

**franklin blair ctd agency**

**Michael Franklin**

**Attorney**

**4510 Collins Blvd, Ste 2, Pittsburgh, PA 15204**

**(412) 936-6777 Fax (412) 936-6776**

Kelly B. Bakayza, Esq.  
Department of the Interior  
Office of the Solicitor  
Three Parkway Center  
Suite 385  
Pittsburgh, PA 15220

Copies per your request.

Mike

7-10-06

200600008861  
 Filed for Record in  
 ASHTABULA COUNTY, OHIO  
 JUDITH A. BARTA  
 06-07-2006 At 02:01 pm.  
 WD 36.00  
 DR Book 376 Page 1979 - 1981

## WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS,  
 that **CDM Development Corporation**, an Ohio  
 corporation, for valuable consideration paid,  
 grants with general warranty covenants to

200600008861  
 FRANKLIN BLAIR TITLE AGENCY  
 PICK UP

- SPACE ABOVE RESERVED FOR RECORDING INFORMATION -

### The Ashtabula Township Park Commission

whose tax mailing address is <sup>1700 E. 1st St.</sup>~~120 Manila Avenue~~, Ashtabula, OH 44004, the following described  
 Real Property:

### SEE SURVEYOR'S DESCRIPTION ATTACHED AS EXHIBIT A

*Property known as 37.628 acres vacant land,  
 Ashtabula River and East 24<sup>th</sup> Street, Ashtabula, Ohio*

TO HAVE AND TO HOLD the above granted and bargained premises, with the appurtenances thereof,  
 unto the said Grantee, forever. And the said Grantor does for the Grantor and the successors and assigns of  
 the Grantor, covenant with the said Grantee that at and until the ensealing of these presents, Grantor is well  
 seized of the above described premises, as a good and indefeasible estate in fee simple, and has good right to  
 bargain and sell the same in manner and form as above written, and that the same are free from all  
 encumbrances whatsoever except restrictions, reservations, covenants and easements of record; zoning  
 ordinances; and taxes and assessments, both general and special, which are a lien but not yet due and payable;  
 utility lines in place and all legal highways; and that the said Grantor will warrant and defend said premises, with  
 the appurtenances thereunto belonging, to the said Grantee against all lawful claims and demands whatsoever  
 except as stated above.

EXECUTED AND ACKNOWLEDGED upon the date written below:

TRANSFERRED  
 Auditor, Ashtabula County, Ohio

JUN - 7 2006

*Sandra O'Brien*

State of Florida

County of MARTIN

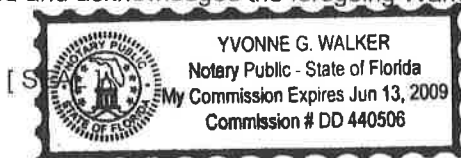
SS.

CDM Development Corporation

By:

*Grant G. Brockway, Pres.*  
 Grant G. Brockway, President

BE IT REMEMBERED, that on the 23<sup>rd</sup> day of may, 20 06, the foregoing  
 Grant G. Brockway, officer of the Grantor, who is known to me or was identified by satisfactory evidence,  
 executed and acknowledged the foregoing Warranty Deed before me, a Notary Public in and for said County.



*Yvonne Walker*  
 Notary Public  
 Commission expires:

Prepared by: Michael Franklin, Esq. ( SCR#0030737)

In compliance with Sec. 319.202  
 R.C. and Sec. (F) 319.54 R.C. 7/7  
 effective January 1st, 1968.

## LEGAL DESCRIPTION

Situated in the City of Ashtabula, County of Ashtabula, and State of Ohio and known as being part of Lots 8 & 9, Section 3 in Range 3, Township 13 of the Connecticut Western Reserve and bounded and described as follows;

Beginning at a 1" iron pin monument found at the intersection of the centerline of East 24th Street 60' R/W with the centerline of Harbor Avenue 80' R/W;

Thence S.48°-02'-00"W., along the centerline of East 24<sup>th</sup> Street, a distance of 245.96 feet, to a point on the westerly line of the Joseph E. Cook's Addition as recorded in Volume 3, Page 18 of the Ashtabula County Plat Records, said point being the principle place of beginning;

Thence S.13°-46'-30"E., along the westerly line of said Joseph E. Cook's Addition, passing over an iron pin set at 34.04 feet, a total distance of 148.58 feet, to an iron pin set at the southwest corner of Sublot 58 of the Joseph E. Cooks Addition;

Thence S.86°-37'-45"E., along the south line of Sublot 58 of the Joseph E. Cooks Addition, a distance of 30.00 feet, to an iron pin set at the southeast corner of Sublot 58, being the northwest corner of land conveyed to Mark Balogh (33-9755) (05-502-00-044-00);

Thence S.13°-46'-30"E., along the westerly line of said Balogh land, a distance of 57.50 feet, to an iron pin set at the southwest corner of said Balogh land (05-502-00-043-00);

Thence S.86°-37'-45"E., along the south line of said Balogh land, a distance of 30.00 feet, to an iron pin set at the southeast corner of said Balogh land on the westerly line of said Joseph E. Cook's Addition;

Thence S.13°-46'-30"E., along the westerly line of said Joseph E. Cook's Addition, a distance of 300.00 feet, to a 1/2" iron pin found at the northeast corner of land conveyed to the C.E.I. Company (661-1077);

Thence N.86°-38'-00"W., along the north line of said C.E.I. Company land, a distance of 155.00 feet, to an iron pin set at the northwest corner of said C.E.I. Company land;

Thence S.13°-46'-30"E., along the westerly line of said C.E.I. Company land, a distance of 100.70 feet, to an iron pin set at the southwest corner of said C.E.I. Company land, said iron pin is on the north line of Lot 9, Section 3 and also on the north line of land conveyed to the C.E.I. Company;

Thence N.86°-38'-00"W., along the north line of said C.E.I. Company land, being the north line of Lot 9, Section 3, a distance of 79.87 feet, to an iron pin set at the northwest corner of said C.E.I. Company land;

Thence S.56°-02'-00"E., along the southwesterly line of said C.E.I. Company land, a distance of 598.38 feet, to a 5/8" iron pin found on the westerly right of way of Harbor Avenue 60' R/W;

Thence S.22°-20'-12"E., along the westerly right of way of Harbor Avenue, a distance of 309.75 feet, to an iron pin set at an angle point in Harbor Avenue;

## LEGAL DESCRIPTION, PAGE 2

Thence S.15°-18'-28"E., continuing along the westerly right of way of Harbor Avenue, a distance of 787.24 feet, to an iron pin set on the northwesterly right of way of the Conrail Railroad;

Thence S.49°-30'-25"W., along the northwesterly right of way of the Conrail Railroad, a distance of 66.38 feet, to an iron pin set at an angle point in said Conrail Railroad;

Thence N.42°-11'-15"W., along the northeasterly right of way of said Conrail Railroad, a distance of 73.00 feet, to an iron pin set at an angle point in said Conrail Railroad;

Thence S.47°-48'-45"W., along the northwesterly right of way of said Conrail Railroad, a distance of 353.98 feet, to a point in the center of the Ashtabula River;

Thence N.44°-30'-40"W., along the center of the Ashtabula River, a distance of 295.47 feet, to an angle point in said Ashtabula River;

Thence N.51°-08'-30"W., continuing along the center of the Ashtabula River, a distance of 134.49 feet, to an angle point in said Ashtabula River;

Thence N.80°-12'-30"W., continuing along the center of the Ashtabula River, a distance of 410.03 feet, to an angle point in said Ashtabula River;

Thence N.48°-52'-15"W., continuing along the center of the Ashtabula River, a distance of 122.40 feet, to an angle point in said Ashtabula River;

Thence N.05°-44'-30"W., continuing along the center of the Ashtabula River, a distance of 397.00 feet, to an angle point in said Ashtabula River;

Thence N.02°-44'-30"W., continuing along the center of the Ashtabula River, a distance of 250.00 feet, to an angle in said Ashtabula River;

Thence N.25°-56'-30"W., continuing along the center of the Ashtabula River, a distance of 227.96 feet, to an angle in said Ashtabula River;

Thence N.40°-58'-00"W., continuing along the center of the Ashtabula River, a distance of 308.35 feet, to a point in the centerline of East 24<sup>th</sup> Street;

Thence N.48°-02'-00"E., along the centerline of East 24<sup>th</sup> Street, a distance of 984.11 feet, to the **principle place of beginning**, and containing 37.268 Acres of land, more or less, but subject to all legal highways.

The above described property was surveyed by James A. Ziemba, Professional Surveyor #7094 on November 15, 2005. Bearings shown hereon are to an assumed meridian and are used to denote angles only. Iron pins set are 5/8" x 30" rebar capped "BENCHMARK #7094". The intent of this description is to describe part of the land conveyed to CDM Development Corporation (49-386) (05-314-00-002-00).

*James A. Ziemba*

11-22-2005

05-314-00-002-99

DESCRIPTION ACCEPTABLE  
ASHTABULA COUNTY ENGINEER  
By *gm* Date 5-25-06

APPROVED  
12-1-05 MOS



To be recorded with Deed  
Records - ORC 317.08

### ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by the Ashtabula Township Park Commission (Owner), the United States Fish and Wildlife Service (FWS) and the Ohio Environmental Protection Agency (Ohio EPA) pursuant to Ohio Revised Code (ORC) §§ 5301.80 to 5301.92 for the purpose of subjecting the Property to the activity and use limitations set forth herein.

Background. Fields Brook is a stream, approximately 3 miles long, which flows through a large industrial complex, through a residential area, and finally, into the Ashtabula River and Lake Erie. The watershed is located just east of Ashtabula, Ohio. Beginning in the 1940's, the brook sediments and associated floodplains have been contaminated with a wide variety of contaminants, including volatile organic compounds (VOCs), semi-volatile organics, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), heavy metals and low-level radionuclides. The Fields Brook Superfund Site (the Site) was placed on the national priorities list (NPL) in 1983. The Remedial Investigation (RI) began in 1985 with a Record of Decision (ROD) issued in 1986. Remedial activities included dredging of contaminated sediments, excavation of flood plain soils, mitigation of the floodplain/wetland and source control cleanups on six of the industrial facilities where there was potential for re-contamination of brook sediments. A dedicated on-site landfill was constructed for the contaminated sediment and soil.

The environment and its natural resources were substantially impacted as a result of the contamination, including fish, macroinvertebrates and fish-eating birds. An estimated 944 acres of floodplain/wetland were contaminated by hazardous substances.

Negotiations between the responsible parties and the natural resource trustees, the FWS and the Ohio EPA, in conjunction with the Department of Justice (DOJ) resulted in a settlement in the U.S. District Court, Northern District of Ohio, Eastern Division, captioned United States v. Gencorp. Inc., et. al., Case No. 5:89-CV1866, dated July 7, 1999. The Administrative Record for this Site, including the Fields Brook Final Natural Resource Restoration Plan is maintained at Ohio EPA, Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio 44087.

Now therefore, Owner, FWS and Ohio EPA agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to ORC §§ 5301.80 to 5301.92.
2. Property. This Environmental Covenant concerns an approximately 37.268 acre tract of real property, located on the south side of East 24<sup>th</sup> Street, in the City of Ashtabula, Ashtabula County, Ohio, identified as permanent parcel number 05-314-00-002-00, and more particularly described in Exhibit A attached hereto and hereby incorporated by reference herein (Property).
3. Owner. The Ashtabula Township Park Commission, which is located at 120 Manola Avenue, Ashtabula, Ohio 44004, is the owner of the Property (Owner).

4. Holder. Owner, whose address is listed above, is the holder of the Environmental Covenant.

5. Activity and Use Limitations. As part of the Natural Resource Restoration Plan and Environmental Assessment for the Fields Brook Superfund Site (Restoration Plan), Owner hereby imposes and agrees to comply with the following activity and use limitations:

- A. The Property shall be kept in its natural state, i.e., no building, billboards or other structures of any kind, either temporary or permanent, shall be placed or erected on the Property, unless otherwise expressly provided hereunder.
- B. There shall be no filling, excavating, or removal of top soil, sand, gravel, rock, minerals or other materials on or at the Property, nor any building of roads or change in topography of the land in any manner, other than that caused by the forces of nature or as reserved herein.
- C. The control, management and eradication of animal or plant species on the Property must be pursuant to a Non-Native, Noxious or Nuisance Species Control Plan approved by the FWS, Reynoldsburg, Ohio Field Office. Methods must comply with the State and Federal requirements and manufacturer guidelines.
- D. No power or petroleum transmission lines may be constructed, nor any other interests in the Property shall be granted for this purpose. However, the Owner reserves the right to maintain and repair telephone, electric, water, wells, or other utility lines or mains on existing easements needed to provide for the needs of the Owner, successors or assigns. The area affected by the repair work shall be the minimum necessary to accomplish the task. Upon completion of all construction for such utilities, the area shall be restored to its previous state.
- E. There shall be no construction of towers for communication or otherwise on the Property.
- F. No trees, ground cover or other vegetation shall be removed from the Property, except that which is necessary to maintain foot paths and trails, to restore natural habitat areas, to promote natural vegetation, and to protect life and property.
- G. The Property shall at all times be kept free of garbage, trash, and machinery; and no other unsightly material shall be allowed to accumulate or be stored thereon.
- H. Use of recreational vehicles, including snow mobiles, all terrain vehicles or other motorized vehicles shall not be permitted on the Property.
- I. Hunting and trapping on the Property are prohibited without prior written consent of FWS and Ohio EPA.

- J. Each and every other activity or construction that is inconsistent with the purpose of this Environmental Covenant or which may endanger, affect or impair the natural or scenic state of the Property is prohibited.
- K. The Property shall not be subdivided. The Owner, its successors or assigns shall notify the FWS and Ohio EPA of any proposed transfer of the Property, or any portion thereof, at least ninety (90) days prior to any such proposed transfer. The Owner, its successors or assigns shall not transfer the Property, or any portion thereof, without the prior written consent of the FWS and Ohio EPA.
6. Breach. If any event or action by or on behalf of a person who owns an interest in or holds an encumbrance on the Property, or any other person constitutes a breach of the activity and use limitations, Owner or Transferee shall notify the FWS and Ohio EPA within thirty (30) days of becoming aware of the event or action, and shall remedy the breach of the activity and use limitations within sixty (60) days of becoming aware of the event or action.
7. Running with the Land. This Environmental Covenant shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC § 5301.85, subject to amendment or termination as set forth herein. The term "Transferee," as used in this Environmental Covenant, shall mean any future owner of any interest in the Property including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.
8. Compliance Enforcement. In the event of a violation of this Environmental Covenant, a civil action for injunctive and/or other equitable relief may be maintained by the FWS and/or Ohio EPA, pursuant to ORC § 5301.91. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the FWS or Ohio EPA from exercising any authority under applicable law.
9. Rights of Access. Owner hereby grants to the FWS, Ohio EPA, Ohio Department of Natural Resources (Ohio DNR), the National Oceanic & Atmospheric Administration (NOAA) their agents, contractors, and employees, the County of Ashtabula, and the City of Ashtabula the right of access to the Property for implementation or enforcement of this Environmental Covenant.
10. Compliance Reporting. Owner or any Transferee shall submit to the FWS, Ohio EPA, the County of Ashtabula and the City of Ashtabula, on an annual basis, written documentation verifying compliance with this Environmental Covenant.
11. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property, or any portion thereof, shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED MAY 23, 2006, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE ASHTABULA COUNTY RECORDER ON JUNE 07, 2006, IN [DOCUMENT \_\_\_\_\_, or BOOK 376, PAGE 1979,].

Owner shall notify the FWS and Ohio EPA within ten (10) days after each conveyance of an interest in the Property. Owner's notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and a survey map that shows the boundaries of the property being transferred.

12. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- A. that the Owner is the sole owner of the Property;
- B. that the Owner holds fee simple title to the Property which is subject to the following interests or encumbrances: a 200' wide electric transmission line easement to Cleveland Electric Illuminating Company in the north part of the Property, with an area of approximately 3 acres;
- C. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- D. that the Owner has identified all other persons that own an interest in or hold an encumbrance on the Property and notified such persons of the Owner's intention to enter into this Environmental Covenant; and,
- E. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner is a party or by which Owner may be bound or affected.

13. Amendment. This Environmental Covenant may be amended by consent of all of the following: the Owner or a Transferee; the FWS; and the Ohio EPA, pursuant to ORC § 5301.90 and other applicable law. The term, "Amendment" as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one activity and use limitation remaining.

This Environmental Covenant may be amended only by a written instrument duly executed by the Regional Director of the FWS, the Director of Ohio EPA and the Owner or Transferee of the Property, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment of this Environmental Covenant, the Owner or Transferee shall file such instrument for recording with the Ashtabula County Recorder's Office, and shall provide a file and date-stamped copy of the recorded instrument to the FWS and Ohio EPA.



14. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

15. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

16. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the Ashtabula County Recorder's Office.

17. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Ashtabula County Recorder.

18. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: the FWS; Ohio EPA; the County of Ashtabula; and, the City of Ashtabula.

19. Notice. Unless otherwise notified in writing by or on behalf of the current owner, the FWS or Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

Regional Director  
U.S. Fish & Wildlife Service  
Region 3  
1 Federal Drive  
Fort Snelling, Minnesota 55111

Fields Brook Site Coordinator  
DERR  
Ohio EPA  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Chairman  
Ashtabula Township Park Commission  
120 Manola Avenue  
Ashtabula, OH 44004

Brenda Stephens, Administrative Assistant  
Ashtabula Township Park Commission  
120 Manola Avenue  
Ashtabula, OH 44004

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

**IT IS SO AGREED:**

Ashtabula Township Park Commission

*Michael Wayman*

Michael Wayman, Chairman

*Michael Wayman Chairman*

Printed Name and Title

*6-6-06*

Date

State of OHIO )

County of ASHTABULA )

SS:

Before me, a notary public, in and for said county and state, personally appeared MICHAEL WAYMAN, a duly authorized representative of the Ashtabula Township Park Commission, who acknowledged to me that he did execute the foregoing instrument on behalf of Ashtabula Township Park Commission.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 6<sup>TH</sup> day of JUNE, 20 06.

*Michael Franklin*


Notary Public



MICHAEL FRANKLIN, ATTORNEY  
Notary Public - State of Ohio  
My Commission has no Expiration Date  
Section 147.03 R.C.

Date of My Commission Expiration

## OHIO ENVIRONMENTAL PROTECTION AGENCY

 5/10/06  
 Joseph P. Koncelik, Director Date

200600009241  
 Filed for Record in  
 ASHTABULA COUNTY, OHIO  
 JUDITH A. BARTA  
 06-14-2006 At 10:05 am.  
 AGR/DEED 96.00  
 DR Book 377 Page 1139 - 1148

State of Ohio )  
 )  
 County of Franklin ) SS:

Before me, a notary public, in and for said county and state, personally appeared Joseph P. Koncelik, the Director of Ohio EPA, who acknowledged to me that he did execute the foregoing instrument on behalf of Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this  
10<sup>th</sup> day of May, 2006.



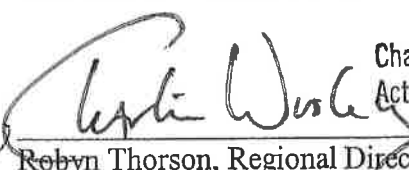
Charma Diane Casteel  
 Notary Public

May 10, 2009  
 Date of My Commission Expiration

**CHARMA DIANE CASTEEL**  
**NOTARY PUBLIC**  
**STATE OF OHIO**  
**MY COMMISSION EXPIRES**  
**MAY 10, 2009**

200600009241 <sup>CE</sup>  
 FRANKLIN BLAIR TITLE AGENCY  
 PICK UP

U.S. Fish &amp; Wildlife Service

*for*  Charles M. Wooley  
Acting Regional Director

*for*  Robyn Thorson, Regional Director, Region 3

5/16/06

Date

State of Minnesota )

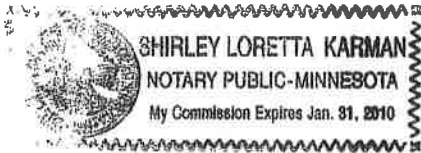
ss:

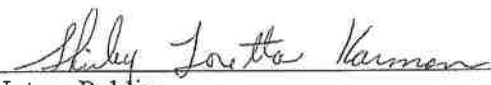
County of Hennepin )

Charles M. Wooley

Before me, a notary public, in and for said county and state, personally appeared ~~Robyn Thorson~~ Robyn Thorson, a duly authorized representative of the FWS, who acknowledged to me that she did execute the foregoing instrument on behalf of the FWS.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this  
16th day of May, 2006.



  
Notary Public

January 31, 2010

Date of My Commission Expiration

This instrument prepared by:

Mark J. Navarre, Esq.  
Supervising Attorney  
Ohio EPA  
122 South Front Street  
Columbus, Ohio 43216

EXHIBIT A

Situated in the City of Ashtabula, County of Ashtabula, and State of Ohio and known as being part of Lots 8 & 9, Section 3 in Range 3, Township 13 of the Connecticut Western Reserve and bounded and described as follows;

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FBTA # 05-11014

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Thence N.51°-08'-30"W., continuing along the center of the Ashtabula River, a distance of 134.49 feet, to an angle point in said Ashtabula River;

Thence N.80°-12'-30"W., continuing along the center of the Ashtabula River, a distance of 410.03 feet, to an angle point in said Ashtabula River;

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Thence N.05°-44'-30"W., continuing along the center of the Ashtabula River, a distance of 397.00 feet, to an angle point in said Ashtabula River;

Thence N.02°-44'-30"W., continuing along the center of the Ashtabula River, a distance of 250.00 feet, to an angle in said Ashtabula River;

Thence N.25°-56'-30"W., continuing along the center of the Ashtabula River, a distance of 227.96 feet, to an angle in said Ashtabula River;

Thence N.40°-58'-00"W., continuing along the center of the Ashtabula River, a distance of 308.35 feet, to a point in the centerline of East 24th Street;

Thence N.48°-02'-00"E., along the centerline of East 24th Street, a distance of 984.11 feet, to the principle place of beginning, and containing 37.268 Acres of land, more or less, but subject to all legal highways.

The above described property was surveyed by James A. Ziemba, Professional Surveyor #7094 on November 15, 2005. Bearings shown hereon are to an assumed meridian and are used to denote angles only. Iron pins set are 5/8" x 30" rebar capped "BENCHMARK #7094". The intent of this description is to describe part of the land conveyed to CDM Development Corporation (49-386) (05-314-00-002-00).

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