



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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50 W. Town St., Suite 700  
Columbus, Ohio 43215

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MAILING ADDRESS:

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

January 26, 2007

Summer J. Koladin Plantz, Esq.  
Vorys, Sater, Seymour and Pease, LLP  
Suite 2000, Atrium Two  
221 E. Fourth Street  
P.O. Box 0236  
Cincinnati, OH 45201-0236

**CERTIFIED MAIL**

RECEIVED

JAN 29 2007

OHIO EPA/CDO

**RE: Issuance of Covenant Not To Sue for the Former Stanley Works Property  
(VAP account #01OM016; 98NFA027)**

Dear Ms. Koladin Plantz:

I am pleased to inform you that on January 26, 2007 the Acting Director of the Ohio Environmental Protection Agency ("Director") issued an Amended Covenant Not to Sue ("Amended Covenant@) to The Stanley Works ("Stanley") for the Former Stanley Works property located at 1429 Old U.S. Route 35, Washington Court House, Fayette County, Ohio. Washington Court House Business Park, LLC owns the property. The Amended Covenant was issued as Final Findings and Orders pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300.

The Amended Covenant supplements the Covenant Not to Sue issued to Stanley on July 12, 1999, and is based on the No Further Action Letter submitted for the property on June 8, 1998. The Amended Operation & Maintenance Agreement and Amended Operation and Maintenance Plan ("Amended Agreement and Plan") attached to the Amended Covenant replace those documents originally in place for the property. The amended documents outline the modified remedy being performed at the property and extend the date to implement the remedy to achieve the applicable standards for ground water.

With the issuance of the Amended Covenant, and subject to the conditions outlined in the Amended Covenant and the 1999 Covenant, the Director continues to covenant not to sue and release Stanley and Washington Court House Business Park, LLC and their respective agents, employees, shareholders, officers, directors, successors and assigns, and successors 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 and addressed in the Phase I and Phase II

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Laura H. Powell, Acting Director

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Property Assessments completed in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

You will find the certified copy of the Amended Covenant enclosed. When filing the Amended Covenant and its exhibits at the Fayette County Recorder's Office, please use the enclosed affidavit from Ohio EPA to guide the recording of the documents in the county's deed records. Ohio EPA requests two copies of the Amended Covenant that show the filing date stamp of the Fayette County Recorder's Office. (Ohio EPA does not need to receive the attached Amended O&M Agreement and Plan in the copy.) Please send one copy to Ohio EPA-Central Office, 50 W. Town Street, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer, and another to Ohio EPA-Central District Office, 50 W. Town Street, P.O. Box 1049, Columbus, OH 43216-1049, Attention: Fred Myers. Please reference in the cover letter both agency tracking numbers for the property - 01OM016 and 98NFA027.

Enclosed also are the two originals of the executed Amended Agreement and Plan, as requested, for you to distribute to representatives of Stanley and Washington Court House Business Park, LLC.

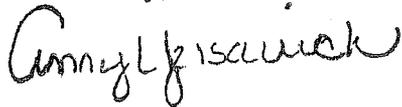
Please be aware that Ohio EPA charges pursuant to OAC 3745-300-03(F) for its actual costs incurred related to the monitoring of compliance with the Amended Agreement and Plan, including the review of the submitted reports. Pursuant to Amended Agreement paragraphs 15 and 20, this agency will begin to send invoicing information to Stanley, to the attention of Ms. Debi Geyer or her successor with Corporate Environmental Affairs, and provide a courtesy copy to Mark Norman with your firm, unless otherwise directed.

The issuance of the Amended 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.) The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. 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 309 South Fourth Street, Room 222, Columbus, Ohio 43215. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section.

Many persons within this agency, Stanley, Washington Court House Business Park LLC, Environmental Strategies Consulting, LLC, and your firm, among others, worked hard to remove the environmental barriers associated with redeveloping this property. Congratulations on the issuance of this Amended Covenant.

If you have any questions or concerns, please feel free to contact me at (614) 644-2285 or [amy.yersavich@epa.state.oh.us](mailto:amy.yersavich@epa.state.oh.us).

Sincerely,



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

Enclosures

cc: John Simon, VAP Certified Professional, Environmental Strategies Consulting, LLC,  
11911 Freedom Dr., #900, Reston, VA 20190

Ms. Debi Geyer, EHS Manager, Corporate Environmental Affairs, The Stanley  
Works, 480 Myrtle St., New Britain, CT 06053-4018

Washington Court House Business Park, LLC, Attn. Stuart Lichter, One West Ave.,  
Larchmont, NY 10538

Jerry A. Brown, Jr., Esq., Fainsbert, Mase & Snyder, LLP, 11835 West Olympic  
Blvd., Suite 1100, Los Angeles, CA 90064

Fred Myers, DERR-Central District Office

Sue Kroeger, Legal Office

CO DERR-VAP Files





4. The July 12, 1999 Covenant Not to Sue / Final Findings and Orders ("1999 Covenant") is conditioned on the Volunteer implementing various remedial activities under an Operation and Maintenance Plan ("1999 O&M Plan") and Operation and Maintenance Agreement ("1999 O&M Agreement") attached thereto as an exhibit (collectively "1999 O&M Plan and Agreement") to achieve or maintain the Property's compliance with applicable standards.
5. During March of 2004, the Volunteer requested the Director approve a modification to the 1999 O&M Plan and Agreement to allow for supplemental remedial activities and additional time for the Property to achieve applicable ground water standards. Based on the Volunteer's supplemental activities and discussions with Ohio EPA regarding appropriate modifications to the 1999 O&M Plan and Agreement (under VAP Account #01OM016), the certified professional submitted to Ohio EPA on behalf of the Volunteer the O&M Plan modification dated June 12, 2006 as an addendum to the NFA Letter ("2006 Amended O&M Plan").
6. The certified professional's affidavit dated November 3, 2006 incorporates by reference the 2006 Amended O&M Plan as well as a determination, through a property-specific risk assessment, of compliance with applicable standards for the chemicals of concern that are emanating from the Property in ground water to indoor air. For the purposes of these Findings and Orders, the term "NFA Letter" includes the addendum.
7. The 2006 Amended O&M Plan sets forth the supplemental activities and provides for additional time for the Property to achieve applicable ground water standards. The applicable ground water standards are shown in Table 1 of the 2006 Amended O&M Plan.
8. To provide for the Volunteer's and Property Owner's implementation of the 2006 Amended O&M Plan in place of the 1999 O&M Plan and Agreement, Ohio EPA, the Volunteer, and the Property Owner have entered into an Amended O&M Agreement ("2006 Amended O&M Agreement"), which incorporates by reference the 2006 Amended O&M Plan and replaces and supersedes the 1999 O&M Agreement. The 2006 Amended O&M Agreement is attached hereto as Exhibit 2. The 2006 Amended O&M Plan and 2006 Amended O&M Agreement are referred to hereafter, collectively, as the "2006 Amended O&M Plan and Agreement."
9. For purposes of this 2006 Amended Covenant, the term "NFA Letter" also includes the 2006 Amended O&M Plan.

**ORDERS**

1. The 1999 Covenant is hereby amended to replace and supersede the 1999 O&M Plan and Agreement in their entirety with the 2006 Amended O&M Plan and Agreement.
2. A copy of this 2006 Amended Covenant, including Exhibits 1 (Legal Description) and 2 (2006 Amended O&M Agreement), shall be recorded in the Fayette County Recorder's Office, in the same manner as a deed to the Property, within sixty (60) days after the issuance of this 2006 Amended Covenant.
3. Except as provided in Orders 1 and 2 herein, the 1999 Covenant remains unchanged and in full force and effect.

**IT IS SO ORDERED:**



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Laura H. Powell, Acting Director  
Ohio Environmental Protection Agency

**JAN 26 2007**

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Date

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

Attachment 1

Exhibit "A"

Situate in the State of Ohio, County of Fayette, Union Township, being part of Virginia Military Survey Numbers 663 and 680 and being all of the 22.287 acre tract conveyed to Mac Tools, Inc. by deed of record in Deed Book 126, Page 125, records of the Recorder's Office, Union County, Ohio and being more particularly described as follows:

Beginning at a railroad spike set in the centerline of Old U.S. Route 35 (60 feet, in width) at a southeasterly corner of the said 22.287 acre tract and a northeasterly corner of the 47.359 acre tract conveyed to Steelox Systems, Inc. by deed of record in Deed Book 171, Page 588;

Thence S 49° 07' 48" W, a distance of 1155.80 feet, along the common line to the said 22.287 and 47.359 acre tracts (passing an iron pin found, on line, at a distance of 30.00 feet) to an iron pin found at a southwesterly corner of said 22.287 acre tract and a northwesterly corner of the said 47.359 acre tract, said iron pin being in a northeasterly line of a 50.00 foot wide strip of land now or formerly owned by Grand Trunk Western Railroad and a northeasterly corner of a 4.080 acre tract conveyed to Steelox Systems, Inc. by deed of record in Deed Book 183, Page 162;

Thence N 45° 05' 15" W, a distance of 775.04 feet, along the common line to said 22.287 acre tract and the said 50.00 foot strip of land owned by Grand Trunk Western Railroad to an iron pin (rebar) found at a northwesterly corner of said 22.287 acre tract and a southwesterly corner of the 10 acre tract conveyed to Mary F. Acton by deed of record in Deed Book 177, Page 537;

Thence N 44° 52' 17" E, a distance of 1216.71 feet, along the common line to said 22.287 and 10 acre tracts (passing an iron pin, rebar, found on line at a distance of 1186.63 feet), to a railroad spike set in the centerline of Old U.S. Route 35 at a northeasterly corner of said 22.287 acre tract and a southeasterly corner of the said 10 acre tract;

Thence S 40° 50' 00" E, a distance of 863.29 feet, along the centerline of Old U.S. Route 35 and the northeasterly line of the said 22.287 acre tract to the point of beginning, containing 22.277 acres, more or less.

The bearings in the above description were based on the bearing of N 40° 50' 00" W, for the centerline of Old U.S. Route 35 as shown on the Ohio Department of Transportation Right-of-Way Plans, Fayette County, I.C.H.-29 SEC-A, R/W Plans, Sheet 4 of 5.

Date 5-13-90  
Fayette County Auditor  
Penny S. Johnson

Approved By: HW

Instrument  
9800002573

**Exhibit 2**  
**2006 Amended**  
**Operation and Maintenance Agreement**  
**with**  
**2006 Amended Operation and Maintenance Plan**

**AMENDED OPERATION AND MAINTENANCE AGREEMENT**  
**Between Ohio EPA, The Stanley Works, and**  
**Washington Court House Business Park, LLC**  
**Regarding the Stanley Works Facility,**  
**Fayette County, Ohio**

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This Amended Operation and Maintenance Agreement ("Amended O&M Agreement") is entered into by the Director of the Ohio Environmental Protection Agency ("Director"), The Stanley Works ("Stanley"), and Washington Court House Business Park, LLC ("WCHBP" or "Property Owner") pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300. In consideration of the mutual covenants and subject to the terms and conditions of this Amended O&M Agreement, the parties agree as follows:

1. **The NFA Letter.** A no further action letter (NFA Letter No. 98NFA027; the "NFA Letter") under the Voluntary Action Program ("VAP") was submitted to the Director on behalf of Stanley on June 8, 1998, by Mr. John Simon, Ohio EPA Certified Professional ("CP") #152, for approximately 22.287 acres of real property owned by WCHBP and located at 1429 Old U.S. Route 35, Washington Court House, Fayette County, Ohio (the "Property"). The legal description of the Property is attached hereto as Exhibit 1, and is incorporated by reference herein. The NFA Letter includes an Operation and Maintenance Plan ("O&M Plan") dated March 31, 1999 for the Property.
2. **2004 Request for Modification of the 1999 O&M Plan and Agreement; 2006 Amended O&M Plan.** The parties entered into an O&M Agreement effective July 12, 1999 (the "Original O&M Agreement"), for which Stanley and WCHBP's compliance is a condition of the Covenant Not to Sue ("Covenant") the Director issued to Stanley and WCHBP for the Property on July 12, 1999. In response to certain environmental conditions at the Property and to allow for additional time for the modified remedy to achieve standards for ground water, Stanley requested Ohio EPA enter into a modification of the 1999 O&M Plan and Agreement. Mr. Simon submitted to Ohio EPA, as an addenda to the NFA Letter by affidavit issued on November 3, 2006, a final revised O&M Plan dated June 12, 2006 ("Amended O&M Plan"), which modified certain remedial activities for the Property and incorporates much of the 1999 O&M Plan. The Amended O&M Plan is attached hereto as Exhibit 2, and is incorporated into this Amended O&M Agreement by reference. This Amended O&M Agreement supersedes and replaces the Original O&M Agreement in its entirety.
3. **Requirement for an Operation and Maintenance Agreement.** This Amended O&M Agreement is required for the Property pursuant to ORC 3746.10(C)(2) or 3746.12(A)(2) and OAC 3745-300-15(A)(3) and 3745-300-15(F)(4).

4. **Remedy for the Property.** The remedy for the Property includes:

a. **Supplemental Remedial Activities with Ground Water Monitoring.** A plan for further remediation of ground water and monitoring to demonstrate the remediation has resulted in the Property achieving compliance with applicable standards for ground water as provided in Section 3.0 of the Amended O&M Plan.

b. **Property Owner Activities.** A plan for implementation of certain Property Owner Activities at all areas of the Property within the buffer zones identified in the Amended O&M Plan, to comply with a Health and Safety Plan ("HASP") developed, as set forth in the Amended O&M Plan, for the protection of any persons conducting Unusual Subsurface Activities at the Property, as defined in Section 4.0 of the Amended O&M Plan.

c. **Institutional Controls.** Institutional controls for the Property that include:

i. A prohibition on the use of ground water beneath the Property, except for purposes of investigation and remediation and a limitation on the uses of the Property to commercial or industrial uses, as defined in OAC 3745-300-08(B)(2)(c)(ii) and (B)(2)(c)(ii) (effective December 16, 1996), as set forth in the warranty deed recorded in Volume 25, page 408 at the Fayette County Recorder's Office; and

ii. A prohibition, on all areas of the Property within the "Identified Areas" identified on Figure 3 and described in Section 4.0 of the Amended O&M Plan, on the construction of permanent subsurface structures designed for routine human occupancy on the Property, as described in the Amended O&M Plan, unless Ohio EPA has approved their construction.

5. **Requirements Subject to Operation and Maintenance Plan Modification.** The Supplemental Remedial Activities and Property Owner Activities (summarized in paragraphs 4.a. and 4.b. of this Amended O&M Agreement) are part of the voluntary action remedy that must be established and maintained by Stanley (with respect to the obligations summarized in paragraph 4.a.) and WCHBP (with respect to the obligations summarized in paragraph 4.b.) in accordance with this Amended O&M Agreement and the Amended O&M Plan. The purpose of the activities is to maintain and achieve compliance with applicable standards set forth in ORC Chapter 3746 and OAC Chapter 3745-300

and in the Covenant Not to Sue issued pursuant to ORC 3746.12 for the Property (the "Covenant").

6. **Implementation of the Amended O&M Plan.** Stanley agrees to implement and/or perform the supplemental remedial activities (as summarized in paragraph 4.a.) and WCHBP agrees to implement and/or perform the Property Owner Activities (as summarized in paragraph 4.b.) all in accordance with the Amended O&M Plan, and each shall perform all inspections, repairs, reporting, record keeping, and all other requirements applicable to each in accordance with the Amended O&M Plan. Further, as set forth in Section 3.4.4. of the Amended O&M Plan, Stanley shall submit to Ohio EPA verification that the Property has achieved compliance with the ground water standards applicable to the Property. Such verification shall be completed in accordance with Section 3.4.4 of the Amended O&M Plan and OAC 3745-300-15(E).
7. **Property Access.** Stanley certifies it has access to the Property sufficient to fully implement its obligations under the Amended O&M Plan and its obligations under this Amended O&M Agreement in cooperation with the current property owner, WCHBP. Further, upon transfer of the Property or portion thereof, Stanley shall use best efforts to maintain such access.
8. **Recording of Agreement.** Stanley shall record this Amended O&M Agreement as set forth in the Covenant and as required by ORC 3746.14. This Amended O&M Agreement shall be effective upon the Director's issuance of the Amended Covenant, and any Amendments thereto.
9. **Effect of Violation of this Amended O&M Agreement.** Failure to comply with this Amended O&M Agreement or the Amended O&M Plan, may constitute the failure to maintain an applicable standard in accordance with ORC 3746.12(B) and OAC Chapter 3745-300, and may be subject to the process outlined in the Compliance Schedule Agreement Section of this Amended O&M Agreement. Noncompliance with an institutional control for the Property voids the Covenant, as provided in ORC 3746.05.
10. **Financial Assurance.** Stanley or WCHBP ("Fund Entity") has established an Operation and Maintenance Fund ("Fund") for the Property to ensure that reasonable and adequate funds in the amount of at least Ten Thousand Dollars (\$10,000.00) ("Minimum Amount") are available to comply with this Amended O&M Agreement and the Amended O&M Plan. The Fund shall consist of a designated fund or account on the books of the Fund Entity. The Fund Entity shall provide the Director with an annual report of all expenditures for compliance with the terms and conditions of this Amended O&M Agreement, within thirty (30)

days of the annual anniversary date of the issuance of the amended Covenant for the Property. In the event the amount or form of financial assurance provided herein is inadequate to comply with the terms of this Amended O&M Agreement, the Director may propose a modification of this paragraph pursuant to the Modification Section of this Amended O&M Agreement. Upon submission of the final Demonstration Report, as described in Section 3.4.4 of the Amended O&M Plan, the Minimum Amount of the Fund shall be reduced to One Hundred Dollars (\$100.00), to ensure that reasonable and adequate funds are available to conduct the monitoring activities contained in Section 4.0 of the Amended O&M Plan at the Property.

11. **Notice to Prospective Property Transferees.** At least thirty (30) days prior to the execution of any sales contract or other document transferring ownership of the Property or any portion of the Property, WCHBP agrees to provide written notice to the prospective property transferee that the Property, or such portion of the Property, is subject to the Covenant, this Amended O&M Agreement, and the Amended O&M Plan.
12. **Notice to the Director and Stanley of Transfer of Property.** Within fourteen (14) days after a sale or other transfer of the Property, or any portion of the Property, WCHBP shall provide written notice to the Director and Stanley that the Property, or such portion of the Property, has been sold or otherwise transferred. This notice submitted to the Director and Stanley shall include:
  - a. the name, address, and telephone number of the new property owner and the name, address, and telephone number of the contact person for the new property owner;
  - b. a legal description of the Property or such portion of the Property being transferred; and
  - c. the closing date of the transfer of ownership of the Property or such portion of the Property.
13. **Option to Transfer this Amended O&M Agreement / Notice to Director.** Pursuant to ORC 3746.14(C), WCHBP (and any subsequent owner of the Property) may transfer this Amended O&M Agreement to any other person (the "Transferee") by assignment or in conjunction with the acquisition of title to the Property. Within fourteen (14) days after such transfer, WCHBP (and any subsequent owner of the Property) shall provide written notice to the Director of the terms and conditions of the transfer of obligations of this Amended O&M

Agreement and the Amended O&M Plan ("Transfer Terms and Conditions"), by submitting:

- a. the name, address, and telephone number of the Transferee and the name, address, and telephone number of the contact person for the Transferee;
- b. a statement of the extent to which the Transferee has assumed the obligations of WCHBP under both this Amended O&M Agreement and the Amended O&M Plan;
- c. a copy of the legal instrument(s) that provide the Transfer Terms and Conditions; and
- d. a copy of the Transferee's fully executed and funded proposed financial assurance that complies with the Financial Assurance Section. The Transferor's financial assurance shall remain effective until the Transferee's financial assurance is fully executed and funded.

Upon the Director's receipt of such notice of the Transfer Terms and Conditions in accordance with this section of this Amended O&M Agreement, the Transferee shall be considered a party to this Amended O&M Agreement in accordance with the Transfer Terms and Conditions.

14. **Subparceling.** Upon written notice submitted by WCHBP to the Director that one or more parcels of the Property have been divided or subparceled, this Amended O&M Agreement shall apply separately to each subdivided parcel upon the date of subdivision or the date of the submission of written notice, whichever occurs later. WCHBP shall provide such written notice by submitting:

- a. The legal description of the subdivided parcels;
- b. A survey map or maps of the subdivided parcels;
- c. The date of the subdivision;
- d. A copy of the legal instrument(s) providing for the subdivision; and
- e. The names of the new owner, if any, of the subdivided parcels.

Upon the written notice submitted pursuant to this section, this Amended O&M Agreement shall be deemed to be amended, without modification of this

Amended O&M Agreement, to identify the subdivided parcels of the Property. The Covenant shall remain in effect for any subdivided portion of the Property that continues to comply with the requirements of this Amended O&M Agreement and the applicable standards that form the basis of the Covenant. Any revocation of the Covenant for any parcel shall not be based solely on a finding that any other subdivided parcel of the Property no longer complies with the applicable standards or the requirements of this Amended O&M Agreement.

15. **Document Submittals / Notifications to Parties.** All documents, including but not limited to notices and reports, required to be submitted by Stanley or WCHBP pursuant to this Amended O&M Agreement shall be identified by NFA Number 98NFA027 and addressed to:

Ohio Environmental Protection Agency  
122 South Front Street  
P.O. Box 1049  
Columbus, OH 43216-1049  
Attn: Manager, Voluntary Action Program

and

Ohio Environmental Protection Agency  
Central District Office  
Division of Emergency and Remedial Response  
122 South Front Street  
P.O. Box 1049  
Columbus, OH 43216-1049  
Attn: VAP Project Coordinator

All documents, including any notice required to be submitted by Ohio EPA pursuant to this Amended O&M Agreement, shall be delivered to Stanley and WCHBP. Notice to Stanley shall be addressed to:

The Stanley Works  
Attn: Ms. Debi Geyer, or successor, EHS Manager  
Corporate Environmental Affairs  
The Stanley Works  
Corporate EHS  
480 Myrtle Street  
New Britain, CT 06053-4018

With a copy to:

Mark A. Norman, Esq.  
Vorys, Sater, Seymour and Pease LLP  
Suite 2000, Atrium Two  
221 East Fourth Street  
Cincinnati, Ohio 45202

Notice to WCHBP shall be addressed to:

Washington Court House Business Park, LLC  
Attn: Stuart Lichter  
12214 Lakewood Boulevard  
Downey, CA 90242

With a copy to:

Jerry A. Brown, Jr., Esq.  
Fainsbert, Mase, & Snyder, LLP  
11835 West Olympic Boulevard  
Suite 1100  
Los Angeles, CA 90064

Either party may designate an alternative contact name or mailing address upon written notification to the other party.

16. **Modification of this Amended O&M Agreement or the Amended O&M Plan.** Stanley or WCHBP shall submit to the Director for review and approval each proposed modification of this Amended O&M Agreement or the Amended O&M Plan, except for a minor modification, as defined below, or a modification proposed by the Director.

This Amended O&M Agreement or the Amended O&M Plan may be modified by agreement of the appropriate parties. Modifications shall be in writing, signed by the authorized representative of Stanley or WCHBP and by the Director, and shall be effective on the date signed by the Director of Ohio EPA.

Ohio EPA reserves the right to require the submittal of a new NFA Letter for a proposed modification that will result in the application of an applicable standard, land use, or a remedy different than that contained in the NFA Letter approved by the Covenant.

For purposes of this Amended O&M Agreement, "modification" means any substantive or material change to a term or condition of this Amended O&M Agreement or the Amended O&M Plan, such as a proposal to revise, replace, or terminate an engineering control, or to revise the Financial Assurance Section of this Amended O&M Agreement.

For purposes of this Amended O&M Agreement, "minor modification" means a non-substantive or non-material, administrative change to a term or condition of this Amended O&M Agreement or the Amended O&M Plan, such as the transfer of this Amended O&M Agreement and the Amended O&M Plan in accordance with the Option to Transfer Section of this Amended O&M Agreement, or a change of a named contact person or an address contained in this Amended O&M Agreement or the Amended O&M Plan. Within fourteen (14) days after implementation of a minor modification to this Amended O&M Agreement or the Amended O&M Plan, Stanley or WCHBP agrees to provide Ohio EPA written notice of the minor modification.

17. **Compliance Schedule Agreement.** Within thirty (30) days after the mailing of notice from the Director of the finding that the Property or a portion of the Property no longer complies with the applicable standards upon which the issuance of the Covenant was based, Stanley or WCHBP shall notify the Director of its intention to return the Property or such portion of the Property to compliance with the applicable standards upon which the Covenant was based ("cure") and enter into a compliance schedule agreement with the Director for such cure, in accordance with ORC 3746.12(B).
18. **Compliance with Other Laws.** Stanley or WCHBP shall conduct all activities pursuant to this Amended O&M Agreement and the Amended O&M Plan in compliance with all local, state, and federal laws and regulations, including but not limited to requirements to obtain permits or authorizations. Stanley and WCHBP acknowledge that Ohio EPA's review and approval of any health and safety measures or the risk mitigation plan contained in the Amended O&M Plan are limited to ensuring compliance with the requirements of ORC Chapter 3746 and OAC Chapter 3745-300 and do not extend to determining compliance with the Occupational Safety and Health Act, 29 U.S.C. 651 *et seq.*, the regulations adopted under that act, or any obligation imposed by the Occupational Safety and Health Administration.
19. **Inspections by Ohio EPA.** WCHBP shall allow the Director or his authorized representative to perform inspections to determine compliance with this Amended O&M Agreement. Such inspections shall be consistent with ORC Chapter 3746 and OAC Chapter 3745-300, including but not limited to the

reasonableness of inspection timing and frequency in accordance with ORC 3746.21.

20. **Program Costs for Monitoring Compliance with this Amended O&M Agreement.** Stanley agrees to reimburse Ohio EPA for the actual direct and indirect costs incurred by the Ohio EPA in monitoring compliance with this Amended O&M Agreement pursuant to ORC 3746.04(B)(8) and OAC 3745-300-03(E) beginning on the effective date of this Amended O&M Agreement and ending upon the submission of the final Demonstration Report, as described in Section 3.4.4 of the Amended O&M Plan. Ohio EPA will periodically submit to Stanley an itemized statement of its monitoring costs for the previous year(s). Monitoring costs include, but are not limited to, costs for reviewing submissions or reports required by this Amended O&M Agreement, conducting property inspections, and corresponding with the Volunteer or its representative. Within sixty (60) days of receipt of such itemized statement, Stanley shall remit payment for all of Ohio EPA's monitoring costs for the previous year(s). If Stanley disputes the accuracy of items on the itemized statement, a request for review of the statement may be made within sixty (60) days of receipt of the statement. After review, Ohio EPA will resubmit to Stanley an itemized statement with appropriate revisions to Stanley. Stanley shall remit payment within fourteen (14) days of receipt of the resubmitted statement.
21. Stanley shall remit payments to Ohio EPA pursuant to this Section of this Amended O&M Agreement as follows:
- a. Payment shall be made by an official (or certified) check made payable to "Treasurer, State of Ohio." The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, 122 South Front Street, Columbus, Ohio 43216-1049.
  - b. A copy of the transmittal letter and check shall be sent to the Fiscal Officer, DERR, Ohio EPA, P.O. Box 1049, 122 South Front Street, Columbus, Ohio 43216-1049.
  - c. A copy of the transmittal letter and check shall be sent to the Program Manager of the Voluntary Action Program, DERR, Ohio EPA, P.O. Box 1049, 122 South Front Street, Columbus, Ohio 43216-1049.
22. **Termination.** This Amended O&M Agreement shall terminate upon (a) revocation or voidance of the Covenant, (b) a demonstration, in accordance with OAC 3745-300-15(E) and the Amended O&M Plan, that implementation of this Amended O&M Agreement and the Amended O&M Plan is no longer necessary

for the Property to comply with applicable standards, upon written acknowledgement by the Manager of the Voluntary Action Program of the demonstration, or (c) or otherwise upon the written request of Stanley and the written approval of the Director of the Ohio EPA.

23. **Waiver.** Stanley and WCHBP agree that the terms and conditions of this Amended O&M Agreement are lawful and reasonable and agree to comply with this Amended O&M Agreement. Stanley and WCHBP hereby waive their right to appeal the terms and conditions of this Amended O&M Agreement, and hereby waive any and all rights each might have to seek judicial or administrative review of this Amended O&M Agreement either in law or equity. Stanley and WCHBP reserve their right to participate in any appeal by a third party to the Environmental Review Appeals Commission or to any court.
24. **Entire Agreement.** The terms and conditions of this Amended O&M Agreement, including the Amended O&M Plan, constitute the entire agreement of the parties. No oral or written representation shall be binding unless approved as a modification pursuant to the Modification Section of this Amended O&M Agreement. The terms and conditions of this Amended O&M Agreement shall be interpreted consistent with ORC Chapter 3746 and OAC Chapter 3745-300.
25. **Authorized Signatories.** Each undersigned representative of a signatory to this Amended O&M Agreement represents that he or she is fully authorized to execute this Amended O&M Agreement and to legally bind such signatory to this Amended O&M Agreement.
26. **Effective Date.** Upon execution of this Amended O&M Agreement by both parties, this Amended O&M Agreement shall be a valid and binding obligation enforceable in accordance with its terms and conditions and effective upon the date of the Director's signature.

In witness whereof, the parties hereto have executed this Amended O&M Agreement.

The Stanley Works:

By: [Signature]

Date: 11/3/06

Printed Name: DEBI J. GEYER

Title: MANAGER, CORPORATE ENVIRONMENTAL AFFAIRS

Washington Court House Business Park, LLC:

By: [Signature]

Date: 1/10/07

Printed Name: SMARIT LICHTER

Title: President of S.L. Properties Inc., A Delaware corporation, MANAGER

OHIO ENVIRONMENTAL PROTECTION AGENCY:

By: [Signature]

Date: JAN 26 2007

Acting Laura H. Powell  
Director of Ohio EPA