



222 SOUTH MAIN STREET  
AKRON, OH 44308  
330.849.6680 DIRECT  
330.376.2700 MAIN  
330.376.4577 FAX  
sfarolino@ralaw.com

July 24, 2007

Mr. Dallas Hettinger  
Director of Environmental Health  
Pickaway County General Health District  
465 E. Ohio St.  
Circleville, Ohio 43113

RECEIVED  
OHIO EPA  
2007 JUL 26 AM 10:44  
LEGAL OFFICE

**Re: Environmental Covenant  
559 Pittsburgh Road, Circleville, Pickaway County, OH**

Dear Mr. Hettinger:

Enclosed please find a file and date-stamped copy of the executed Environmental Covenant ("Covenant") for the above-referenced property. This Covenant, which has been entered into by PPG Industries Ohio, Inc. and the Ohio Environmental Protection Agency, has been filed in the deed records of the Pickaway County Recorder. Pursuant to Paragraph 17 of the Covenant, a copy of the Covenant is required to be provided to the City of Circleville. Accordingly, per the request of Ms. Catherine Stroup of the Ohio EPA, a copy of this Covenant is being provided to you on behalf of the City of Circleville.

If you have any questions regarding this letter or the enclosed Covenant, please feel free to contact me at (330) 849-6680. Thank you for your attention to this matter.

Very truly yours,

ROETZEL & ADDRESS, LPA

Shane A. Farolino

Enclosure

cc: Joseph Karas, Esq.  
Catherine A. Stroup, Esq. ✓

1457751 v\_01 \ 069900.0096



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July 24, 2007

Catherine A. Stroup, Esq.  
Senior Staff Attorney  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

RECEIVED  
OHIO EPA  
2007 JUL 25 AM 10:44  
LEGAL OFFICE

**Re: Environmental Covenant  
559 Pittsburgh Road, Circleville, Pickaway County, OH**

Dear Catherine:

Enclosed please find a file and date-stamped copy of the Environmental Covenant ("Covenant") for the above-referenced property. This Covenant, which has been entered into by PPG Industries Ohio, Inc. and the Ohio Environmental Protection Agency, has been filed in the deed records of the Pickaway County Recorder. A copy of this Covenant is being provided to the Ohio EPA as required by Paragraph 17 of the Covenant. Additionally, per your recent request, a copy of the Covenant is also being provided to Mr. Dallas Hettinger on behalf of the City of Circleville.

In the event you have any questions regarding the above, please do not hesitate to contact me.

Very truly yours,

ROETZEL & ANDRESS, LPA  
  
Shane A. Farolino

Enclosure

cc: Joseph Karas, Esq.  
1457752 v\_01 \ 069900.0096

To be recorded with Deed  
Records - ORC § 317.08

## ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by PPG Industries Ohio, Inc., a Delaware Corporation ("Owner") 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 (as defined below) to the activity and use limitations set forth herein.

WHEREAS, Owner holds fee simple title to certain property in Circleville, Pickaway County, Ohio ("Owner's Circleville property"); and

WHEREAS, soils on a portion of Owner's Circleville property (the "Property," as defined below) contain polychlorinated biphenyls and volatile organic compounds, including ethylbenzene, toluene and xylene, related to past activities conducted on the Property; and

WHEREAS, Owner acknowledges that due to the presence of chemicals on the Property, use of the Property should be restricted to Industrial Land Use (as defined below); and

WHEREAS, Owner entered into an Administrative Order on Consent dated December 21, 1989 with the Ohio Environmental Protection Agency ("Ohio EPA") (the "AOC") pursuant to which Ohio EPA published a Decision Document dated June, 2000 (the "Decision Document") which sets forth Ohio EPA's selected remedial action to be undertaken by Owner to, among other things, address the chemicals present in the soils within the area designated as the Property;

WHEREAS, the intention of the Owner is to enter into an Environmental Covenant pursuant to ORC §§ 5301.80 to 5301.92 such that the activity and use limitations described herein will run with the land and bind future owners of any and all portions of the Property; and

WHEREAS, the administrative record for this property is located at the Ohio EPA's Central District Office, 50 West Town Street, Columbus, Franklin County, Ohio.

Now therefore, Owner 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 (the "Environmental Covenant").

2. Property. This Environmental Covenant concerns an area consisting of 0.661 acres, more or less, being a part of a 63.886 acre tract numbered 1, as described by deed recorded in Official Record 114, Page 463 in the Pickaway County Recorder's Office, located at 559 Pittsburgh Road, Circleville, Pickaway County, Ohio 43113, and more particularly described in Exhibit A attached hereto and hereby incorporated by reference herein (the "Property").

3. Property Ownership. Owner, whose principal place of business is located at 3800 West 143 Street, Cleveland, Ohio 44111, is the fee simple owner of the Property.

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

5. Activity and Use Limitations. As part of the remedial action described in the Decision Document, Owner hereby imposes and agrees to comply with the following activity and use limitations unless and until this Environmental Covenant is amended or terminated in accordance with paragraph 12 below:

- a. The use of the Property shall be limited to Industrial Land Use. Industrial Land Use is defined for purpose of this Environmental Covenant as land use with potential exposure of adult workers during a business day and potential exposures of adults and children who are visitors to industrial facilities during the business day. Industrial Land Use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of industrial uses include, but are not limited to: lumberyards; power plants; manufacturing facilities such as metalworking shops, plating shops, blast furnaces, coke plants, oil refineries, brick factories, chemical plants and plastics plants; assembly plants; non-public airport areas; limited access highways; railroad switching yards; and marine port facilities.
- b. Prior to commencing any future development of the Property, the Owner or any Transferee, as applicable, shall complete an investigation of soil conditions in the area to be developed and, based on the results of the investigation, develop and implement appropriate training programs and construction procedures to protect the health and safety of workers and contractors, and provide for the proper management of construction wastes.

- c. If any event or action by or on behalf of a person who owns an interest in or holds an encumbrance on the Property, identified in paragraph 11 below, constitutes a breach of the activity and use limitations, Owner or any Transferee, as applicable, shall notify 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, or such other time frame as may be agreed to by the Owner or Transferee and Ohio EPA.

6. 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 or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

Notwithstanding the foregoing, this Environmental Covenant shall impose no obligations whatsoever on any person or entity, including Owner or any Transferee, once that person or entity has divested itself of its interest(s) in the Property.

7. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced 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 Director of Ohio EPA from exercising any authority under applicable law. The provisions of this Paragraph 7 shall apply to Owner only during Owner's duration of ownership, and thereafter shall apply to any subsequent Transferee.

8. Rights of Access. Owner, or any Transferee, as applicable, hereby grants to Ohio EPA or its authorized representatives, upon proper identification and upon stating the purpose and necessity of the inspection, the right of access to the Property at reasonable times for implementation or enforcement of this Environmental Covenant.

9. Compliance Reporting. Owner or any Transferee, as applicable, shall submit to Ohio EPA on an annual basis written documentation verifying that the activity and use limitations remain in place and are being complied with.

10. Notice upon Conveyance. Each instrument hereafter conveying any

interest in the Property or any portion of the Property 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 \_\_\_\_\_, 2007, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE PICKAWAY COUNTY RECORDER ON \_\_\_\_\_, 2007, IN [DOCUMENT \_\_\_\_\_, or BOOK\_\_\_\_, PAGE \_\_\_\_\_]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

- a. The use of the Property shall be limited to Industrial Land Use. For the purposes of this Environmental Covenant, "Industrial Land Use" is defined as land use with potential exposure of adult workers during a business day and potential exposures of adults and children who are visitors to industrial facilities during the business day. Industrial Land Use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of industrial uses include, but are not limited to: lumberyards; power plants; manufacturing facilities such as metalworking shops, plating shops, blast furnaces, coke plants, oil refineries, brick factories, chemical plants and plastics plants; assembly plants; non-public airport areas; limited access highways; railroad switching yards; and marine port facilities.
- b. Prior to commencing any future development of the Property, the owner shall complete an investigation of soil conditions in the area to be developed and, based on the results of the investigation, develop and implement appropriate training programs and construction procedures to protect the health and safety of workers and contractors, and provide for the proper management of construction wastes.

Owner or any subsequent Transferee, as applicable, shall notify Ohio EPA within thirty (30) days after each conveyance of an interest in any portion of the Property. Owner's notice shall include the name and address 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.

11. 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 interests or encumbrances identified in Exhibit B attached hereto and incorporated by reference herein;
- 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.

12. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner or a Transferee, as applicable, 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 limitation remaining. The term "Termination," as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant.

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

13. 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.

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

15. 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 real property, with the Pickaway County Recorder's Office.

16. 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 Pickaway County Recorder.

17. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: Ohio EPA and the City of Circleville, Ohio.

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

Douglas Crandall, or his successor  
PPG Circleville Site Coordinator  
Ohio EPA,  
Central District Office  
Division of Emergency and Remedial Response  
50 West Town Street  
Columbus, Ohio 43215

and

PPG Industries Ohio, Inc.  
P.O. Box 457  
Circleville, OH 43113

Attention: Plant Manager

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

IT IS SO AGREED:

PPG INDUSTRIES OHIO, INC.

*Carl Johnson*  
Signature of Owner

Carl E. Johnson, President  
Printed Name and Title

5/24/07  
Date

State of Ohio )  
County of Delaware ) ss:

Carl Johnson Before me, a notary public, in and for said county and state, personally appeared a duly authorized representative of PPG Industries Ohio, Inc., who acknowledged to me that [he/she] did execute the foregoing instrument on behalf of PPG Industries Ohio, Inc.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 24<sup>th</sup> day of May, 2007.

Bonnie D. Carter  
Notary Public **BONNIE D. CARTER**  
**NOTARY PUBLIC, STATE OF OHIO**  
**MY COMMISSION EXPIRES MAY 6, 2010**  
**MARION COUNTY**



OHIO ENVIRONMENTAL PROTECTION AGENCY

Chris Korleski  
Chris Korleski, Director

Date 6/15/07

State of Ohio            )  
                                  ) ss:  
County of Franklin    )

Before me, a notary public, in and for said county and state, personally appeared Chris Korleski, 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 15<sup>th</sup> day of June, 2007.

Charma Diane Casteel  
Notary Public

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

This Instrument Prepared By:  
Roetzel & Andress, LPA  
222 South Main Street  
Suite 400  
Akron, Ohio 44308

EXHIBIT A

**Legal Description**  
**Pickaway Township, Pickaway County, Ohio**  
**Section 6, Township 10, Range 21**  
**For: PPG - Circleville**  
**0.661 Acres - "PSA-2"**

Situated in the Township of Pickaway, County of Pickaway, State of Ohio and being a part of Section 6, Township 10, Range 21 bounded and described as follows.

Being a part of a 63.886 acre tract number 1 as described by deed recorded in Official Record 114, Page 463 in the Pickaway County Recorders Office.

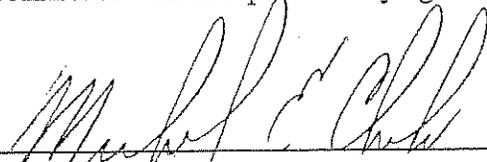
Beginning at a point at the Southeast corner of said Section 6, Thence with the South line of said Section N 87°30'10" W 470.84 feet to a point; Thence leaving said line N 03°13'26" E 315.32 feet to an iron pin set, said iron pin being the TRUE POINT OF BEGINNING of the Tract herein described;

Thence with four new lines the following calls N 03°13'26" E 134.00 feet to an iron pin set; Thence S 87°49'49" E 215.00 feet to an iron pin set; Thence S 03°13'26" W 134.00 feet to an iron pin set; Thence N 87°49'49" W 215.00 feet to the place of beginning.

Limits of the area "PSA-2", as described above, are as marked by plant personnel in July/August, 2002.

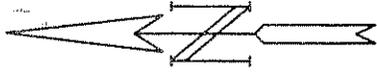
Containing 0.661 Acres more or less. Subject to all existing and valid rights-of-way of record.

I hereby certify that the foregoing legal description and the attached plat are a true representation of the conditions as they existed on the date of the survey and that the accuracy of the same is consistent with accepted surveying standards.

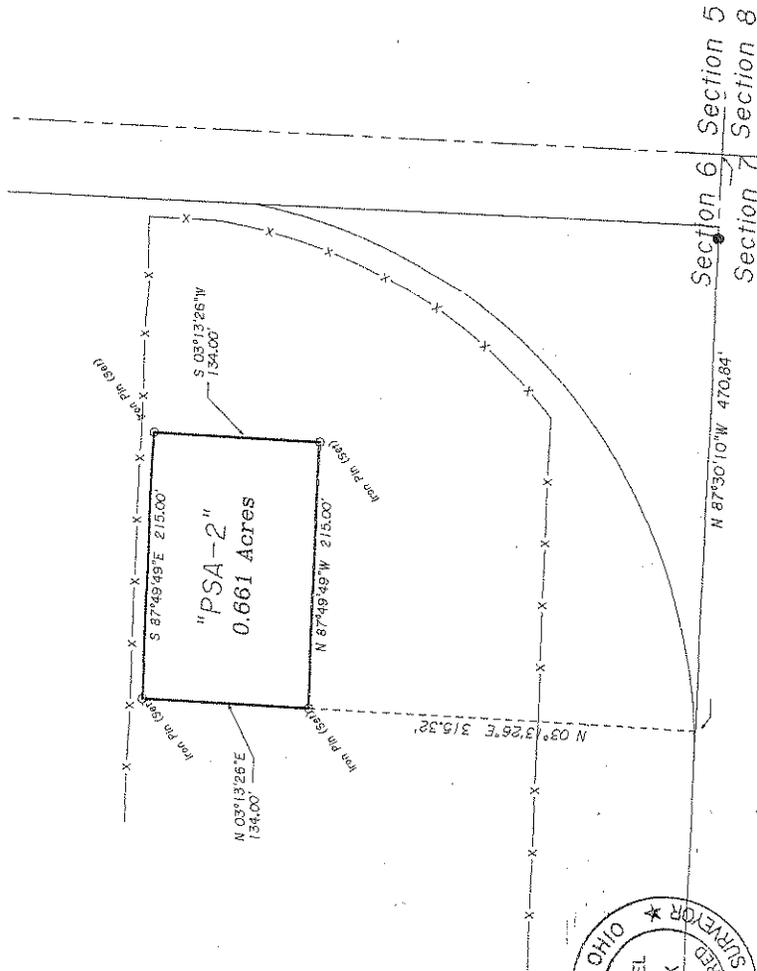
  
\_\_\_\_\_  
Michael E. Clark  
Professional Surveyor # 6808

9-27-02  
Date





Scale 1" = 100'



I HEREBY CERTIFY THAT THE ATTACHED PLAT IS A TRUE REPRESENTATION OF A SURVEY PERFORMED BY MICHAEL E. CLARK & ASSOCIATES UNDER MY DIRECT SUPERVISION AND THAT THE ACCURACY OF SAID SURVEY IS CONSISTENT WITH CURRENT ACCEPTED SURVEYING STANDARDS.

*Michael E. Clark*  
MICHAEL E. CLARK P.S. # 6808

DATE: 9-27-02

**MICHAEL E. CLARK & ASSOCIATES**  
ENGINEERS - SURVEYORS  
P.O. BOX 675  
CIRCLEVILLE, OHIO 43113  
Phone: (740) 474-6333 Fax: (740) 474-9553

Plat of Survey  
Pickaway Township, Pickaway County, Ohio  
Section 6, Township 10, Range 21

For: PPG Industries Ohio, Inc.

SCALE : 1" = 100'

FILE NO : PPG1

DATE : June, 2002

DRAWN BY : E.M. Clark

EXHIBIT B

## EXHIBIT B

1. Easement granted to Colomet, Inc., disclosed by instrument recorded in Volume 263 Page 54.
2. Easement granted to Columbus and Southern Ohio Electric Company, disclosed by instrument recorded in Volume 303 Page 679.
3. Easement granted to Columbus and Southern Ohio Electric Company, disclosed by instrument recorded in Volume 297 Page 336.
4. Easement granted to Circleville Chamber of Commerce, disclosed by instrument recorded in Volume 171 Page 254.
5. Easement granted to Ohio Water Development Authority, disclosed by instrument recorded in Volume 293 Page 568.
6. Easement granted to Columbus and Southern Ohio Electric Company, disclosed by instrument recorded in Volume 160 Page 156.
7. Lease by and between Pittsburgh Plate Glass Company, Lessor and Columbia Gas of Ohio, Inc., Lessee, filed for record February 8, 1965 in Volume 15, Page 173 of Pickaway County Records.
8. Lease Extension Agreement by and between PPG Industries, Inc., Lessors, and Columbia Gas of Ohio, Inc., Lessee, filed for record December 18, 1984 in Volume 25, Page 543 of Pickaway County Records.
9. Lease Extension Agreement by and between PPG Industries Ohio, Inc., Lessor and Columbia Gas of Ohio, Inc., Lessee, filed for record December 21, 2005 in Volume 579, Page 1660 of Pickaway County Records.
10. Easement granted to State of Ohio, disclosed by instrument recorded in Volume 162 Page 392.
11. Easement granted to Columbus and Southern Ohio Electric Company, disclosed by instrument recorded in Volume 172 Page 149.
12. Easement granted to Ohio Water Development Authority, disclosed by instrument recorded in Volume 279 Page 681.
13. Easement granted to PPG Industries, Inc., disclosed by instrument recorded in Volume 317 Page 665.
14. Consent Decrees filed for record in Volume 21, Page 332 of Pickaway County Records.