly line of said 1.661 acre tract and with the westerly line of said Barnes tract, a distance of 43.42 feet to an iron pin at the southeasterly corner of said 1.661 acre tract, the same being in a northerly right-of-way line of said State Route 16;

thence S. 82 degrees 34 minutes 47 seconds W., with the southerly line of said 1.661 acre tract, and with said northerly right-of-way line of State Route 16, a distance of 451.18 feet to an iron pin at the southwest corner of said 1.661 acre tract;

thence N. 89 degrees 16 minutes 56 seconds W., with said northerly right-of-way line of State Route 16, a distance of 348.56 feet to an iron pin in the easterly right-of-way line of Liberty Avenue (45 feet in width);

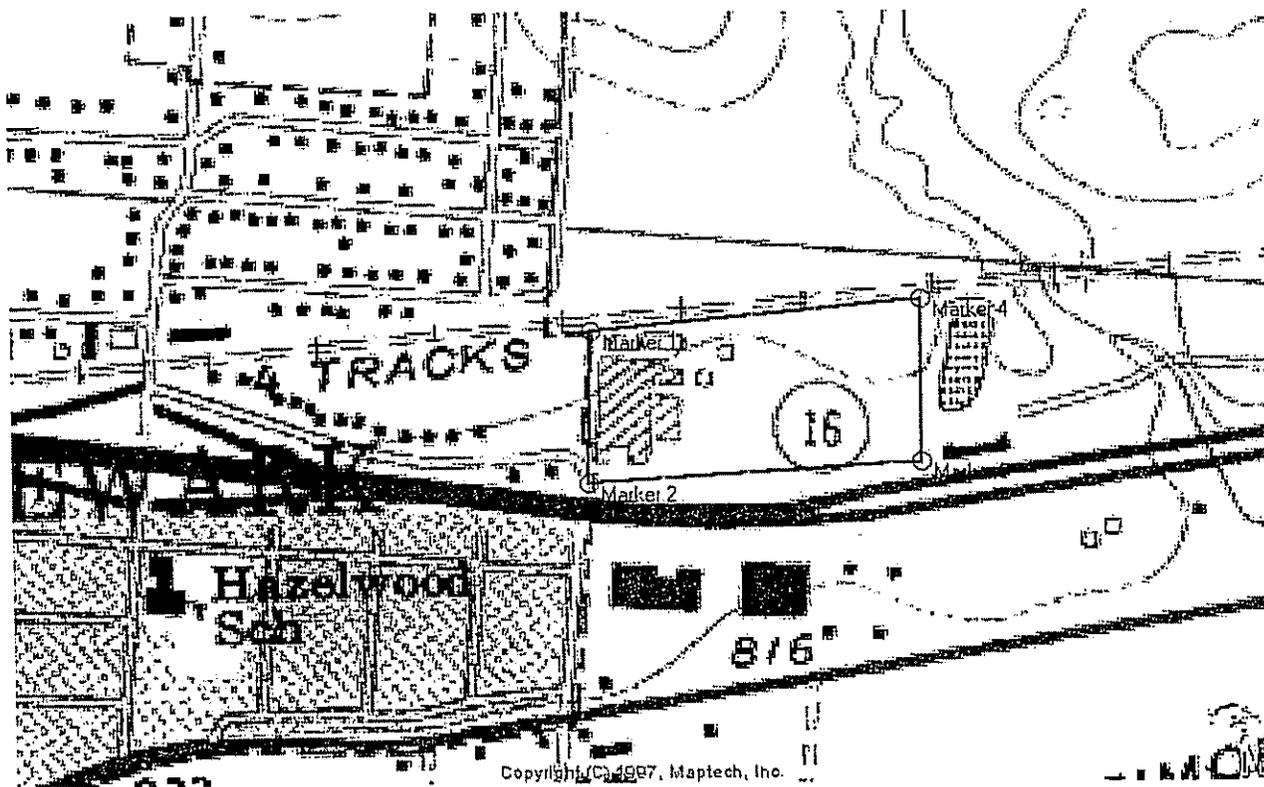
thence N. 0 degrees 35 minutes 44 seconds E., with said easterly right-of-way line of Liberty Avenue, a distance of 109.17 feet to an iron pin at the intersection of said easterly right-of-way line of Liberty Avenue with the northerly right-of-way line of Brice Street (45 feet in width);

thence N. 89 degrees 46 minutes 16 seconds W., with said northerly right-of-way line of Brice Street, a distance of 45.00 feet to an iron pin in the westerly line of said PARCEL ONE, the same being at the southeasterly corner of said The Ohio Power Company tract;

thence N. 0 degrees 13 minutes 44 seconds E., with the westerly line of said PARCEL ONE, and with the easterly line of said The Ohio Power Company tract, a distance of 438.24 feet to the point of beginning and containing 16.572 acres of land,

**Exhibit 2
Site Map**

SITE LOCATION



MARKER	LATITUDE COORDINATE	LONGITUDE COORDINATE
1	040° 03' 52.61" N	082° 21' 52.28" W
2	040° 03' 47.16" N	082° 21' 52.44" W
3	040° 03' 47.91" N	082° 21' 37.65" W
4	040° 03' 53.73" N	082° 21' 37.65" W

The above map and coordinates were obtained from a computer program (MapTech TopoScout version 2.01) which uses digitized images of USGS 7.5 minute quads. The above map is of the 1974 Hanover, Ohio quadrangle. Smalley & Associates makes no warranty as to the accuracy of this program or to the precision of the markers that Smalley & Associates placed on this map.

Exhibit 3
Executive Summary

1.0 Introduction

A No Further Action Letter was submitted to the Ohio Environmental Protection Agency (Ohio EPA), Division of Emergency and Remedial Response (DERR) Voluntary Action Program (VAP) on behalf of Anderson-Layman Company and Pechiney Plastics Packaging, Inc. on March 16, 2000, by Atul Pandey, P.E. of Smalley & Associates, Inc., CP #224.

The NFA describes the Phase I Property Assessment, Phase II Property Assessment, Remediation Report and Post-Remedial Risk Assessment Report for the 16.562 (16.572 acres in some records) acres of vacant land located at 950 Brice Street in Newark, Ohio 43055.

This executive summary of the NFA has been prepared to meet the requirements of Ohio Revised Code (ORC Chapter 3746). A complete copy of the NFA Letter is on file and will be available from the Ohio EPA, Division of Emergency and Remedial Response, Voluntary Action Program in accordance with the filing requirements of OAC 3745-300-13(J).

The legal description of the 16.562 acres of land is provided in Attachment A to this executive summary.

2.0 Summary of No Further Action Letter

The Certified Professional (Atul Pandey, P.E.) issued an NFA Letter based upon Phase I and Phase II property assessments, a remediation report and a post-remedial risk assessment for the subject property.

A summary of the assessments is provided below. Complete copies of the Phase I Property Assessment, Phase II Property Assessment, Remediation Report and Post-Remedial Risk Assessment Report are contained in the NFA Letter.

2.1 Phase I Property Assessment

A Phase I Property Assessment was conducted over the period of August 1999 to October 1999. A final Phase I Assessment Report was completed on October 5, 1999.

The Phase I Assessment included a determination of eligibility for entry into the Ohio VAP, a review of historic and current uses of the property and surrounding properties, and an environmental history review, a review of the history of hazardous substances or petroleum releases, a property inspection and identification of "identified areas" as defined in OAC 3745-300-06(F). A summary of the Phase I Property Assessment is as follows.

The property inspection confirmed that the property is currently vacant land which has previously been used for industrial purposes. Historical research indicates that the property has been used for industrial purposes since 1918. The property was used for plastics manufacture since the 1940's. Prior to that time, the site was used for manufacture of golf equipment and also for automobile assembly. Halliday Motors Corporation, Burke Golf Company, American Golf Ball Company, Western Products Company, Continental Can Company, Ludlow Packaging and American National Can Company have all operated at the 16.562-acre property. The property was occupied by American National Can Company until all buildings were razed in 1998. Pechiney Plastics Packaging Co took possession of the vacant site in 1999.

To the south of the target property is State Route 16, a limited access divided highway. To the east of the site is a small industrial and commercial area. Wyeth Scott Company is directly adjacent to the site on the east. To the north is located a railroad and bike path. Further to the north are recently constructed

residences. Adjacent to the western boundary of the property is a fenced American Electric Power substation. Further to the west, on both sides of Brice Street, are residences. Liberty Street is bisected by State Route 16 and is blocked at the southern boundary of the target property.

The information used to establish a continuous history of the subject property and its surroundings included deed and tax records, city directories, topographic maps, aerial photographs, and interviews.

A review of the environmental history of the site showed that hazardous substances and petroleum were historically handled at the site. The review also indicated that contaminants are present in soil and groundwater at the site. The review did not indicate a potential for other nearby facilities that are not a part of the subject property to impact the soil and/or groundwater at the subject property.

The previous environmental investigations conducted at or in the vicinity of the subject property led SAI to identify the following four areas of concern:

1. Former Storage Area

This area is located in the northeast corner of the western half of the subject property. It is comprised of several areas related to the storage of hazardous substances. No releases have been documented; however, staining has been observed in some locations and previous reports have detected hazardous substances in the soil and groundwater of this area. This area includes former hazardous substance underground storage tanks, two former hazardous waste storage pads, a former ink room, a former maintenance area (some solvents were stored here), a railroad spur and unloading area, and a former storage building. These areas were grouped together as one identified area due to the similarity of these areas in terms of the potential chemicals of concern, underlying geology, and the close proximity of these areas. Chemicals of concern include volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and metals.

2. Former UST Area

This area is located in the north-central part of the western half of the target property. Two 10,000 gallon underground storage tanks, most recently used for storage of fuel oil, were previously removed from this area. Prior to storing fuel oil, the tanks were used for storage of MEK and alcohol. No releases have been documented; however, the potential for a release is present. Chemicals of concern in this area are volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and total petroleum hydrocarbons (TPH).

3. Former Process Area

This area is located within the primary manufacturing building in the western portion of the target property. It includes the former laminator area, former press area and former caustic wash area. These areas were again grouped together as one identified area due to reasons mentioned above. Chemicals of concern in this area are volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and metals. Total petroleum hydrocarbons (TPH) is also included as a chemical of concern in the former press area.

4. Former Disposal Area

This area is located near the center of the eastern half of the target property. Waste has historically been disposed of in this area, and was removed at a later date. Some surface debris remains. Chemicals of concern in this area include volatile organic compounds VOCs, semi-volatile organic compounds (SVOCs), and metals.

The Phase I Property Assessment concluded that a Phase II Property Assessment should be conducted to

determine potential adverse impacts to soil and/or groundwater from historical industrial operations by conducting a Phase II Property Assessment.

The Certified Professional determined that the property was eligible for entry into the Ohio VAP on February 29, 2000. The subject property or any portion thereof is not described by paragraphs (C)(1) through (C)(10) of OAC 3745-300-02. The Certified Professional inspected the subject property on August 28, 1999, to verify the Phase I findings.

2.2 Phase II Property Assessment

A Phase II Property Assessment was conducted over the period of August 1999 to October 1999. The Phase II Assessment Report was issued on February 29, 2000. The purpose of the Phase II Assessment was to determine if soil and/or groundwater underneath the subject property was impacted by any of the four areas identified in the Phase I Property Assessment.

The Phase II Assessment included sampling and analysis of soil and groundwater at the subject property, a pathway completeness determination, determination of applicable standards, and an assessment of the risk from direct contact to the soils at the property. The complete Phase II Assessment Report is contained in the NFA on file with the Ohio EPA. A summary of the Phase II findings is provided below.

2.2.1 Soil Investigation and Findings

Soil was investigated by the placement of eighteen soil bores and three trenches. A total of 42 different chemicals of concern were detected at the property.

2.2.2 Groundwater Investigation and Findings

A sand and gravel aquifer was discovered beneath the subject property, with an unconfined water table at a depth of approximately 20 feet below surface grade. The aquifer was assumed to be a "critical resource aquifer," per the definition of such an aquifer as found in OAC 3745-300-10. Groundwater and soil analytical results from previous investigations was used to determine the placement of six monitoring wells into this aquifer.

Groundwater samples were collected in the manner prescribed by Ohio VAP and analyzed for relevant chemicals of concern. Seven chemicals of concern were detected in groundwater beneath the subject property. These were 1,1,1-Trichloroethane, 1,1-Dichloroethane, cis-1,2-Dichloroethene, Dichlorodifluoromethane, Naphthalene, Tetrachloroethene and Trichloroethene.

2.2.3 Exposure Pathway Assessment

An exposure pathway assessment was prepared to evaluate potentially exposed human receptors, current and future, and identify potential exposure pathways associated with the property. This assessment was developed in accordance with guidance in the Ohio VAP (OAC 3745-300-09). The preferred land use designation for the property is residential, as defined by OAC 3745-300-08(2)(C)(i). The following pathways were determined to be complete, and may or may not pose a risk to human health and/or the environment:

- Direct contact to soils - on property
- Subsurface soils: inhalation - on property
- Soil vapor intrusion to subsurface structures - on and off property

- Construction worker scenario - on property
- Ground water - potable use - on and off property
- Ground water - non-potable use - on and off property
- Ground water: vapor intrusion to subsurface structures - on and off property
- Leaching of soil contaminants to groundwater

No source or source areas in the soil media were identified. The results of groundwater sampling indicate that groundwater is not impacted in excess of VAP unrestricted portable use standards. The exposure pathway assessment demonstrated that the complete pathways of exposure from groundwater under present or future land use scenarios would not pose an adverse risk to human health, safety, or the environment.

2.2.4 Determination of all Applicable Standards

A review of chemical concentrations detected in the soil indicated that the concentrations exceeded generic direct contact standards for residential, commercial and industrial land use, as found in OAC 3745-300-08. Because these standards were exceeded, implementation of a remedy was considered necessary. Consideration of other exposure pathways, including those related to groundwater, was postponed until successful implementation of a remedy.

2.3 Remediation Report

Due to the future intended land use and client time frame, excavation and removal of contaminated soils was determined to be the best available remedy. A preliminary multiple chemical adjustment using generic residential direct contact soil standards was performed for several different excavation scenarios to determine the extent of remediation necessary to achieve applicable standards.

On February 28 and 29, 2000, approximately 540 tons of contaminated soil was excavated and disposed of off-site in a licensed, permitted landfill. Confirmatory samples were collected, and a post-remedial data set was compiled for soils and groundwater.

2.3 Post-Remedial Risk Assessment Report

Following excavation and removal of contaminated soils, and compilation of a post-remedial data set for soils and groundwater, a post-remedial risk assessment was conducted.

2.3.1 Exposure Pathway Assessment

A pathway completeness analysis, using post-remedial data, determined the following pathways to be complete:

- Direct contact to soils - on property
- Subsurface soils: inhalation - on property
- Soil vapor intrusion to subsurface structures - on and off property
- Construction worker scenario - on property
- Ground water - potable use - on and off property
- Ground water - non-potable use - on and off property
- Ground water: vapor intrusion to subsurface structures - on and off property
- Leaching of soil contaminants to groundwater

2.3.2 Determination of Spurious and Background Concentrations

Three chemicals (Methyl Iodide, Chloromethane, and Bromomethane) were screened out from consideration during risk assessment analysis, in accordance with OAC 3745-300-09. The data for these chemicals is considered spurious, and detected concentrations are low.

An additional eight samples were collected from an undisturbed area of the target property and analyzed for arsenic. The resulting data was then used to compute an arsenic background concentration. It was determined that the maximum concentration of arsenic in the post-remedial compliance data set (16 ppm) was higher than the background value of 26.8 ppm. The background value was determined in compliance with OAC 3745-300-07(I)(1) and is thought to represent naturally occurring conditions at the subject property. Thus, arsenic was excluded from consideration in the post-remedial risk assessment.

2.3.3 Determination of Risk from Soil Exposure Pathways

Because a generic direct contact standard or supplemental generic numeric value for 1,2,2-trichloro-1,2,2-trifluoromethane (Freon-113) did not exist, a direct contact soil standard was developed by SAI for residential or unrestricted land use. The risk-based direct contact soil standard was developed using Generic Standards Spreadsheets provided by Ohio EPA VAP to SAI.

Lead and Total Petroleum Hydrocarbons (TPH) concentrations detected at the subject property were compared to appropriate direct contact standards found in OAC 3745-300-08. Site concentrations for both chemicals were less than the applicable standards.

The cumulative adjustment of single chemical direct contact standards was performed on the remaining chemicals detected at the subject property, including Freon-113. This was performed in accordance with OAC 3745-300-08. This analysis concluded that the subject property satisfies the direct contact to soils exposure pathway.

Because this pathway was satisfied by a wide margin, other soil exposure pathways are also satisfied and not expected to cause adverse risk to receptors.

2.3.4 Determination of Risk from Ground Water Exposure Pathways

Because a standard did not exist for Dichlorodifluoromethane in groundwater, a risk-derived unrestricted potable use ground water standard was developed by SAI for this chemical using Generic Standards Spreadsheets provided to SAI by Ohio EPA VAP. Detected groundwater concentrations were then compared to this standard and other already determined standards and a cumulative adjustment was performed in accordance with OAC 3745-300-08. Comparison of site concentrations to relevant standards showed that the property satisfies an unrestricted potable groundwater use pathway. Because this pathway was satisfied, other groundwater exposure pathways are also satisfied and not expected to cause adverse risk to receptors.

2.3.5 Protection of Groundwater Meeting Unrestricted Potable Use Standards (POGWMUPUS) - Leaching to Groundwater from Soils Pathway

Chemicals of concern detected on-site in the unsaturated zone were shown to not impact underlying groundwater in the shallow aquifer in excess of VAP unrestricted potable use standards.

3.0 Conclusion

The foregoing is a summary of the NFA Letter submitted for Anderson-Layman Company and Pechiney Plastics Packaging, Inc. by Atul Pandey, P.E. of Smalley & Associates, Inc., as Certified Professional (CP#224).

Mr. Pandey is the contact at Smalley & Associates, Inc. regarding questions of this NFA Letter. Mr. Pandey can be contacted at 740-654-0122.

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



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

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

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MEMORANDUM

TO: Ron Hohman, Administrator, Tax Equalization Division, Dept. of Taxation
Daryl Hennessy, Manager, Office of Tax Incentives, Dept. of Development

FROM: Christopher Jones, Director, Ohio Environmental Protection Agency

DATE: AUG 31 2000

RE: Covenant Not to Sue Issued to Anderson Layman Company and Pechiney Plastic Packaging Inc., for the former American National Can property, Licking County, Ohio

As Director of the Ohio Environmental Protection Agency, I certify that Anderson Layman Company and Pechiney Plastic Packaging Inc., have performed investigational and remedial activities at the property listed below and have been issued a Covenant Not to Sue under the authority of Ohio Revised Code (ORC) Chapter 3746. This information is being provided in satisfaction of ORC 5709.87(B).

Property name: Former American National Can property

Property address: 950 Brice Street, Newark, Ohio 43055

Parcel number(s): 55-282810-00.000

County: Licking

Taxing District: Newark City Schools

Date Covenant Not to Sue Issued: AUG 31 2000

If additional information regarding the property or the voluntary action is required, I suggest you first contact Atul Pandey, the Certified Professional for the property, at 740-654-0112. In the alternative, you can contact Don Vogel with the Ohio Environmental Protection Agency at 614-644-4826.

cc: Atul Pandey, Smalley & Associates, Inc.

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