



State of Ohio Environmental Protection Agency

Dan Traillor
30

STREET ADDRESS:

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

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

MAILING ADDRESS:

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

March 27, 2001

CERTIFIED MAIL

Mr. William Chauncey
Standard Management Company
6151 West Century Blvd., Suite 300
Los Angeles, CA 90045-5314

RECEIVED
MAR 30 2001
OHIO EPA/CDO

**RE: Issuance of Covenant Not To Sue for the Former Swan Cleaner
Property 00NFA103**

Dear Mr. Chauncey:

I am pleased to inform you that on 3/27/01, the Director of the Ohio Environmental Protection Agency ("Director") issued a Covenant Not To Sue ("Covenant") to U.A.P. Columbus 326132 Joint Venture for the former Swan Cleaner property located at 1543 West Lane Avenue, Upper Arlington, Ohio. The Covenant was issued 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 issuance of these Findings and Orders, and subject to the conditions outlined in the Covenant, Ohio EPA covenants not to sue and releases U.A.P. Columbus 326132 Joint Venture and its 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 in the Phase I and Phase II Property Assessments completed in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

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.

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

U.A.P. Columbus 3216132 Joint Venture
Former Swan Cleaner Property
Page 2

Many parties within Standard Management Company, Arcadis Geraghty & Miller, BHE Environmental, Inc., and the agency worked hard to remove the environmental barriers associated with redeveloping this property. Again, 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, Manager
Division of Emergency and Remedial Response
Voluntary Action Program

Enclosure

cc: Lawrence Graves, CP, BHE Environmental, Inc.
Dan Tjoelker, DERR, CDO
Sue Kroeger, Legal Office
CO DERR-VAP Files

TO BE RECORDED IN DEED RECORDS,
PURSUANT TO R.C. 317.08(A)

AFFIDAVIT

STATE OF OHIO)
)
COUNTY OF FRANKLIN) SS:

Before me, the subscriber, a Notary Public in and for the State of Ohio, personally appeared Zona L. Clements or Tonya R. Jackson, who, being duly sworn according to law, deposes and says that: (i) she is employed as a records management officer in the Legal Office of the Ohio Environmental Protection Agency ("Ohio EPA") and, as such, is authorized to sign this Affidavit on behalf of Ohio EPA; and (ii) the attached document is a true and correct copy of the Covenant Not to Sue/Director's Final Findings and Orders issued by the Director and entered in the Ohio EPA Director's Journal on March 27, 2001 regarding the property known as the Former Swan Cleaner Property, located at 1543 West Lane Avenue in Upper Arlington, Franklin County, Ohio, and further described in Exhibit 1 of the attached Covenant Not to Sue.

Zona L. Clements
Zona L. Clements or Tonya R. Jackson
Records Management Officer
Ohio EPA Legal Office

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this 27 day of March, 2001.



J. Gregory Smith
Notary Public
State of Ohio
Commission Expires
August 11, 2003

J. Gregory Smith
Notary Public
State of Ohio

Permanent Commission
No expiration, R.C. 147.03

This instrument prepared by:
Susan Kroeger, Attorney
Ohio EPA Legal Office
P.O. Box 1049
Columbus, Ohio 43216-1049

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAR 27 2001
ENTERED DIRECTOR'S JOURNAL

In the matter of:

U.A.P. Columbus 326132 Joint Venture
c/o Standard Management Company
6151 W. Century Blvd., Suite 300
Los Angeles, CA 90045-5314

Covenant Not to Sue

Director's Final Findings
and Orders

Regarding property known as:

The Former Swan Cleaner Property
1543 West Lane Avenue
Upper Arlington, OH 43221

Pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300, the Director of the Ohio Environmental Protection Agency (the "Director") hereby makes the following Findings and issues the following Orders.

FINDINGS

1. A No Further Action Letter, No. 00NFA103 (the "NFA Letter"), was issued on October 30, 2000 and submitted on November 6, 2000 to the Ohio Environmental Protection Agency ("Ohio EPA"), Division of Emergency and Remedial Response, Voluntary Action Program ("VAP") on behalf of U.A.P. Columbus 326132 Joint Venture (the "Volunteer"), by Lawrence S. Graves, a certified professional, No. CP163, as defined in ORC 3746.01(E) and OAC 3745-300-01(A)(8) (the "Certified Professional").
2. The Certified Professional submitted to Ohio EPA an addendum to the NFA Letter, dated February 12, 2001. For the purposes of these Findings and Orders, the term "NFA Letter" includes the addendum.
3. The NFA Letter describes investigational and remedial activities undertaken at the approximately 1.32 acre property, known as the Former Swan Dry Cleaner Property, located at 1543 West Lane Avenue, Upper Arlington, Franklin 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.

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

By: Zonad Clements Date: 3-27-01

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 on or underlying, or is emanating from, the Property;
 - b. a Phase II Property Assessment, in accordance with OAC 3745-300-07, including but not limited to investigations of identified areas of concern and affected media, to assess environmental conditions related to any release of hazardous substances and petroleum;
 - c. a demonstration of compliance with applicable standards through the application of generic direct contact standards in accordance with OAC 3745-300-08 and a Property-specific risk assessment in accordance with OAC 3745-300-09; and
 - d. the removal of approximately 7 tons of contaminated soil in July 1999;
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, Aqua Tech Environmental Laboratories, Melmore, Ohio was a certified laboratory, No. CL0009, and American Analytical Laboratories, Akron, Ohio was a certified laboratory, No. CL0010 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 each of the Certified Laboratories in affidavits contained in the NFA Letter, each of the Certified Laboratories performed analyses for which it was certified, 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, and upon all other conditions set forth in these Findings and Orders, the Property meets the applicable standards

contained in ORC Chapter 3746 and OAC Chapter 3745-300 for residential land use including but not limited to:

- a. residential land use category direct contact soil standards for hazardous substances in accordance with Table II of OAC 3745-300-08 for generic numerical standards, at a point of compliance from the surface to a depth of 10 feet;
 - b. unrestricted potable use ground water standards, in accordance with Table VII of OAC 3745-300-08 for generic numerical standards and OAC 3745-300-09 for those standards derived through Property-specific risk assessment procedures, at all points underlying the Property;
 - c. soil standards derived through Property-specific risk assessment procedures in accordance with OAC 3745-300-09 to satisfy the requirements in OAC 3745-300-10(E) to ensure the protection of ground water meeting unrestricted potable use standards at all points underlying the Property; and
 - d. soil standards derived through Property-specific risk assessment procedures in accordance with OAC 3745-300-09 to satisfy the requirements of OAC 3745-300-10(F) to prevent leaching to ground water from on-Property sources or source areas which would result in an exceedance of the unrestricted potable use standards at all points underlying the Property.
9. Based on the information contained in the NFA Letter, and subject to all conditions set forth in these Findings and Orders, the Property is eligible to receive a covenant not to sue in accordance with ORC 3746.12(A) and the voluntary action for the Property is protective of public health and safety and the environment.

ORDERS

Covenant

1. Upon the issuance of these Findings and Orders, and subject to the conditions set forth herein, Ohio EPA hereby covenants not to sue and releases U.A.P. Columbus 326132 Joint Venture, and its 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 1.32 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 and 3746.171, authorized representatives of the Director shall be granted access to the Property for inspection or investigation purposes, including but not limited to determining whether the Property is being used in compliance with the use restrictions contained in the Declaration.
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.

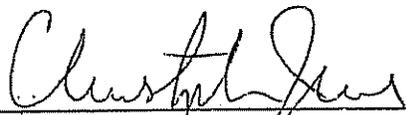
Recordation in Deed Records

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 Franklin County Recorder's Office, in the same manner as a deed to the Property, within sixty (60) days after the issuance 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.

IT IS SO ORDERED:



Christopher Jones, Director
Ohio Environmental Protection Agency

MAR 27 2001

Date

The Former Swan Cleaner Property
Director's Final Findings and Orders / Covenant Not to Sue

Exhibit 1
Legal Description

Situated in the State of Ohio, County of Franklin, City of Upper Arlington, being located in Section 4, Township 1, Range 19, United States Military Lands and being part of Parcel 1 and all of Parcel 4 of those tracts of land conveyed to U.A.P. - Columbus J.V. 326132, by deed of record in Deed Book 3700, Page 338, all references being to records in the Recorder's Office, Franklin County, Ohio and bounded and described as follows:

Beginning at the intersection of the southerly right-of-way line of Lane Avenue with the westerly right-of-way line of Beaumont Road (50 feet in width), said point also being the northeasterly corner of Lot 1 of Block 14 of the "UNIVERSITY ADDITION", as the plat of same is of record in Plat Book 16, Page 39;

thence South 0° 41' 23" East, with said right-of-way line of Beaumont Road, a distance of 149.97 feet to the northeasterly corner of Lot 3 of said "UNIVERSITY ADDITION";

thence North 89° 18' 30" West, with the northerly line of said Lot 3 and crossing Reserve "F" of said "UNIVERSITY ADDITION", a distance of 129.82 feet to a point in the easterly line of Parcel 1;

thence South 0° 41' 23" West, with the easterly line of Parcel 1, the westerly line of Reserve "F", a distance of 98.47 feet to a point;

thence North 89° 18' 30" West, a distance of 145.66 feet to a building corner of the building at 1555 West Lane Avenue;

thence North 0° 41' 23" East, with the westerly wall of said building and said line extended, a distance of 263.40 feet to a point in the southerly right-of-way line of Lane Avenue;

thence South 89° 18' 30" East, with said right-of-way line of Lane Avenue, a distance of 142.00 feet to an angle point in said line;

thence South 0° 41' 23" West, continuing with said right-of-way line of Lane Avenue, a distance of 10.00 feet to an angle point in said line at the northwesterly corner of Reserve "F";

thence South 89° 18' 30" East, with said right-of-way line and the northerly line of Reserve "F", a distance of 4.06 feet to the northeasterly corner of Reserve "F";

thence South 0° 41' 23" West, with said right-of-way line and the easterly line of Reserve "F", a distance of 5.00 feet to an angle point in said right-of-way line;

thence South 89° 18' 30" East, with said right-of-way line of Lane Avenue, a distance of 125.81 feet to the place of beginning, containing 1.321 acres, more or less.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

By 
Registered Surveyor No. 5908 July 31, 2000

The Former Swan Cleaner Property
Director's Final Findings and Orders / Covenant Not to Sue

Exhibit 2
Site Map

USGS COORDINATES OF SUBJECT PROPERTY: N40° 00' 24", W83° 03' 07"



COMMERCIAL LAND USE

LANE AVENUE

BOUNDARY OF SUBJECT PROPERTY

FORMER SWAN
CLEANER BUILDING

MAIN BUILDING
SHOPPING CENTER

WILD OATS
BUILDING

HARRY A MOWERY
3

CR & ANNE
MARIE DDDSWORTH
4

FORMER
BUILDING

RES "A"

WILLIAM E &
BESSE M MEALER
5

BEAUMONT ROAD

1 STORY BUILDING
PETSMART

2365 BEAUMONT RD
6

RESIDENTIAL LAND USE



GERAGHTY & MILLER

6367 Emerald Parkway
Suite 100, Dublin, OH 43016
Tel: 614/724-1200 Fax: 614/724-1200

SITE MAP
SUBJECT PROPERTY
1543 W. LANE AVENUE
UPPER ARLINGTON, OHIO

DATE 2/24/00	PROJECT MANAGER A. HAGEN	DRAWING NAME NHL/000534-00
DRAWN R. SMITH	LEAD DESIGN PROF. J. ROD	CHECKED T. TROMBER
PROJECT NUMBER OH000534.0006		FIGURE NUMBER 2

The Former Swan Cleaner Property
Director's Final Findings and Orders / Covenant Not to Sue

Exhibit 3
Executive Summary

SECTION B
OHIO ENVIRONMENTAL PROTECTION AGENCY
VOLUNTARY ACTION PROGRAM
EXECUTIVE SUMMARY AND FILING DOCUMENT OF
NO FURTHER ACTION LETTER

Former Swan Cleaners
Lane Avenue Shopping Center
1543 West Lane Avenue
Upper Arlington, Ohio

VOLUNTEER:

U.A.P. Columbus 3216132 Joint Venture
Standard Management Company
6151 W. Century Blvd, Suite 300
Los Angeles, California 90045-5314

OWNER:

Same as Volunteer

CERTIFIED PROFESSIONAL ISSUING THE NFA:

Lawrence S. Graves
CP 163
Phone: 614-487-7831; Fax: 614-487-7841

State of Ohio)
County of Franklin)

Lawrence S. Graves, being first duly sworn according to law, and deposes and states that, to the best of my knowledge, information and belief:

1. I am an adult over the age of eighteen (18) years old and competent to testify herein.
2. I am a Certified Professional, (CP No. 163), in good standing under Ohio Revised Code (ORC) Chapter 3746 and Ohio Administrative Code (OAC) Chapter 3745-300.
3. I have prepared a No Further Action Letter for The Standard Management Company for property located at 1543 West Lane Avenue, Upper Arlington, Ohio.
4. I have reviewed Paragraph (F) of OAC rule 3745-300-05, and have met all standards of conduct contained in that Paragraph while rendering professional services to The Standard Management Company regarding the Property.
5. The Property is eligible for the Voluntary Action Program, pursuant to ORC Section 3746.02 and OAC rule 3745-3000-02.
6. The voluntary action has been conducted and the No Further Action Letter has been issued in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.
7. The voluntary action conducted at the Property was conducted in compliance with all applicable federal, state and local laws and regulations.
8. The No Further Action Letter and NFA Review Form for the Property, and any other information, data, documents, and reports submitted with the No Further Action Letter and NFA Review Form are true, accurate, and complete.

9. The No Further Action Letter, and all supporting information, data, documents, and reports, are a true, accurate and complete characterization of conditions at the Property, including the presence or absence of hazardous substances and petroleum.

Further affiant sayeth naught.

Sworn to before me this 30th day of OCT. 2000

Name of Affiant Lawrence S. Graves

Name of Notary Public Fran A. Clayton

This Instrument prepared by: SSG



LAWRENCE S. GRAVES
CERTIFIED PROFESSIONAL (CP163)
ORC Section 3746.04(B)(5)
OAC Rule 3745-300-05
My certification expires Jul. 7, 2001

1.0 INTRODUCTION

This executive summary has been prepared to meet requirements of OAC 3745-300-13 (H) and requirements of OAC 3745-300-13 (I). The Standard Management Company is a volunteer under the Ohio Voluntary Action Program (VAP). The Company is seeking a covenant not to sue for property located at the Lane Avenue Shopping Center, 1543 West Lane Avenue, Upper Arlington, Ohio. The subject property is currently occupied by the Wild Oats Market. The property was formerly occupied by a dry-cleaning facility that had evidence of a recognized environmental condition relating to past dry-cleaning fluid handling practices. The dry-cleaning operation occupied only the northeast portion of the current building. The Certified Professional (CP) submitting the NFA letter is Lawrence S. Graves (CP163). Arcadis Geraghty and Miller conducted the VAP Phase I and Phase II property assessments. This NFA letter was completed by the CP in August 2000. A complete copy of the NFA letter can be obtained from the volunteer at the following address:

Mall Office
Lane Avenue Shopping Center
1585 West Lane Avenue
Upper Arlington, Ohio

2.0 SUMMARY OF NO FURTHER ACTION LETTER

Issuance of the NFA letter was based on review of the volunteer's Phase I and Phase II reports, including appendices of those reports that describe investigations and remedial activities conducted by both the buyer and the seller of the property. The volunteer has addressed all on-site "identified areas"

as part of the voluntary action. However, interviews with the volunteer's consultant by the CP, and site conditions observed by the CP, revealed another identified area located off-site on an adjacent property. This identified area very likely resulted from past activities at the volunteer's property. Because of adversarial relationships between the property owner and former tenant, access to offsite property information, and incorporation of the offsite identified area into the VAP process, was not possible. The limited information that does exist, suggests that the offsite identified area has been addressed by separate, non-VAP related remedial activities. As a result of these circumstances, this NFA letter is being applied to the specific identified area located on the volunteer's property as presented in the property legal description.

2.1 Phase I Property Assessment

The purpose of the Phase I Property Assessment was to determine if there was reason to believe hazardous materials or petroleum was released from the property, and if so, determine the initial scope of work for Phase II investigations. In conducting the Phase I investigation the volunteer's consultant used standard investigation procedures including chain of custody reviews, Ohio DNR well log reviews, regulatory searches, file reviews, site reconnaissance and interviews. Relevant information that was reviewed during the Phase I included local maps, site history documents, historical aerial photos, Sanborn fire insurance reports, and historical address listings. A summary of all previous site investigations conducted relative to this property was also reviewed in the Phase I report. Approximately eight separate investigations were conducted relative to soil and groundwater conditions around the subject property and in adjacent areas within the Lane Avenue shopping center.

Based on Phase I assessment results, the volunteer concluded that there is reason to believe that a release has occurred from the subject property, and that a Phase II investigation is warranted. Three "identified areas" were noted, one of which was offsite and addressed under non-VAP activities for reasons described above, and two others consisting of the basement sump (identified area 2) and the area outside two former back doors to the dry cleaning facility (identified area 1). The primary chemicals of concerns (COCs) targeted for investigation consisted of volatile organic compounds (VOCs) typical of dry-cleaning operations, including PCE and TCE and degradation products of those compounds. Areas targeted for additional investigation in Phase II included the basement of the former dry-cleaning facility, soil beneath the basement, and soil and groundwater along the east wall of the former dry-cleaning suite.

2.2 Phase II Property Assessment

The Phase II Property Assessment was conducted in multiple phases as an iterative investigation during the period January 1999 thru July 2000, with non-VAP investigations starting as early as February 1996. Investigations consisted of near-surface soil sampling, sub-surface soil-sampling using direct-push drilling technology, groundwater sampling, and indoor air sampling. Sample analyses were limited to VOCs using primarily EPA method 8260. Historically, samples have been analyzed by both VAP-certified and non-certified labs. However, any conclusions regarding compliance with applicable standards were based on VAP certified lab results.

Specific contaminant pathways targeted for investigation included COC migration from sources in soil to indoor air in the adjacent basement, COCs in soil to underlying groundwater, and COCs in near-surface soil (0-2') to direct contact exposure.

2.2.1 Soil and Groundwater Investigations and Findings

Approximately, 15 soil samples were collected from identified area 1, soils outside the west wall of the suite. VOC's were detected in identified area 1 in soils adjacent to the former dry-cleaning suite in concentrations ranging from single-digit to four-digit part per billion. Primary compounds consisted of PCE and associated degradation products.

In identified area 2, water samples were collected from the sump located in the basement of the subject property. VOCs were detected in concentrations ranging from two- to four- digits part per million. Soil samples collected from beneath the basement floor in underlying soils detected no VOCs. Indoor air sampling from the basement of the subject property indicated no VOCs present.

Borings near identified area 1 were also installed to investigate groundwater. Significant groundwater was not encountered at the depths of sampling (35 feet bgs) during the Phase II investigation. While thin damp to wet seams of sandy material were encountered at depths of 25 feet and greater, the primary lithology was low-permeability, glacial till of silty clay, and the volunteer had concluded that yield from these zones would not be defined as groundwater under VAP. Also, soil samples from these zones, and shallower zones, yielded no detection of VOCs. Given the weight-of-evidence, the volunteer concluded that groundwater beneath the VAP property was not impacted by sources on the property. Groundwater was detected and sampled from borings located at other areas within the Lane Avenue Shopping Center, where previous dry-cleaning activities had also been conducted. Those samples detected VOCs in groundwater at concentrations of single-digit ppm.

Based on the sampling conducted during this Phase II investigation, exposure pathways were evaluated for completeness. For soils adjacent to the subject suite, the direct contact pathway was determined to be potentially complete and consisted of VOCs. Potential leaching of VOCs to groundwater was determined to be complete due primarily to the presence of VOCs in concentrations in excess of the leach based values from Ohio EPA. Vapor intrusion to indoor air space to the basement of the subject property appeared to be incomplete based on the fact that no VOCs were detected in underlying soils, nor were there VOCs detected from indoor air samplings conducted within the basement of the subject property. The only exception to this was the occurrence of fluids within the sump of the basement where elevated concentrations of VOCs were detected. There appeared to be no evidence that fluids within the sump had leaked from the sump, however, odors being emitted from these fluids to the basement were a subject of complaint and consequently fluids were removed and the sump was backfilled with concrete, thus removing this source as a potential pathway.

2.3 Determination of Applicable Standards

For those complete pathways identified in the Phase II investigations, the only media impacted was soil. The applicable standards used to determine compliance were the generic direct contact soil standards for commercial land use, and the leach-based values for groundwater meeting unrestricted potable use standards. The generic direct contact soil standards applied to dermal contact, and

inhalation. While VAP regulations do not contemplate indoor air and vapor exposure, these values were used as indication of risks posed by soil concentrations to this receptor population.

2.4 Determination of Compliance with Applicable Standards

The concentrations of COCs in soil samples taken from areas east of the subject property along the eastern wall of the former dry-cleaning suite exceeded applicable standards. Based on this finding, it was determined that remedial activities would be required in order to meet applicable standards.

2.5 Remedial Activities

In order to meet applicable standards for soils on the east side of the former dry-cleaning suite, soil excavation was implemented as the remedial activity. An excavated area of 11 x 9.9 x 9 feet deep of soil was removed from the area where the concentrations of COCs were in excess of applicable standards. Confirmation samples were collected within the excavation walls and floor. With the exception of one sample, which exceeded the leach-based value for PCE by 1 ppb, all COCs detected in soils were within applicable standards. Relative to the soil sample exceeding the leach-based value, additional soil removal in the targeted area was conducted. Based on the fact that the majority of the area subject to leaching is covered with pavement and utilized as parking lot (thus significantly reducing the availability of water infiltration and leachate generation), the fact that the underlying geology consists of low permeability glacial tills, and the fact that there appears to be no significant groundwater to a depth of approximately thirty feet from the surface, the leaching pathway appears to have been addressed and meets applicable standards.

3.0 CONCLUSIONS

Based on review of the information gathered and submitted to the Certified Professional by the volunteer, The Standard Management Company, and their consultant, Arcadis Geraghty and Miller, the Wild Oats Market property located at 1543 West Lane Avenue meets all applicable standards under the Ohio Voluntary Action Program and requires no further action.



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

MAILING ADDRESS:

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

MEMORANDUM

TO: Shelley Wilson, 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: MAR 27 2001

RE: Covenant Not to Sue Issued to U.A.P. Columbus 326132 Joint Venture for
the Former Swan Cleaner Property

As Director of the Ohio Environmental Protection Agency, I certify that U.A.P. Columbus 326132 Joint Venture has performed investigational and remedial activities at the property listed below and has 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 Swan Cleaner Property

Property address: 1543 West Lane Avenue, Upper Arlington, Ohio 43221

Parcel number(s): 070-001905
070-001794
070-001795

County: Franklin

Taxing District: City of Upper Arlington

Date Covenant Not to Sue Issued: MAR 27 2001

Attached, for your information, is a copy of the legal description of the Property.

If additional information regarding the property or the voluntary action is required, I suggest you first contact Lawrence Graves, the Certified Professional for the property, at (614) 487-7831. In the alternative, you can contact Dan Tjoelker with the Ohio Environmental Protection Agency at (614) 728-3836.

cc: Lawrence Graves, BHE Environmental, Inc.
William Chauncey, Standard Management Co.

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

Situated in the State of Ohio, County of Franklin, City of Upper Arlington, being located in Section 4, Township 1, Range 19, United States Military Lands and being part of Parcel 1 and all of Parcel 4 of those tracts of land conveyed to U.A.P. - Columbus J.V. 326132, by deed of record in Deed Book 3700, Page 338, all references being to records in the Recorder's Office, Franklin County, Ohio and bounded and described as follows:

Beginning at the intersection of the southerly right-of-way line of Lane Avenue with the westerly right-of-way line of Beaumont Road (50 feet in width), said point also being the northeasterly corner of Lot 1 of Block 14 of the "UNIVERSITY ADDITION", as the plat of same is of record in Plat Book 16, Page 39;

thence South $0^{\circ} 41' 23''$ East, with said right-of-way line of Beaumont Road, a distance of 149.97 feet to the northeasterly corner of Lot 3 of said "UNIVERSITY ADDITION";

thence North $89^{\circ} 18' 30''$ West, with the northerly line of said Lot 3 and crossing Reserve "F" of said "UNIVERSITY ADDITION", a distance of 129.82 feet to a point in the easterly line of Parcel 1;

thence South $0^{\circ} 41' 23''$ West, with the easterly line of Parcel 1, the westerly line of Reserve "F", a distance of 98.47 feet to a point;

thence North $89^{\circ} 18' 30''$ West, a distance of 145.66 feet to a building corner of the building at 1555 West Lane Avenue;

thence North $0^{\circ} 41' 23''$ East, with the westerly wall of said building and said line extended, a distance of 263.40 feet to a point in the southerly right-of-way line of Lane Avenue;

thence South $89^{\circ} 18' 30''$ East, with said right-of-way line of Lane Avenue, a distance of 142.00 feet to an angle point in said line;

thence South $0^{\circ} 41' 23''$ West, continuing with said right-of-way line of Lane Avenue, a distance of 10.00 feet to an angle point in said line at the northwesterly corner of Reserve "F";

thence South $89^{\circ} 18' 30''$ East, with said right-of-way line and the northerly line of Reserve "F", a distance of 4.06 feet to the northeasterly corner of Reserve "F";

thence South $0^{\circ} 41' 23''$ West, with said right-of-way line and the easterly line of Reserve "F", a distance of 5.00 feet to an angle point in said right-of-way line;

thence South $89^{\circ} 18' 30''$ East, with said right-of-way line of Lane Avenue, a distance of 125.81 feet to the place of beginning, containing 1.321 acres, more or less.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

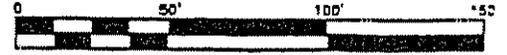
By 
Registered Surveyor No. 5908 July 31, 2000

6
CONSULTING ENGINEER
COLUMBUS, OHIO

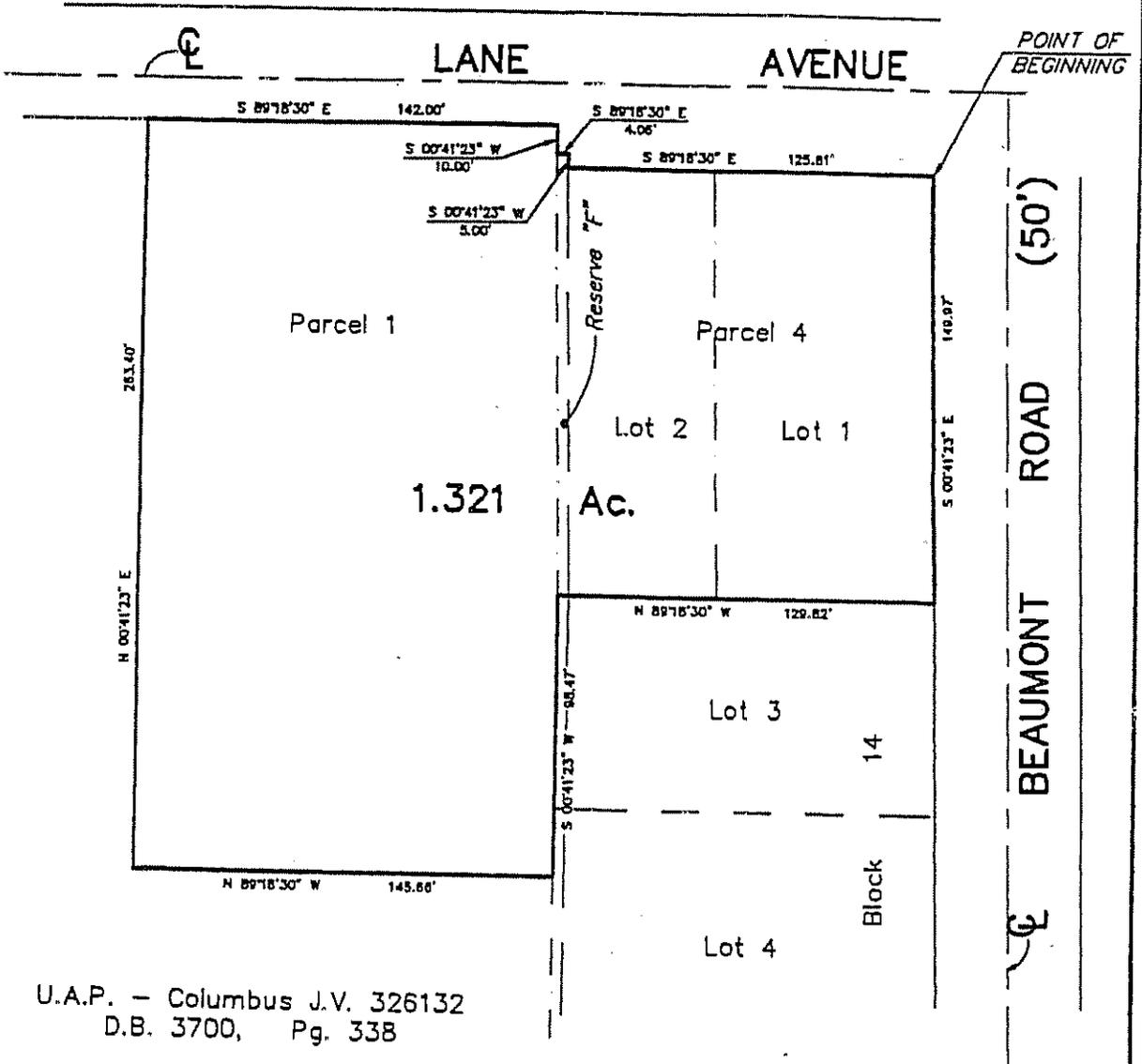
SECTION 4, TOWNSHIP 1, RANGE 19
 UNITED STATES MILITARY LANDS
 CITY OF UPPER ARLINGTON, FRANKLIN COUNTY, OHIO

SCALE 1" = 50'

JULY 31, 2000

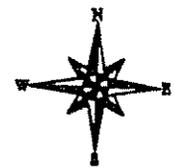


IN FEET



1.321 ACRES SURVEYED BY THOMAS D. SIBBALDS, REGISTERED PROFESSIONAL SURVEYOR, ON JULY 31, 2000 AT 2:48 PM

U.A.P. - Columbus J.V. 326132
 D.B. 3700, Pg. 338



E.M.H.&T. INC.

By Thomas D. Sibbalds
 Professional Surveyor No. 5908



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

MAILING ADDRESS:

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

MEMORANDUM

TO: Shelley Wilson, 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: MAR 27 2001

RE: Covenant Not to Sue Issued to U.A.P. Columbus 326132 Joint Venture for the Former Swan Cleaner Property

As Director of the Ohio Environmental Protection Agency, I certify that U.A.P. Columbus 326132 Joint Venture has performed investigational and remedial activities at the property listed below and has 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 Swan Cleaner Property

Property address: 1543 West Lane Avenue, Upper Arlington, Ohio 43221

Parcel number(s): 070-001905
070-001794
070-001795

County: Franklin

Taxing District: City of Upper Arlington

Date Covenant Not to Sue Issued: MAR 27 2001

Attached, for your information, is a copy of the legal description of the Property.

If additional information regarding the property or the voluntary action is required, I suggest you first contact Lawrence Graves, the Certified Professional for the property, at (614) 487-7831. In the alternative, you can contact Dan Tjoelker with the Ohio Environmental Protection Agency at (614) 728-3836.

cc: Lawrence Graves, BHE Environmental, Inc.
William Chauncey, Standard Management Co.

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

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thence North 89° 18' 30" West, with the northerly line of said Lot 3 and crossing Reserve "F" of said "UNIVERSITY ADDITION", a distance of 129.82 feet to a point in the easterly line of Parcel 1;

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thence North 89° 18' 30" West, a distance of 145.66 feet to a building corner of the building at 1555 West Lane Avenue;

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EVANS, MECHWART, HAMBLETON & TILTON, INC.

By 
Registered Surveyor No. 5908 July 31, 2000

