

137

**Documents Reviewed by  
Auditors Transfer Office  
"Transfer Not Necessary"**

(BT)

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**Deputy Auditor**

**Date:** 9-11-15

Instr: 201509170036877  
P: 1 of 13 F: \$136.00 09/17/2015  
Rick Campbell 10:17AM MISC  
Stark County Recorder T20150035221

**To be recorded with Deed  
Records - ORC § 317.08**

### ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by Slutz Properties, LLC, an Ohio limited liability company ("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 described in section 2 herein ("the Property"), to the activity and use limitations set forth herein.

WHEREAS, this Environmental Covenant concerns an area at the Property known as the Valley Cores, Inc. (VCI) Site located at 1800 ½ Allen Avenue S.E., Canton, Stark County, Ohio.

WHEREAS, in response to a complaint received by the Ohio EPA, an Ohio EPA hazardous waste inspection was conducted at the VCI facility, where engine block crushing and aluminum smelting operations were being conducted by VCI. It was discovered that during the crushing and metallic recovery process operated at the facility, waste sludge was generated from block washing operations. The waste sludge, a characteristic hazardous waste, was discharged to an unlined surface impoundment and drainage way on the Property. This constituted unpermitted disposal of hazardous wastes by VCI. Facility operations ceased in 1986.

WHEREAS, investigations by Ohio EPA into the environmental conditions at the VCI Site were conducted beginning in the mid-1980s. Constituents of concern identified included RCRA metals, primarily lead, chromium, and cadmium. During closure, VCI sampled and analyzed soil and ground water samples. On June 28, 1991, the State of Ohio and VCI entered into a consent order.

WHEREAS, on November 15, 1990, VCI submitted a closure plan for the surface impoundment to the Ohio EPA. VCI amended its closure plan in 2002. An amended closure plan with modifications was approved by Ohio EPA on March 20, 2003. The amended closure plan allowed the use of risk-based cleanup standards for soils to demonstrate that the closure performance standard had already been achieved and that any remaining contamination was not attributable to the VCI facility's hazardous waste management units (WMUs).

WHEREAS, on July 18, 2003, VCI submitted a closure certification to Ohio EPA,

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and on January 13, 2004, Ohio EPA notified VCI that the closure certification was accepted and that VCI had met the closure performance standard in Ohio Administrative Code (OAC) rule 3745-66-11. The closure performance standard was achieved by targeted excavation of contaminated soil and a determination through sampling that ground water was not contaminated.

WHEREAS, contamination remaining but not associated with hazardous WMUs at the former VCI facility were remediated through the RCRA corrective action. Owner purchased the Property on December 12, 2003. Corrective measures performed by Owner's lessee, J.M.W. Trucking Services, Inc., included additional excavation of contaminated soils with contamination at levels greater than the risk-based standards (RSLs) for industrial/commercial land use. Residual contamination remains at isolated locations on the Property that are above residential RSLs but below industrial/commercial. Therefore, land use restrictions are required for the Property.

In a Decision Document which became effective on March 17, 2015, the Director of Ohio EPA selected a remedy for the VCI Site requiring J.M.W. Trucking Services, Inc., among other things, reducing and/or eliminating human exposure through direct contact with contaminated soil on the Property and land use restrictions on the Property. Owner has assumed J.M.W. Trucking Services, Inc.'s obligation under the Decision Document to file and restrict the Property using this Environmental Covenant.

All administrative documents associated with the former VCI facility are titled "Valley Cores, Inc." and are located at Ohio EPA's Northeast District Office, 2110 E. Aurora Road, Twinsburg, OH.

WHEREAS, as part of the corrective action obligations pertaining to the Property pursuant to Ohio hazardous waste requirements contained in ORC Chapter 3734, Owner has agreed to a land use restriction on the Property, as described herein.

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.
2. Property. This Environmental Covenant concerns an approximately 2.235 acre parcel of land, 1800 ½ Allen Avenue S.E., Canton, Ohio, in an industrial area south of Canton. The small parcel is part of a larger parcel in Stark County, current parcel number 0246722, and more particularly described in Exhibit A attached hereto and hereby incorporated by reference herein ("Property").
3. Owner. This Property is owned by Slutz Properties, LLC located at 512 45<sup>th</sup> Street S.W., Canton, Stark County, Ohio 44706.

4. Holder. Pursuant to ORC § 5301.81, the holder of this Environmental Covenant (“Holder”) is the Owner listed above.

5. Activity and Use Limitations. As part of the final remedy described in the Decision Document, Owner hereby imposes and agrees to comply with the following activity and use limitation:

- a. The Property shall not be used for residential or agricultural activities, but may be used for industrial/commercial activities. The term “residential activities” shall include, but not be limited to, the following:
  - (i) Single and multi-family dwelling and rental units;
  - (ii) Day care centers, elementary and high schools, and preschools;
  - (iii) Outdoor Parks and Playgrounds;
  - (iv) Correctional facilities;
  - (v) Transient or other residential facilities; and
  - (vi) Soils from the site will not be used for the production of food-chain products by agricultural means for animal or human consumption.

The term “industrial activities” shall include: facilities which supply goods or services to the public; facilities engaged in manufacturing, processing operations and office and warehouse use; facilities engaged in production, storage, and sales of durable goods; and facilities parking/driveway use.

- b. 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 limitation, Owner or Transferee 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 limitation 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, during the time that the Owner owns the Property or any portion thereof, and upon 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

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

7. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to ORC § 5301.91 or other applicable law. 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 compliance. Nothing in this Environmental Covenant shall restrict the Director of Ohio EPA from exercising any authority under applicable law.

8. Rights of Access. Owner hereby grants to Ohio EPA's authorized representatives and the City of Canton the right of access to the Property for implementation or enforcement of this Environmental Covenant and shall require such access as a condition of any transfer of the Property or any portion thereof.

9. Compliance Reporting. Owner and any Transferee shall submit to Ohio EPA on an annual basis a written certification which complies with the requirements of OAC rule 3745-50-42(B), (C), and (D) 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 limitation set forth in this Environmental Covenant, and provides 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, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE STARK COUNTY RECORDER ON \_\_\_\_\_, 2015, IN [DOCUMENT \_\_\_\_, or BOOK \_\_\_\_, PAGE \_\_\_\_,]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATION:

(i) The Property shall not be used for residential or agricultural activities, but may be used for industrial/commercial activities. The term "residential activities" shall include, but not be limited to, the following:

1. Single and multi-family dwelling and rental units;
2. Day care centers, elementary and high schools, and preschools;
3. Outdoor Parks and Playgrounds;
4. Correctional facilities;
5. Transient or other residential facilities; and

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6. Soils from the site will not be used for the production of food-chain products by agricultural means for animal or human consumption.

The term "industrial activities" shall include: facilities which supply goods or services to the public; facilities engaged in manufacturing, processing operations and office and warehouse use; facilities engaged in production, storage, and sales of durable goods; and facilities parking/driveway use.

(ii) 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 limitation, Owner or Transferee 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 limitation 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.

Owner or Transferee, if applicable, shall notify Ohio EPA within thirty (30) days after each conveyance of an interest in the Property or any portion thereof. The notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, a legal description of the Property being transferred, 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 and that the Owner conducted a current title search that shows that the Property is not subject to any interests or encumbrances that conflict with the activity and use limitations set forth in this Environmental Covenant;
- 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; and
- D. 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, if applicable; and the Director of the Ohio EPA, pursuant to ORC § 5308.82 and 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 so long as 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 Transferee, if 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, if applicable, shall file such instrument for recording with the Stark 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 record, in the office of the Stark County Recorder, this Environmental Covenant in the same manner as a deed to the Property, pursuant to ORC § 5301.88. Owner shall certify to Ohio EPA that the Environmental Covenant has been filed for recording, and include with the certification a file and date-stamped copy of the Environmental Covenant.

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 Stark County Recorder's Office.

17. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: Ohio EPA, any lessee and other signatories to the Environmental Covenant, each person holding a recorded interest in the Property, each unit of local government in which the Property is located, including the City of Canton and any other person designated by Ohio EPA.



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

As to Ohio EPA:

Ohio EPA – Central Office  
Lazarus Government Center  
Division of Environmental Response and Revitalization  
PO Box 1049  
Columbus, Ohio 43216-1049  
Attn: DERR Records Management Officer

Or, send electronically to: records@epa.ohio.gov

**And**

Ohio EPA Northeast District Office  
2110 E. Aurora Road,  
Twinsburg, Ohio 44087  
Attn: DERR Site Coordinator for Valley Cores, Inc.

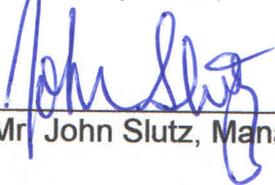
As to Owner:

Slutz Properties, L.L.C.  
512 45<sup>th</sup> Street SW  
Canton, Ohio 44706  
Attn: John Slutz

The undersigned represents and certifies that the undersigned is authorized to execute this Environmental Covenant.

**IT IS SO AGREED:**

Slutz Properties, LLC

  
\_\_\_\_\_  
Mr. John Slutz, Manager

Date: 8-18-15



  
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**EXHIBIT A**

**Property legal description and figure**



# Diversified Engineering Inc.

CONSULTING ENGINEERS & SURVEYORS

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RECEIVED  
OHIO EPA  
2015 AUG 19 PM 12:55  
LEGAL OFFICE

## DESCRIPTION OF A 2.235 ACRE PARCEL

Situated in the City of Canton, County of Stark and State of Ohio and also being part of Section 16, Township 10, Range 8 and being part of parcel of land conveyed to Slutz Properties, LLC (P.N. 0246722) and recorded in Instrument No. 201312150118277 of the Stark County Deed Records, and more fully bounded and described as follows:

Beginning at a county monument found at the southwest corner of the Southeast Quarter of Section 16; Thence N 24°12'34" E, a distance of 1832.60 feet to an iron pin set at the **True Place of Beginning** of the parcel herein to be described;

Course No. 1: Thence with a new line of division through said Slutz Properties, LLC, N 40°00'56" E, a distance of 71.07 feet to an iron pin set;

Course No. 2: Thence continuing with a new line of division through said Slutz Properties, LLC, N 19°17'15" E, a distance of 248.27 feet to an iron pin set;

Course No. 3: Thence continuing with a new line of division through said Slutz Properties, LLC, N 87°52'47" E, a distance of 258.25 feet to an iron pin set;

Course No. 4: Thence continuing with a new line of division through said Slutz Properties, LLC, S 12°20'46" W, a distance of 264.67 feet to an iron pin set;

Course No. 5: Thence continuing with a new line of division through said Slutz Properties, LLC, S 35°25'37" W, a distance of 187.76 feet to an iron pin set;

Course No. 6: Thence continuing with a new line of division through said Slutz Properties, LLC, N 52°37'12" W, a distance of 142.43 feet to an iron pin set;

Course No. 7: Thence continuing with a new line of division through said Slutz Properties, LLC, S 38°01'37" W, a distance of 49.57 feet to an iron pin set;

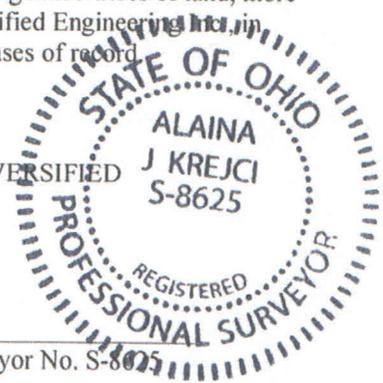
Course No. 8: Thence continuing with a new line of division through said Slutz Properties, LLC, N 49°20'55" W, a distance of 101.01 feet to the **True Place of Beginning** and containing 2.235 acres of land, more or less, as surveyed by Alaina J. Krejci, P.S., Ohio Registration No. S-8625, for Diversified Engineering Inc. in August, 2015, but subject to all legal roads, highways, right of ways, easements and leases of record.

The Basis of Bearing is Ohio State Plane Coordinates, North Zone, NAD 1983 (1986).

All iron pins set are 30 inch X 3/4 inch round steel bars with plastic caps stamped "DIVERSIFIED ENGINEERING".

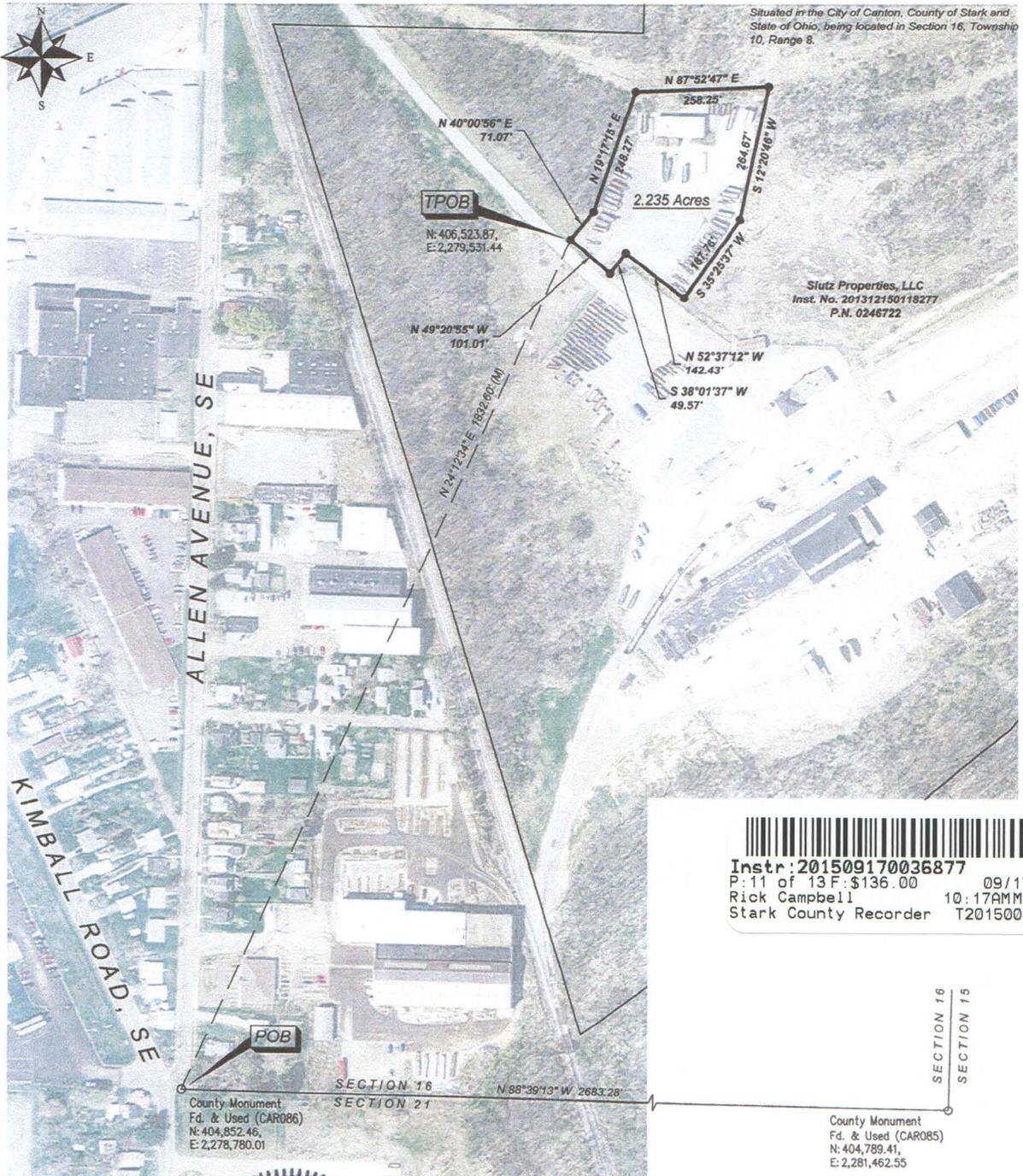
08/14/2015  
Date

Alaina J. Krejci, P.S. Professional Surveyor No. S-8625





Situated in the City of Canton, County of Stark and State of Ohio, being located in Section 16, Township 10, Range 8.



Slutz Properties, LLC  
Inst. No. 201312150118277  
P.N. 0246722



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This is to certify that, at the request of the owner, I have surveyed and platted the parcel of land shown hereon in accordance with the provisions of Chapter 4733-37 of the Ohio Administrative Code. Monuments were found or set as indicated hereon. Dimensions are expressed in US Survey Feet and decimal parts thereof. All of which I certify to be correct to the best of my knowledge and belief.

*Alaina J. Krejci*  
Alaina J. Krejci  
Registered Surveyor No. S-8625  
State of Ohio  
Date 08/14/2015

- R&U - Record & Used
- C - Calculated
- M - Measured
- D - Deed
- - Iron Pin Set
- ▲ - Drill Hole or Railroad Spike Set
- - Iron Pin Found
- ⊙ - Iron Pipe Found
- △ - Monument Found as Noted

The Basis of Bearing is Ohio State Plane Coordinates, North Zone, NAD 1983 (1986).

The SCGRS points used as reference stations to establish the datum are designated as CAN085 & CAN086.

All bearings shown are based on grid north. All dimensions shown are grid distances. To obtain a ground distance, multiply the grid distance by the Project Combined Factor (PCF) of 1.00002609.

Iron pins set are 30" x 3/4" steel rod with plastic cap stamped "DIVERSIFIED ENGINEERING".

Reference used:  
County Auditor's Tax Maps  
Deeds as noted hereon  
Surveys on File at the County Map Office



ISSUE DATE 08/14/15 SCALE 1" = 200'  
SURVEYED BY JG DATE 08/14/15  
DRAWN BY LDB DATE 08/14/15  
CHECKED BY LDB/AJK DATE 08/14/15  
FILE ID: ENG-890



PLAT OF SURVEY  
JW WIRELINE  
1800 Allen Avenue SE  
Canton, Ohio

SHEET NO:  
1/1

**EXHIBIT B**  
**Figure 2**  
**List of Encumbrances**



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Exhibit 2



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1. EASEMENT FOR POWER LINES, FROM LUNTZ CORP. I TO OHIO POWER COMPANY, FILED FOR RECORD DECEMBER 12, 1984, ESTABLISHED BY THE INSTRUMENT RECORDED IN VOLUME 271, PAGE 850 OF STARK COUNTY RECORDS. (FOR FURTHER CONDITIONS SEE COPY ATTACHED.)
2. RIGHT-OF-WAY FROM THE GRASSELLI CHEMICAL COMPANY, TO THE CITY OF CANTON, FILED FOR RECORD AUGUST 17, 1919, ESTABLISHED BY INSTRUMENT RECORDED IN VOLUME 552, PAGE 293 OF STARK COUNTY RECORDS. (FOR FURTHER CONDITIONS SEE COPY ATTACHED.)
3. RIGHT-OF-WAY FROM THE GRASSELLI CHEMICAL COMPANY, TO THE OHIO POWER COMPANY, FILED FOR RECORD MARCH 16, 1922, ESTABLISHED BY INSTRUMENT RECORDED IN VOLUME 656, PAGE 538 OF STARK COUNTY RECORDS. (FOR FURTHER CONDITIONS SEE COPY ATTACHED.)
4. RIGHT-OF-WAY FROM THE GRASSELLI CHEMICAL COMPANY, TO THE OHIO POWER COMPANY, FILED FOR RECORD SEPTEMBER 26, 1926, ESTABLISHED BY INSTRUMENT RECORDED IN VOLUME 931, PAGE 1 OF STARK COUNTY RECORDS. (FOR FURTHER CONDITIONS SEE COPY ATTACHED.)
5. EASEMENT FOR HIGHWAY PURPOSES, FROM E. I. DU PONT DE NEMOURS AND COMPANY, TO THE BOARD OF COUNTY COMMISSIONERS OF STARK COUNTY, FILED FOR RECORD NOVEMBER 15, 1945, ESTABLISHED BY THE INSTRUMENT RECORDED IN VOLUME 1538 PAGE 11 OF STARK COUNTY RECORDS. (FOR FURTHER CONDITIONS SEE COPY ATTACHED.)
6. RIGHT-OF-WAY FROM E. I. DU PONT DE NEMOURS AND COMPANY, TO THE EAST OHIO GAS COMPANY, FILED FOR RECORD MARCH 15, 1947, ESTABLISHED BY INSTRUMENT RECORDED IN VOLUME 1535, PAGE 199 OF STARK COUNTY RECORDS. UPON, WITHIN AND ACROSS CAPTION AND MORE LAND. (FOR FURTHER CONDITIONS SEE COPY ATTACHED)
7. AMENDMENT TO RIGHT OF WAY FROM E. I. DU PONT DE NEMOURS AND COMPANY TO THE EAST OHIO GAS COMPANY RECORDED AUGUST 26, 1947 AT VOLUME 1668 PAGE 575 OF THE STARK COUNTY RECORDS. (THIS IS AN AMENDMENT TO THE RIGHT OF WAY LISTED AS ITEM 18, FOR FURTHER CONDITIONS SEE COPY ATTACHED)
8. RIGHT-OF-WAY FROM E. I. DU PONT DE NEMOURS AND COMPANY, TO THE EAST OHIO GAS COMPANY, FILED FOR RECORD FEBRUARY 7, 1947, ESTABLISHED BY INSTRUMENT RECORDED IN VOLUME 1535, PAGE 22 OF STARK COUNTY RECORDS. (FOR FURTHER CONDITIONS SEE COPY ATTACHED.)