

APPENDIX C

USE RESTRICTION AGREEMENT

This Use Restriction Agreement ("Agreement") is entered into by Muskingum County Agricultural Society (MCAS), having offices at Zanesville, Muskingum County, Ohio and the Ohio Environmental Protection Agency ("Ohio EPA"). This Agreement concerns an approximately 13.72 acre tract of real property (parcels numbered 8082190103000 - Tract 1 and 8082180101000 - Tract 2) owned by MCAS ("Owner") and located at Pershing Road in Zanesville, Muskingum County, Ohio.

Background

The property owned by MCAS is located on Pershing Road in Zanesville, Ohio and includes Tract 1 and Tract 2 of the former Cooper Power Systems property. The former Cooper Power Systems plant was situated on the property (Tract 1 and Tract 2). From 1949 to 1992 the principal operation at the plant was the production of transformers and voltage regulators. As a result of the manufacturing processes, industrial wastes containing volatile organic compounds (VOCs) were released to various areas on the property.

On November 20, 1998, Cooper Industries entered into Director's Final Findings and Orders with Ohio EPA for the performance of a Remedial Investigation and Feasibility Study. The Remedial Investigation identified three concentrated areas of ground water contamination. These areas included: (1) the Western Plume Area in the northwest portion of Tract 2; (2) the Eastern Plume Area in the northeastern portion of Tract 2; and (3) the Northern Plume Area in the northeastern portion of Tract 1. Based on the Feasibility Study, a Decision Document dated March 15, 2004, was developed which describes the remedy selected for the Cooper Industries Site. On 10/20/04, Cooper Industries and the Owner entered into Director's Final Findings and Orders for remedial design and remedial action in order to implement the final remedy. The final remedy includes: 1) ground water monitoring to evaluate the effectiveness of the enhanced bioremediation implemented as a pilot study; 2) a contingency for the application of additional bioremediation activities if previous bioremediation activities are not sufficiently decreasing contamination; 3) enforcement of existing deed restrictions; and 4) recording a declaration of use restrictions to reduce or eliminate exposure to impacted ground water.

For purposes of this Agreement, the Subject Property is defined in Exhibit A [*metes and bounds description of Subject Property*] attached hereto and incorporated by reference herein.

Now therefore, Owner and Ohio EPA (the "Parties") agree to the following:

1. Intention of the Parties. This Agreement touches and concerns the Subject Property in that it is intended to limit the use of the Subject Property and restrict certain activities from occurring on the Subject Property. It is also the intent of the Parties that the covenants, terms, conditions and restrictions of this Agreement be binding upon, and inure to the benefit of, the Parties and continue as a servitude running in perpetuity with the Subject Property. It is the further intention of the Parties that the land use restriction described herein be enforceable at law or in equity by Ohio EPA against Owner for as long as Owner shall own the Subject Property, and against any Transferee, as defined herein.
2. Use Restrictions. As part of the remedial action described in the Decision Document and in consideration for the Director of Ohio EPA's forbearance to require unrestricted land use for the Subject Property, Owner agrees to impose and comply with the following restrictions:
 - a. Non-residential Land Use. The Subject Property shall only be used for non-residential purposes. Residential use is land use with a high frequency of potential exposure of adults and children to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Residential land use is considered protective for, and may be applied to all categories of land use, without further restriction. Examples of residential land uses include but are not limited to residences; day care facilities; schools, colleges and other educational institutions; nursing homes, elder care and other long-term care facilities; and correctional facilities.
 - b. Prohibition Against Groundwater Extraction: The groundwater underlying the Subject Property or any portion of the Subject Property shall not be extracted for any purposes, potable or otherwise, except for monitoring or remediation of groundwater.
 - c. Prohibition Against Well Installation: Groundwater wells shall not be installed or removed on the Subject Property without prior written authorization from Ohio EPA.
 - d. Prohibition against Basements. The Subject Property shall not be used for the construction of any basement or other permanent subsurface or underground structure designed for routine human occupancy.
3. Running with the Land. The covenants, terms, conditions, and restrictions of this

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Agreement shall be binding upon, and inure to the benefit of, the Owner and the State of Ohio and their successors in interest and assigns and any Transferee, and shall run with the land, subject to termination and modification as described below. The term "Transferee," as used in this Agreement, shall mean any future owner of any interest in the Subject Property, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

4. Modification and Termination of the Agreement. The Owner or a Transferee may request modification or termination of this Agreement by submitting a written petition to the Director of Ohio EPA. Modification means any changes to the Agreement, including the use restrictions outlined in Section 2 above, or the elimination of one or more use restrictions when there is at least one use restriction remaining. Termination means the elimination of all use restrictions in Section 2 and all other obligations under this Agreement. The Director of Ohio EPA will evaluate a request for modification or termination of the Agreement based on a demonstration by the Owner or Transferee that the proposed modification or termination of this Agreement will not pose a risk to public health or safety or the environment.

The Director of Ohio EPA may request modification or termination of this Agreement in the event that the Director determines that risks posed by the Subject Property have substantially changed subsequent to the execution of this Agreement. Nothing in this Agreement shall restrict the Director from exercising any authority under applicable law in order to protect public health or safety or the environment.

This Agreement may only be modified or terminated by a written instrument duly executed by the Director of Ohio EPA and the Owner or the Transferee of the Subject Property or portion of the Subject Property, as applicable. Within thirty (30) days of executing a modification or termination of this Agreement, the Owner or Transferee shall record such modification or termination with the Muskingum County Recorder's Office, and shall provide a true copy of the recorded modification or termination to Ohio EPA.

5. Enforcement. Compliance with this Agreement may be enforced by a legal or equitable action brought in a court of competent jurisdiction by either Party to this Agreement. The use restrictions contained in Section 2 of this Agreement may be enforced by the Owner, the Director of Ohio EPA or his representative and any other party with legal standing by bringing a legal or equitable action in a court of competent jurisdiction. Failure to timely enforce compliance with this Agreement or the use restrictions 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.

6. Restatement of Use Restriction upon Conveyance. Each instrument hereafter

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conveying any interest in the Subject Property or any portion of the Subject Property shall contain a restatement of the use restrictions contained in Section 2 of this Agreement, and provide the recorded location of this Agreement. The restatement shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO A USE RESTRICTION AGREEMENT, DATED October 20, 2004, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE MUSKINGUM COUNTY RECORDER ON November 18, 2004, IN [DOCUMENT _____, or BOOK 1909 PAGE 259,] IN FAVOR OF, AND ENFORCEABLE BY, THE STATE OF OHIO. THE AGREEMENT CONTAINS THE FOLLOWING USE RESTRICTIONS:

- a. **Non-residential Land Use.** The Subject Property shall only be used for non-residential purposes. Residential use is land use with a high frequency of potential exposure of adults and children to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Residential land use is considered protective for, and may be applied to all categories of land use, without further restriction. Examples of residential land uses include but are not limited to residences; day care facilities; schools, colleges and other educational institutions; nursing homes, elder care and other long-term care facilities; and correctional facilities.
 - b. **Prohibition Against Groundwater Extraction:** The groundwater underlying the Subject Property or any portion of the Subject Property shall not be extracted for any purposes, potable or otherwise, except for monitoring or remediation of groundwater.
 - c. **Prohibition Against Well Installation:** Groundwater wells shall not be installed or removed on the Subject Property without prior written authorization from Ohio EPA.
 - d. **Prohibition against Basements.** The Subject Property shall not be used for the construction of any basement or other permanent subsurface or underground structure designed for routine human occupancy.
7. **Authority.** Owner hereby covenants and warrants to and with the State of Ohio the following: that the Owner is lawfully seized in fee simple of the Subject Property; that the Owner has a good and lawful right and power to sell and convey it or any interest therein; that the Owner has identified and notified all other parties that hold any interest (e.g., encumbrance) in the Subject Property; that the use restrictions

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contained herein are compatible with such interests held by all other parties; and that the Owner will forever defend the title and quiet possession of the Subject Property.

8. Severability. If any provision of this Agreement 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.
9. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio.
10. Effective Date. The effective date of this Agreement shall be the date upon which both the Owner and Ohio EPA have signed the Agreement.

The undersigned representative of Owner represents and certifies that he/she is authorized to execute this Agreement.

IT IS SO AGREED:

Muskingum County Agricultural Society, Landowner

BY: Bill Agan
Name
V. President
Title

10-5-04
Date

OHIO ENVIRONMENTAL PROTECTION AGENCY

Christopher Jones
Christopher Jones, Director

10-19-04
Date

August 2, 2004

State of Ohio :
County of Washington :

SS

Before me, a notary public, in and for said county and state, personally appeared Paul Ligon, a duly authorized representative of Musk Ely Agr. Society, who acknowledged to me that he/she did execute the foregoing instrument on behalf of Musk Ely Agr. Society Christopher Jones - Director

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 5th day of August, 2004

Lisa A. Conrad
Notary Public
LISA A. CONRAD
Notary Public, State of Ohio
My Commission Expires 12-29-2004

This instrument prepared by:

The Use Restriction Agreement consisting of 6 pages including this page, was prepared by Ann M. Wood, Staff Attorney Ohio Environmental Protection Agency, PO Box 1049, Columbus, OH 43216-1049.

Exhibit A consisting of 3 pages was prepared by Stubbins, Watson & Erhard Co., LPA, PO Box 488, Zanesville, OH 43702-0488.

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QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS

This deed is from COOPER POWER SYSTEMS, INC., a subsidiary of COOPER INDUSTRIES, INC., GRANTOR of Knox County, State of Ohio, which for valuable consideration paid, quitclaims to THE MUSKINGUM COUNTY AGRICULTURAL SOCIETY, whose mailing address is P. O. Box 2797, Zanesville, OH 43701, the property described below.

The GRANTOR is

Cooper Power Systems, Inc., which is one and the same as Cooper PAC Corporation, which changed its name to Cooper Power Systems, Inc. on July 28, 1988.

Cooper PAC Corporation, a subsidiary of Cooper Industries, Inc., received the assets of Cooper CPS Corporation, including this real property, by exchange of common stock on July 29, 1988.

Cooper CPS Corporation is the same as Cooper Power Systems, Inc., which changed its name to Cooper CPS Corporation on July 26, 1988.

Cooper Power Systems, Inc., a subsidiary of Cooper Industries, Inc., received this real property in exchange for shares of common stock of Cooper Power Systems, Inc., in a transaction with CI Acquisition Company, which conveyed its assets to Cooper Power Systems, Inc., on May 30, 1986.

CI Acquisition Company, a company owned by Cooper Industries, Inc., was the survivor of a merger of McGraw-Edison Company and CI Acquisition Company on May 29, 1986.

CI Acquisition Company is record title holder by virtue of a Certificate of Ownership and Merger filed July 25, 1989, in Deed Book 1025, at page 215.

This Quitclaim deed conveys the following real property:

TRACT ONE

Situated in the State of Ohio, County of Muskingum, City of Zanesville, and being the First Parcel of Deed Record 279, Page 475, and all of the land described in Deed Record 320, Page 270, of the Muskingum County records, and more particularly bounded and described as follows;

more or less, subject to all legal road right-of-ways and applicable easements, written or implied.

All of Parcel No. 80-82-19-01-03-000.

TRACT TWO

Situated in the State of Ohio, County of Muskingum, City of Zanesville, and being all of the lands of The Line Material Company described in Deed Record 311, Page 9, and Deed Record 311, Page 609, in the Muskingum County records, and more particularly bounded and described as follows;

Beginning at a axle found at the intersection of the west line of Kimble Street and the centerline of Epply Avenue extended; thence with said extended centerline, North 87 degrees 30 minutes 26 seconds West 78.26 feet to a axle found on the east line of the former Zanesville Terminal Railroad; thence with said east line, North 45 degrees 18 minutes 29 seconds West 543.15 feet to an axle found at the point of curvature of said east line; thence continuing with said east line on a curve to the right having a radius of 1881.10 feet, a central angle of 15 degrees 13 minutes 38 seconds, a chord bearing North 37 degrees 41 minutes 40 seconds West 498.46 feet, and an arc distance of 499.93 feet to an iron pin set on the southwest corner of Outlot No. 3 as shown on the "Plat of Brighton", as the same is designated and delineated on Muskingum County Plat Book 2 Page 105; thence with the south line of said Outlot No. 3 and the south line of the Muskingum County Agricultural Society (Deed Record 35-561) (Fair Grounds), South 86 degrees 48 minutes 42 seconds East, 801.69 feet to a one inch iron pipe found on the west line of Kimble Street, passing at 100.49 feet a PK nail set at the southeast corner of said Outlot No. 3; thence with the west line of Kimble Street, South 02 degrees 26 minutes 31 seconds West 735.90 feet to the place of beginning, containing 7.98 acres, more or less, subject to all legal road right-of-ways and applicable easements, written or implied.

Prior Deed Record 311-609 references that the above described is "Subject to a public road or street thirty-five (35) feet in width, running parallel with the said line of said Fair Grounds the north line of said street being five (5) feet distance therefrom." Dedication record of this public road or street could not be found.

Prior Deed Record 311-609 also references that the above described is "Subject to a right-of-way twenty eight (28) feet wide running across the west end of said premises where there is now located a roadway, and as an appurtenance to said granted land, this grantee shall have full and free right-of-way over and upon said private land hereinbefore mentioned."

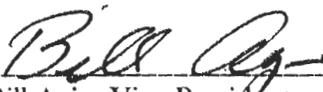
All of Parcel Nos. 80-82-18-01-01-000 and
80-82-18-01-02-000.

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Recorded: 11/19/2004 at 01:41:26 PM
Fee Amt: \$40.00 Page 1 of 3
Instr# 200400017881
Muskingum County
Karen Vincent County Recorder
BK 1910 PG 140

DEED NOTICE

This Deed Notice is recorded to comply with State of Ohio Environmental Protection Agency matter. More particularly, this Notice is recorded to comply with the Director's Final Findings and Order For Remedial Design and Remedial Action dated October 20, 2004 regarding certain real property in Muskingum County, Ohio which is more fully described on the Deed recorded in Vol. 1095, Page 467 of the Deed Records of Muskingum County and consisting of approximately 13.72 acres. The Director's Final Findings and Orders requires the filing of this Notice and further identifies ground water monitoring as a main component of the remedy. The monitoring will be conducted to determine if previously implemented bioremediation activities are resulting in a decrease in concentrations of contaminants in ground water. Attached hereto and made a part hereof is the site and vicinity plan and ground water monitoring well location map. This document identifies the monitoring wells and related matters. Before any construction or excavation is undertaken at the property subject to the Director's Findings and Order, the Muskingum County Agricultural Society must be contacted at 3759 Old Coopermill Road, Zanesville, Ohio 43701.

The undersigned represents and certifies that he is authorized to execute this document on behalf of the Muskingum County Agricultural Society.



Bill Agin, Vice President

BEFORE ME, a Notary Public, in and for said County and State personally appeared Bill Agin, a duly authorized representative of the Muskingum County Agricultural Society, who acknowledged to me that he did execute the foregoing instrument on behalf of the Muskingum County Agricultural Society.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on this 19th day of November, 2004.



SUSAN L. SIMS
Notary Public, State of Ohio
My Commission Expires
June 5, 2009



Notary Public

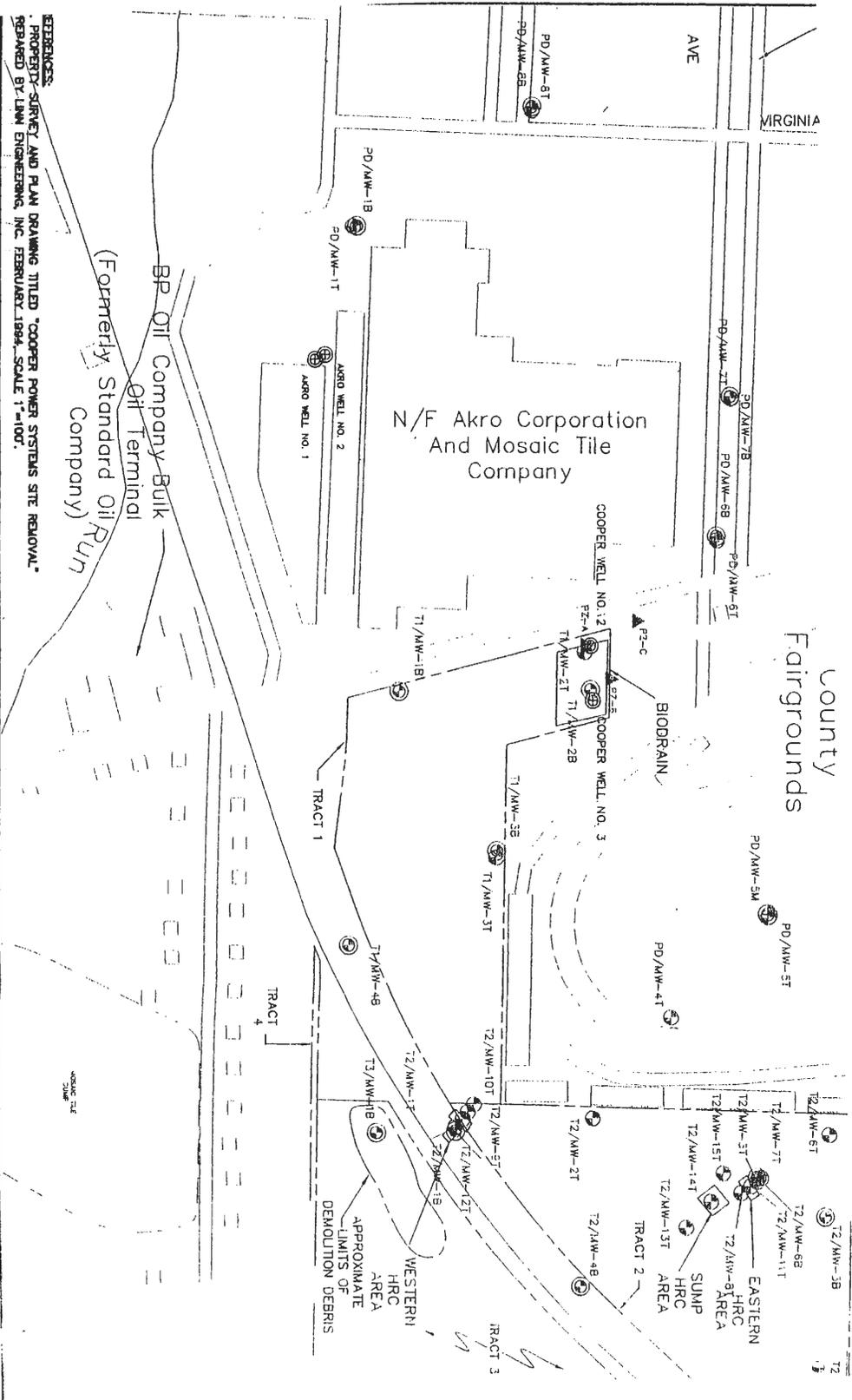
This instrument prepared by:
Mark A. Watson
Attorney at Law
PO Box 488
Zanesville, OH 43702-0488
740-452-8484

REFERENCES:
 . PROPERTY SURVEY AND PLAN DRAWING TITLED "COOPER POWER SYSTEMS SITE REMOVAL"
 PREPARED BY LINN ENGINEERING, INC. FEBRUARY 1994, SCALE 1"=100'.

BP Oil Company Bulk
 Oil Terminal
 (Formerly Standard Oil
 Company)
 Run

N/F Akro Corporation
 And Mosaic Tile
 Company

Fairgrounds
 County



AVE

VIRGINIA

WESTERN
 HRC
 AREA
 APPROXIMATE
 LIMITS OF
 DEMOLITION DEBRIS

EASTERN
 HRC
 AREA

SUMP
 HRC
 AREA

TRACT 2

TRACT 1

TRACT 4

TRACT 3

BIODRAIN

COOPER WELL NO. 1

COOPER WELL NO. 2

COOPER WELL NO. 3

AGRO WELL NO. 1

AGRO WELL NO. 2

PD/MW-5M

PD/MW-5T

PD/MW-4T

PD/MW-7B

PD/MW-7C

PD/MW-7T

PD/MW-6B

PD/MW-6T

PD/MW-8T

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