



State of Ohio Environmental Protection Agency

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

February 3, 2009

CERTIFIED MAIL

RECEIVED

FEB 04 2009

OHIO EPA/CDO

Brian Langmeyer
Network Restorations II LLC
Ohio Capital Corporation for Housing
88 East Broad Street, Suite 1800
Columbus, OH 43215

**Re: Issuance of Covenant Not To Sue for the 1268 North Fourth Street
Property (07NFA283)
Project ID #125-002552-002**

Dear Mr. Langmeyer:

I am pleased to inform you that on February 3, 2009, the Director of the Ohio Environmental Protection Agency (Ohio EPA) issued a covenant not to sue (Covenant) to Network Restorations II LLC for the 1268 North Fourth Street property located at same address, Columbus, Franklin County, 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.

Based on the no further action (NFA) letter and subject to the conditions outlined in the Covenant, the Ohio EPA covenants not to sue and releases Network Restorations II LLC and its 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 property assessments conducted in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

You will find the certified copy of the Covenant enclosed. When filing the Covenant and its exhibits at the Franklin 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.

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

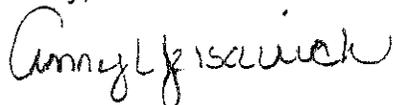
Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Brian Langmeyer
Network Restorations II LLC
Ohio Capital Corporation for Housing
Page -2-

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 30 days after notice of the Director's action. 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. Notice of the filing of the appeal shall be served on the Director within three days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Commission at the following address: Environmental Review Appeals Commission, 309 South Fourth Street, Room 222, Columbus, Ohio 43215.

Many persons within the agency, Network Restorations II LLC and Carnoustie Consulting, Ltd. among others, 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 or amy.yersavich@epa.state.oh.us.

Sincerely,



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

Enclosure

c: Jeffrey P. Hullinger, Certified Professional, Carnoustie Consulting, Ltd.
Craig Sturtz, Squire, Sanders and Dempsey, LLP
Deborah Strayton, DERR/CDO
Catherine Stroup, Legal Office
CO/DERR/VAP Files
CDO/DERR Files

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

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AFFIDAVIT

OHIO EPA/CDO

STATE OF OHIO)

ss:

COUNTY OF FRANKLIN)

Before me, the subscriber, a Notary Public in and for the State of Ohio, personally appeared Tonya R. Lassiter, 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 February 3, 2009 regarding the property known as 1268 North Fourth Street located at same in Columbus, Franklin County, Ohio, and further described in Exhibit 1 of the attached Covenant Not to Sue.

Tonya R. Lassiter
Records Management Officer
Ohio EPA Legal Office

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this 3rd day of February, 2009.

Notary Public
State of Ohio

Permanent Commission
No expiration, R.C. 147.03

This instrument prepared by:
Catherine A. Stroup
Ohio EPA Legal Office
P.O. Box 1049
Columbus, Ohio 43216-1049



SUSAN C. KROEGER
Attorney at Law
Notary Public
State of Ohio
Lifetime Commission

FEB -3 2009

REGISTERED DIRECTOR'S JOURNAL

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FEB 04 2009

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO EPA/CDO

In the matter of:

Network Restorations II LLC
80 East Broad Street
Columbus, Ohio 43215

Covenant Not to Sue

Director's Final Findings
and Orders

Regarding property known as:

1268 North Fourth Street
Columbus, Ohio 43201

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

FINDINGS

1. A No Further Action Letter, No. 07NFA283 ("NFA Letter"), was submitted on December 27, 2007 to the Director under the Voluntary Action Program on behalf of Network Restorations II LLC ("Volunteer"), by Jeffery P. Hullinger, P.E., a certified professional, No. CP 214, as defined in ORC 3746.01(E) and OAC 3745-300-01(A)(8) ("Certified Professional").
2. The Certified Professional submitted to the Director addenda to the NFA Letter, dated June 25, September 22 and November 10, 2008. For the purposes of these Findings and Orders, the term "NFA Letter" includes the addenda.

By: _____ Date: 2-3-09
official documents as filed in the records of the Ohio Environmental Protection Agency.

By: Jeffery P. Hullinger Date: 2-3-09

3. The NFA Letter describes the investigational and remedial activities undertaken at the approximately 0.41-acre property, currently known as 1268 North Fourth Street, located at same, Columbus, Franklin County, Ohio ("Property"). An exact legal description of the Property is attached hereto as Exhibit 1. A property location map is attached hereto as Exhibit 2. Based on information in the NFA Letter the current owner of the Property is Network Restorations II LLC.
4. The Certified Professional prepared pursuant to OAC 3745-300-13(J) an Executive Summary of the NFA Letter, which is attached hereto as Exhibit 3.
5. Based upon the information contained in the NFA Letter, the Volunteer undertook or completed the following investigational and remedial activities 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, 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 and affected media, to assess environmental conditions related to releases of hazardous substances and petroleum.
 - c. Identification, in the Phase I Property Assessment or Phase II Property Assessment, of one or more releases of hazardous substances or petroleum with chemicals of concern that include but are not limited to metals, volatile organic compounds, total petroleum hydrocarbons and polyaromatic hydrocarbons, for which the Volunteer determined the applicable standards.
 - d. Remedial activities including soil removal to 2 feet below ground surface for off-site disposal and replacement of the soil removed with 2 feet of clean soil.
 - e. A demonstration that the Property complies with applicable standards for the identified chemicals of concern in the identified areas and affected media at the Property through a comparison to background levels, in accordance with OAC 3745-300-07, the use of generic numerical standards, in accordance with OAC 3745-300-08, or the use of a property-specific risk assessment, in accordance with OAC 3745-300-09.

6. 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 Voluntary Action Program, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws and regulations.
7. At the time that analyses were performed, Belmont Labs was a certified laboratory, No. 0032, as defined in ORC 3746.01(D) and OAC 3745-300-01(A)(7), whose services were used in support of the NFA Letter ("Certified Laboratory").
8. The Certified Laboratory has declared in affidavits contained in the NFA Letter that it performed analyses for which it was certified and qualified, pursuant to ORC Chapter 3746 and OAC 3745-300-04, that formed the basis for the issuance of the NFA Letter by the Certified Professional.

Applicable Standards

9. Based on the information contained in the NFA Letter and all 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 unrestricted residential land use and unrestricted potable ground water use. The applicable standards, the methods of achieving compliance with the standards, and the associated points of compliance for the standards for each complete exposure pathway, are identified in the NFA Letter, which contains a summary table titled "Applicable Standards and Remedial Activities for Each Exposure Pathway" in the NFA Letter at Table 7 of the Phase II report. The applicable standards include but are not limited to:
 - a. Residential land use standards for direct contact to chemicals of concern related to hazardous substances in soil. The standards consist of generic numerical standards from Table II of OAC 3745-300-08, standards based on background concentrations in soil determined in accordance with OAC 3745-300-07(H), and apply at a point of compliance from the ground surface to a depth of 10 feet.
 - b. Residential land use standards for direct contact to chemicals of concern related to petroleum in soil. The standards consist of generic numerical standards in accordance with OAC 3745-300-08(B)(3)(a)(i), at a point of

compliance from the ground surface to a depth of 10 feet.

- c. Soil standards for direct contact by construction or excavation workers to chemicals of concern in soil. The standards consist of generic numerical standards from Table IV of OAC 3745-300-08, standards based on background concentrations in soil determined in accordance with OAC 3745-300-07(H), and apply at a point of compliance from the ground surface to a depth of 10 feet.
 - d. Unrestricted potable use standards for the chemicals of concern in ground water in the upper most ground water zone, including an evaluation in accordance with OAC 3745-300-07(D)(4)(a) to satisfy the requirements in OAC 3745-300-10(E) ensuring the protection of the ground water zone. The standards consist of unrestricted potable use standards from Tables VI and VII of OAC 3745-300-08 and apply at all points underlying and emanating from the Property. The ground water zone will maintain continued compliance with unrestricted potable use standards based on a weight of evidence demonstration in accordance with OAC 3745-300-07(D)(4)(a)(ii).
 - e. Soil standards for chemicals of concern for the volatile emissions to indoor air pathway to human exposures derived through property-specific risk assessment procedures in accordance with OAC 3745-300-09(D).
10. Based on the NFA Letter and subject to all conditions set forth in these Findings and Orders, a covenant not to sue may be issued for the Property 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. Based on the NFA Letter and subject to the conditions set forth in these Findings and Orders, Ohio EPA hereby covenants not to sue and releases Network Restorations II LLC and its 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 ("State") 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 Property Assessment or Phase II Property Assessment conducted in compliance

with ORC Chapter 3746 and OAC Chapter 3745-300.

Conditions and Limitations

Requirement to Record These Findings and Orders / Covenant Not to Sue

2. Within thirty (30) days after the issuance of these Findings and Orders, the Volunteer shall:
 - a. File with the Franklin County Recorder's Office, for recording in the same manner as a deed to the Property pursuant to ORC 3746.14, a copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Property Location Map), and 3 (Executive Summary).
 - b. Submit to Ohio EPA a copy of the Findings and Orders that shows the filing date stamp of the Franklin County Recorder's Office or other reliable information that verifies the recording of the Findings and Orders in accordance with this Order. The submission shall include a cover letter that identifies "*Recorded - Covenant Not to Sue for NFA Letter No. 07NFA283.*" The submission shall be addressed and delivered by regular U.S. mail or by other reliable means to: Ohio EPA, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer, and Ohio EPA Central District Office, at the above address, Attention: DERR Site Coordinator for 1268 North Fourth Street.

Scope of Covenant

3. The Covenant provided in Order No. 1 shall only apply to the approximately 0.41-acre Property described in the NFA Letter, these Findings and Orders, and the exhibits attached hereto, upon which the investigational and remedial activities specified in the NFA Letter, were conducted.
4. 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.
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, including

but not limited to, releases of asbestos that may occur from asbestos-containing materials remaining at the Property that were not abated, or required to be abated, pursuant to OAC Chapter 3745-20.

- b. On or emanating from the Property, that are not identified and addressed in the Phase I Property Assessment or in the Phase II Property Assessment of the NFA Letter.
 - 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.
 - c. As otherwise specifically provided in ORC Chapter 3746, including but not limited to obligations arising under other applicable laws.
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.

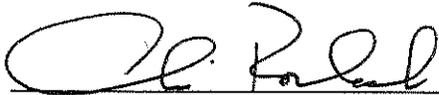
Ohio EPA Access to Property

9. Pursuant to ORC 3746.21, authorized representatives of the Director shall be granted access to the Property for inspection or investigation purposes.

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:



Chris Korleski, Director
Ohio Environmental Protection Agency

FEB 03 2009

Date

1268 North Fourth Street
Director's Final Findings and Orders / Covenant Not to Sue

Exhibit 1
Legal Description

Description of a 0.412 acre parcel of land

Situate in the State of Ohio, County of Franklin, City of Columbus and being all of a 0.412 acre parcel of land conveyed to Network Restorations II, LLC of record in Instrument Number 200505310103886, Tract 7, Parcel X, (all references to records are on file in the Office of the Recorder, Franklin County, Ohio), said 0.412 acre parcel being more fully described herein;

Beginning at the southwest corner of Lot 128 as shown on New Indianola Addition of record in Plat Book 12, Pages 35 & 36;

Thence North $00^{\circ}00'00''$ East with the west line of said New Indianola Addition, a distance of 135.00 feet to a point;

Thence South $90^{\circ}00'00''$ East across lot 125 of said New Indianola Addition, a distance of 133.12 feet to a point on the east line of said lot 125 and the west line of a 16.00 feet alley;

Thence South $00^{\circ}12'38''$ West with the west line of said 16.00 foot alley, a distance of 135.00 feet to a point at the southeast corner of said Lot 128;

Thence North $90^{\circ}00'00''$ West with the south line of said lot 128, a distance of 132.62 feet to the True Point of Beginning containing 0.412 acres, subject to all easements and documents of record.

For the purpose of this description a bearing of North $00^{\circ}00'00''$ East was held on the west line of said New Indianola Addition. Said bearing is based on an assumed meridian. This description was prepared from documents of record. No actual field survey was performed.



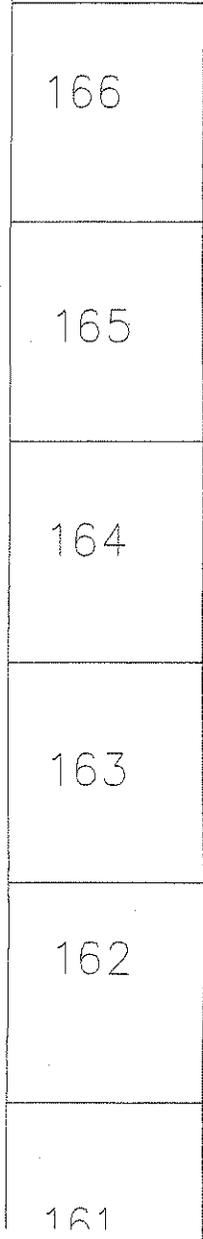
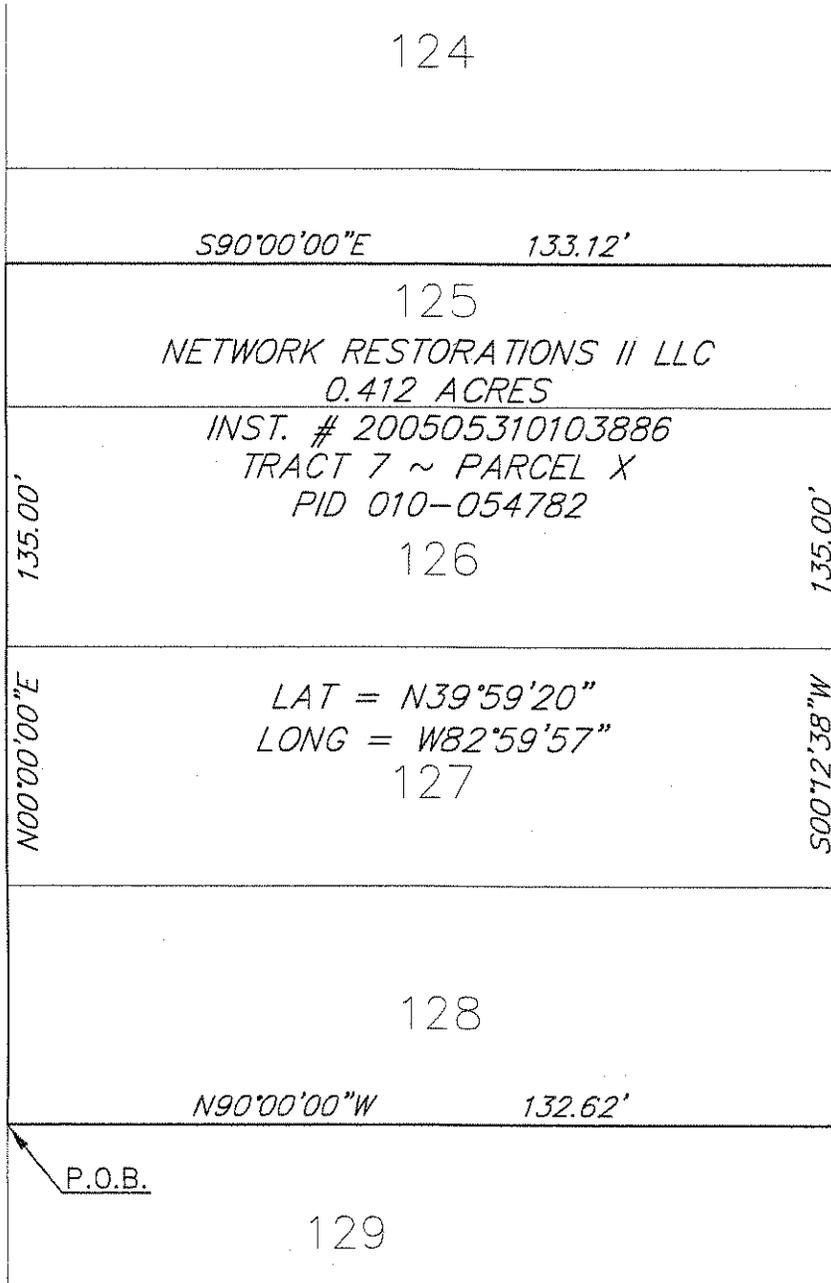
Robert W. Martin 07/21/08
Robert W. Martin
Professional Surveyor No. 8114

1268 North Fourth Street
Director's Final Findings and Orders / Covenant Not to Sue

Exhibit 2
Property Location Map

1268-274 N FOURTH STREET

NORTH FOURTH STREET (70')



16' ALLEY

GRAPHIC SCALE



1 inch = 30 ft.

NEW INDIANOLA ADDITION
 PLAT BOOK 12, PAGES 35&36
 THE CITY OF COLUMBUS
 FRANKLIN COUNTY, OHIO

FOR THE PURPOSE OF THIS EXHIBIT A BEARING OF NORTH 0°00'00" EAST WAS HELD ON THE WEST LINE OF NEW INDIANOLA ADDITION. SAID BEARING IS BASED ON AN ASSUMED MERIDIAN.



CONSULTING ENGINEERS & SURVEYORS
 83 Shull Avenue
 Gahanna, Ohio 43230
 Ph. (614) 414-7979

DRAWN BY: RWM
 CHECKED BY: JTW

Robert W. Martin 07/21/08
 Robert W. Martin
 Professional Surveyor No. 8114

1268 North Fourth Street
Director's Final Findings and Orders / Covenant Not to Sue

Exhibit 3
Executive Summary

NO FURTHER ACTION LETTER

**EXECUTIVE SUMMARY
1268 NORTH 4TH STREET PROPERTY
COLUMBUS, OHIO**

Prepared For:

**NETWORK RESTORATIONS II
88 EAST BROAD STREET
COLUMBUS, OHIO**

Prepared By:

**Jeffrey P. Hullinger
Ohio VAP CP 214
614-205-1533**

**December 2007
Revised November 2008**

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1.0 INTRODUCTION

This executive summary has been prepared to present a concise summary of the work conducted at the subject property in preparation for submittal to obtain a No Further Action determination under the Ohio Voluntary Action Program. The summary meets the requirements of OAC 3745-300-13(H) utilizing the format provided by the Ohio EPA for submitting the NFA letter, and OAC 3745-300-13(J) which is for recording a summary of the NFA letter in the county recorder's office.

The Property located at 1268 North 4th Street, Columbus, Ohio (hereinafter referred to as the Property) consists of an area of approximately 0.41 acres and is located on the east side of North 4th Street in an area comprised primarily of residential properties. The property is currently the location of two multi-unit residential apartment buildings. Each two story building with basement consists of seven units and is constructed of brick on a stone foundation with a built-up roofing system. The remainder of the Property consists of grassy areas and concrete sidewalks. According to the Franklin County Auditor's database, the buildings are listed as being constructed in 1910. A copy of the legal description for the Property is included in the NFA Letter Section F, Appendix A.

The initial Phase I environmental site assessment (ESA) on the Property was completed on October 3, 2005 by Lawhon & Associates, Inc (L&A). L&A also conducted a limited Phase II ESA which showed that arsenic concentrations in the soils exceeded the VAP residential generic direct contact standards (GDSCS).

Jeffrey P. Hullinger, Ohio Voluntary Action Program (VAP) Certified Professional #214, directed preparation of an amended Phase I ESA and Phase II ESA on the Property; primary project activities were performed by Mr. Hullinger, then of Civil & Environmental Consultants, Inc. (CEC), and CEC staff, specifically Ronald J. Wells, Kevin McCarty, and Jeff Kennedy. Staff of Carnoustie Consulting, Ltd. (David Lawton) and Weaver Boos Consultants, LLC (Colin Flaherty) also assisted in completing Phase II activities.

The Phase I and Phase II ESAs conform to the requirements of the Ohio Voluntary Action Program (VAP) relative to Phase I and Phase II Property Assessments, as outlined in 3745-300-06, and 07.

The No Further Action letter (NFA) was completed on December 24, 2007, and revised June 23, 2008. Copies of the NFA letter can be obtained for copying costs and associated labor charges by contacting the CP at:

Carnoustie Consulting, Ltd.
6012 Kentigern Court South
Dublin OH 43017
Phone: 614-205-1533
Fax: 614-750-1600
Email: jhullinger@carnoustieconsultingltd.com

2.0 SUMMARY OF NO FURTHER ACTION LETTER

Based on the results of the Phase I and Phase II Property Assessments conducted under the direction of the CP, the Property meets the requirements under the VAP for issuance of a Covenant Not to Sue (CNS). Through sampling, which included a site-specific background study, it was demonstrated that applicable standards for all Chemicals of Concern (COCs) are met, for all complete exposure pathways. All COCs except arsenic meet VAP GDCS, and arsenic levels in the Property soils are characteristic of natural background conditions in the area. The current and foreseeable use of the Property is residential.

2.1 Phase I Environmental Site Assessment

The initial Phase I environmental assessment on the Property was completed on October 3, 2005 by Lawhon & Associates, Inc (L&A). An amended Phase I assessment was begun in April 2006 and completed in April 2007 by CEC; additional Phase I activity was conducted by Carnoustie Consulting, Ltd. from August 2007 through November 2008. The purpose of the Phase I assessment was to evaluate the condition of the Property and to define the scope of additional investigation that must be conducted, if necessary, to evaluate conditions of any Identified Areas as defined in the VAP rules.

Methods of inquiry employed for the Phase I include the following:

- Acquisition and review of state and federal databases and records regarding ownership use and environmental compliance;
- Property inspection;
- Review of previous environmental assessment reports prepared for the Property;
- Review of adjoining properties records and drive-by inspection of these properties;
- Interviews with current and former facility personnel; and
- Use of geologic, hydrogeologic and hydrologic data from public records.

Based on the available information reviewed for this assessment, the Property became vacant urban land by 1901. Between 1901 and 1922, the existing buildings were constructed. No obvious changes to the Property have taken place since then through the present time.

No known or suspected releases of hazardous substances or petroleum were identified on the Property.

The Phase I Property Assessment resulted in the identification of potential impacts to surface soils from off-site industrial activity as the Identified Area. A Phase II Property Assessment was conducted to characterize the presence and concentrations of arsenic, to identify complete exposure pathways, to assess the need for remediation, and to support remedial planning and design.

2.2 Phase II Environmental Site Assessment

The CP reviewed a Phase II ESA conducted by L&A on September 12, 2005, in which three soil borings were advanced. The soil results showed the presence of low concentrations of volatile organic compounds (VOCs); none of the results exceeded Bureau of Underground Storage Tank Regulations (BUSTR) action levels or the VAP GDCS for residential land use category. Arsenic was found in the site soils at concentrations that exceeded the VAP GDCS. Soil samples were collected by L&A from a depth of 6 to 8 and 10 to 12 feet below ground surface (bgs). Groundwater was not encountered by L&A, though moist sand was noted from the 10-12 foot depth interval. The CP conducted additional Phase II assessment activities to evaluate the background concentrations of arsenic in the Identified Area on the Property, including placement of additional soil borings to depths of 10 to 12 feet bgs. Wet sand was found in several of the borings at depths from 6 to 10 feet bgs. This investigation culminated in a Phase II report that was completed in April 2007.

After receiving review comments from Ohio EPA, the CP directed additional investigation conducted by Carnoustie Consulting, Ltd. A total of 11 additional borings were advanced to depths ranging from 10 to 16 feet; three monitoring wells were completed in order to obtain potentiometric surface (water table) information (no groundwater samples were collected). Groundwater was found to be present at depths from 6 to 10 feet bgs.

2.2.1 Soil Investigation and Findings

All soils were sampled using direct-push borings. L&A collected and submitted samples for analysis of volatile organic compounds (VOCs), polynuclear aromatic hydrocarbons (PAHs), total petroleum hydrocarbons (TPH), and RCRA metals. Analytical results for the L&A Phase II indicated the following:

- VOCs were detected in two of the soil samples at concentrations below both the Bureau of Underground Storage Tank Regulations (BUSTR) Action Levels and the VAP generic direct contact standards (GDSC) for the residential land use category. Representative concentrations of VOCs detected in the IA are as follows (all concentrations are mg/kg):
 - benzene 0.0078
 - toluene 0.022
 - ethylbenzene 0.0069
 - n-hexane 0.021
 - acetone 0.1

Methylene chloride, a common laboratory contaminant, was reported by the laboratory in two samples during sampling in February 2008. No potential source for this as a chemical of concern for the Property has been identified. Re-sampling at the same locations in June 2008 confirmed that these results were laboratory-related artifacts and not representative of Property contamination.

- PAHs were detected in one of the soil samples at concentrations below the VAP generic direct contact standards (GDSC) for the residential land use category. Representative concentrations were as follows (all concentrations are mg/kg):
 - phenanthrene 0.19
 - fluoranthene 0.4
 - pyrene 0.37
 - benzo(a)anthracene 0.42
 - chrysene 0.2
 - benzo(b)fluoranthene 0.22
 - benzo(a)pyrene 0.2
 - indeno(1,2,3-cd)pyrene 0.15
 - benzo(ghi)perylene 0.13

- TPH (C₁₀-C₂₀) was detected in two of the soil samples at a maximum concentration of 35 mg/kg, below both the BUSTR Action Levels and the VAP soil saturation limits.

CEC staff collected and analyzed twelve (12) subsurface soil samples for arsenic. All of the resulting arsenic concentrations exceeded the VAP GDCS for residential land use. However, all samples were below the site-specific background concentration.

Carnoustie Consulting, Ltd. (Carnoustie) collected additional samples in February and March 2008 to resolve Ohio EPA concerns relative to adequacy of sampling for VOC constituents. Results were all generally consistent with prior sampling (few detections, and those of BTEX constituents). An exception was the reported detection of methylene chloride, a common laboratory contaminant, in samples from five locations, plus one duplicate. These detections were reported by Belmont Labs. Re-sampling at all five locations was conducted by Carnoustie in June 2008, with samples analyzed by TestAmerica. All six samples (including one duplicate) were non-detect, so methylene chloride was eliminated as a chemical of concern for the Property.

2.2.2 Groundwater Investigation and Findings

Groundwater was encountered during the drilling and sampling at the subject Property, but groundwater classification was not conducted. To assess the potential movement of contaminants through the vadose zone into the groundwater, concentrations of VOC constituents were compared to their generic leach-based standards as published in the VAP guidance document, "Ohio EPA Derived Leach-Based Soil Values." All VOCs are below their associated leach-based standards, with the exception of acetone for which no such standard has been developed. However, the unrestricted potable use standard (UPUS) for acetone is 1,600 µg/L, a concentration that cannot be sustained given the very small contaminant loading available even assuming that the reported concentrations do not result from laboratory contamination. Therefore, protection of groundwater meeting unrestricted potable use standards (POGWMUPUS) has been demonstrated in the shallow groundwater zone.

2.2.3 Surface Water and Sediments Investigation and Findings

There is no surface water or sediment present on the Property.

2.2.4 Exposure Pathway Assessment

Based on the initial pathway analysis, the surficial soil containing metals, PAHs, VOCs, and TPH which include the following exposure pathways were identified to be potentially complete for this assessment:

- Direct contact with impacted soils by onsite residents, ecological receptors, and workers
- Inhalation of particulates from impacted soils by onsite residents, ecological receptors, and workers
- Ingestion of impacted soils by onsite residents, ecological receptors, and workers
- Direct contact with groundwater impacted by VOCs or PAHs by onsite residents, ecological receptors, and workers
- Ingestion of impacted groundwater by onsite residents, ecological receptors, and workers
- Vapor intrusion to indoor air leading to VOC inhalation by onsite residents, ecological receptors, and workers

These preliminary, potentially-complete pathways were evaluated in the Phase II data evaluation process. That process resulted in the finding that no exposure pathway is complete.

2.3 Determination of Applicable Standards

Arsenic concentrations in the surficial soils were compared to site-specific background concentrations. Arsenic concentrations do not exceed background. For other chemicals of concern, generic direct-contact standards were referenced. In addition, Johnson & Ettinger modeling was conducted to predict maximum impacts via the soil-to-indoor air pathway. A multi-chemical adjustment was then made which included both the direct-contact pathways and the soil-to-indoor air pathway. Impacts were found to meet Ohio EPA standards for both carcinogenic and non-carcinogenic risk.

2.4 Determination of Compliance with Applicable Standards

A site-specific background concentration was derived for arsenic as an applicable standard for the Property. As a result, no remedial actions were required to comply with the applicable standards. In order to comply with the requirements of the U.S. Department of Housing and Urban Development (HUD), the top two feet of soil at the Property were replaced with soil from an off-site source with arsenic concentrations that are less than the GDCS for residential land use.

2.4.1 Data Analysis

All of the arsenic results of the soil sampling from the Property exceeded the GDSCS for residential land use, but were below background. None of the other chemicals detected in the groundwater or soils exceeded any of the applicable VAP generic standards.

CEC staff used the Johnson and Ettinger Model (Version 3.1) to predict chemical concentrations resulting in indoor air based upon maximum observed concentrations in soils at the Property. The results of modeling exercise indicate that the concentrations of organics reported in the soils beneath the Property do not pose an unacceptable risk via the vapor-inhalation pathway.

All VOCs are below their associated leach-based standards, with the exception of acetone for which no such standard has been developed. However, the unrestricted potable use standard (UPUS) for acetone is 1,600 µg/L, a concentration that cannot be sustained given the very small contaminant loading available even assuming that the reported concentrations do not result from laboratory contamination. Therefore, protection of groundwater meeting unrestricted potable use standards (POGWMUPUS) has been demonstrated in the shallow groundwater zone.

2.4.2 Compliance with Generic Numerical Standards (GNS)

The detected chemical concentrations were compared to the applicable VAP generic numerical standards. These included benzene, toluene, ethylbenzene, acetone, n-hexane, several PAHs, barium, cadmium, chromium, lead, mercury, and selenium. Multi-chemical adjustment calculations were performed.

2.4.3 Property-Specific Risk Assessment Findings

A partial risk assessment was performed to evaluate potential impacts to human health by VOCs as they migrate into the indoor air within residential structures at the Property. CEC used the Johnson and Ettinger Model (Version 3.1) to assess the risk to residents from the presence of organics detected in the subsurface soils of the subject Property. The results of the model were used to develop a risk contribution to augment the multi-chemical adjustment for the direct-contact pathway. The resulting aggregate carcinogenic risk is below the target of 10^{-5} , and the resulting aggregate hazard quotient (non-carcinogenic risk) is below 1.0.

2.4.4 Determination of Whether Remedial Activities are Required

No remedial actions were required to achieve compliance with the VAP applicable standards. However, remediation was conducted as discussed below to meet other project requirements.

2.5 Remedial Activities

In response to requirements of the U.S. Department of Housing and Urban Development (HUD), Network Restorations II LLC removed the upper two feet of onsite soils (i.e. soil with arsenic concentrations that exceed the residential direct contact soil standards) and replaced them with clean fill material from another location for which arsenic concentrations are below the GDCS. No other remedial actions were conducted or were required to meet the VAP applicable standards.

2.6 Planned Remedies

No further remediation is planned.

3.0 CONCLUSIONS

The Property currently meets all applicable standards. Points of compliance extend to the property line and 10 feet below surface. The upper two feet of soil was replaced with clean fill material to ensure the protection of public health and safety and of the environment.



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

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

MEMORANDUM

TO: Shelley Wilson, Executive Administrator for Real Property, Tax Equalization Division,
Dept. of Taxation

Amy Alduino, Office of Urban Development, Dept. of Development

FROM: Chris Korleski, Director, Ohio Environmental Protection Agency

DATE: FEB 03 2009

RE: Covenant Not to Sue Issued to Network Restorations II LLC for the 1268 North Fourth Street Property

As Director of the Ohio Environmental Protection Agency, I certify that Network Restorations II LLC 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).

RECEIVED

FEB 04 2009

OHIO EPA/CDO

Property name: 1268 North Fourth Street

Property address: same as above, Columbus, Ohio 43201

Property owner: Network Restorations II LLC

Property owner address: 88 East Broad Street, Columbus, Ohio 43215

Parcel number(s): 010-054782-00

County: Franklin

Taxing District: Franklin County/Central District

Date Covenant Not to Sue Issued: FEB 03 2009

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 Jeffrey P. Hullinger, the certified professional for the property, at (614) 467-9252. In the alternative, you can contact Diana Bynum with the Ohio Environmental Protection Agency at (614) 728-3826.

- c: Brian Langmeyer, Network Restorations II LLC
- Jeffrey P. Hullinger, Certified Professional, Carnoustie Consulting, Ltd.
- Joseph W. Testa, Franklin County Auditor
- Amy Yersavich, VAP Manager, Ohio EPA
- Deborah Strayton, DERR-CDO Manager, Ohio EPA
- DERR-CO, VAP Files 07NFA283

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director



Description of a 0.412 acre parcel of land

Situate in the State of Ohio, County of Franklin, City of Columbus and being all of a 0.412 acre parcel of land conveyed to Network Restorations II, LLC of record in Instrument Number 200505310103886, Tract 7, Parcel X, (all references to records are on file in the Office of the Recorder, Franklin County, Ohio), said 0.412 acre parcel being more fully described herein;

Beginning at the southwest corner of Lot 128 as shown on New Indianola Addition of record in Plat Book 12, Pages 35 & 36;

Thence North 00°00'00" East with the west line of said New Indianola Addition, a distance of 135.00 feet to a point;

Thence South 90°00'00" East across lot 125 of said New Indianola Addition, a distance of 133.12 feet to a point on the east line of said lot 125 and the west line of a 16.00 feet alley;

Thence South 00°12'38" West with the west line of said 16.00 foot alley, a distance of 135.00 feet to a point at the southeast corner of said Lot 128;

Thence North 90°00'00" West with the south line of said lot 128, a distance of 132.62 feet to the True Point of Beginning containing 0.412 acres, subject to all easements and documents of record.

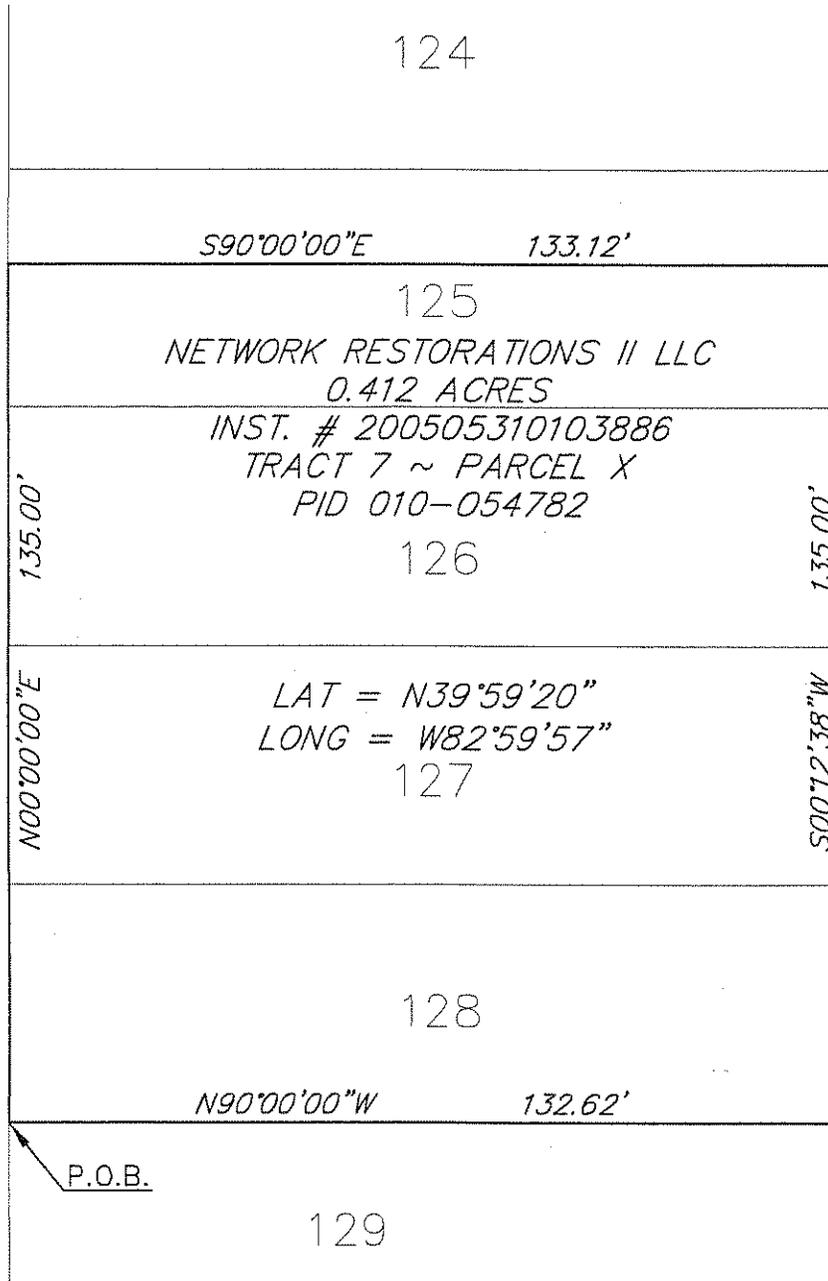
For the purpose of this description a bearing of North 00°00'00" East was held on the west line of said New Indianola Addition. Said bearing is based on an assumed meridian. This description was prepared from documents of record. No actual field survey was performed.



Robert W. Martin 07/21/08
Robert W. Martin
Professional Surveyor No. 8114

1268-274 N FOURTH STREET

NORTH FOURTH STREET (70')



16' ALLEY

166
165
164
163
162
161

P.O.B.

GRAPHIC SCALE



1 inch = 30 ft.

NEW INDIANOLA ADDITION
PLAT BOOK 12, PAGES 35&36
THE CITY OF COLUMBUS
FRANKLIN COUNTY, OHIO

FOR THE PURPOSE OF THIS EXHIBIT A BEARING OF NORTH 0°00'00" EAST WAS HELD ON THE WEST LINE OF NEW INDIANOLA ADDITION. SAID BEARING IS BASED ON AN ASSUMED MERIDIAN.



CONSULTING ENGINEERS & SURVEYORS
83 Shull Avenue
Gahanna, Ohio 43230
Ph. (614) 414-7979

DRAWN BY: RWM
CHECKED BY: JTW

Robert W. Martin 07/21/08
Robert W. Martin
Professional Surveyor No. 8114