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Michele Mustello

Butler County Recorder PA

9/27/2021 12:41 PM

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I hereby CERTIFY
that this document is
recorded in the
Recorder's Office
of Butler County,
Pennsylvania

Michele M. Mustello
Michele M. Mustello - Recorder of Deeds

When recorded, return to:

Beazer East, Inc.
c/o Three Rivers Management
600 River Avenue, Suite 200
Pittsburgh, PA 15212

The Butler County Parcel Identification Numbers of the Property are: Tax Parcel No. 470-S2-A1-0000 and Tax Parcel No. 150-1F27-3-0000.

GRANTOR: Beazer East, Inc., a Delaware corporation

PROPERTY ADDRESS: Main Street, Petrolia, Pennsylvania

ENVIRONMENTAL COVENANT

This Environmental Covenant is executed pursuant to the Pennsylvania Uniform Environmental Covenants Act, Act No. 68 of 2007, 27 Pa. C.S. §§ 6501 – 6517 (UECA). This Environmental Covenant subjects the Property identified in Paragraph 1 to the activity and/or use limitations in this document. As indicated later in this document, this Environmental Covenant has been approved by the United States Environmental Protection Agency (EPA).

1. **Property affected.** The property affected (Property) by this Environmental Covenant, also known as Area of Interest Number 3 (AOI 3), is located in Petrolia Borough and Fairview Township, Butler County, Commonwealth of Pennsylvania.

The latitude and longitude of the center of the Property is: 41° 01' 34" N and 79° 42' 48" W.

The Property is a portion of DEP Facility ID 625299 under the name "INDSPEC Chem."

A complete description of the Property is attached to this Environmental Covenant as **Exhibit A**. A map of the Property is attached to this Environmental Covenant as **Exhibit B**.

2. **Property Owner / GRANTOR / GRANTEE.** Beazer East, Inc. (Beazer) is the owner of the Property and the GRANTOR and GRANTEE of this Environmental Covenant.

3. The mailing address of the owner is:

Beazer East, Inc.
c/o Three Rivers Management, Inc.
600 River Avenue, Suite 200
Pittsburgh, PA 15212

4. **Description of Contamination & Remedy.**

This Environmental Covenant applies only to the Property, which was formerly part of the INDSPEC Chemical Facility (the Facility). The Facility, which is shown on **Exhibit C**, includes the Property and additional parcels owned by INDSPEC Chemical Corporation (INDSPEC) (also known as AOIs 1, 2 and 4). **Exhibit C** also depicts AOI 3.

The constituents of concern (COCs) at the Facility include volatile organic compounds, phenols, benzene sulfonic acid (BSA), metabenzene disulfonic acid (m-BDSA), meta- and para-phenol sulfonic acid (m&p-PSA), resorcinol, and 2,4,3-trihydroxydiphenyl (THD), as discussed in EPA's August 22, 2018 Final Decision and Response to Comments (FDRTC) for the Facility. Groundwater has been impacted with COCs in the alluvial and upper bedrock aquifers. Groundwaters with elevated concentrations of BSA, m-BDSA, m&p-PSA, resorcinol and THD exhibit a reddish-brown color and are high in dissolved solids which result in solutions with increased density. In historic reports, these solutions are referred to as "free phase material".

An unlined lagoon at the Property was closed in 1982 by removing the liquid wastes, installing a clay slurry wall keyed in to bedrock to prevent migration of impacts to the South Branch of Bear Creek, and capping the lagoon with a compacted, clean fill.

In March 2002, pursuant to its authority under Pennsylvania's Hazardous Sites Cleanup Act (HSCA), 35 P. S. §§ 6020.101—6020.1305, the Pennsylvania Department of Environmental Protection (Department) established a sixty-square-mile area known as the Bear Creek Area Chemical Site (BCACS) that included the Facility. The Department determined that the nature and extent of groundwater contamination throughout the BCACS rendered it impractical to restore the groundwater conditions acceptable for residential use. As part of a May 5, 2003 Consent Order and Agreement between Beazer and the Department, Beazer agreed to contribute to funding for the construction of a public water supply to service impacted residents within the BCACS. The Department created a model ordinance which was passed in each municipality within the BCACS, that prohibited groundwater use and required mandatory hookups to the public water supply in order to prevent residential use of impacted portions of the aquifer. In 2007, construction of the public water supply system was completed and it began operation.

On May 6, 2004, Beazer and INDSPEC entered into a Facility Lead Agreement with EPA to satisfy Resource Conservation and Recovery Act (RCRA) corrective action obligations for the Facility by following the standards and procedures of Pennsylvania's Land Recycling and Environmental Remediation Standards Act (Act 2 of 1995). Based on a

review of soil data provided in the June 2014, Remedial Investigation Report, and the February 7, 2017 Remedial Investigation Report Addendum, only subsurface soil within the former lagoon and immediate lagoon area is impacted with COCs at levels that could pose potential exposure risks. This area is shown on **Exhibit D**. The COCs detected in subsurface soil in this area include: BSA, m-BDSA, m&p-PSA, and THD.

EPA's August 22, 2018 FDRTC established the following corrective action goals for the Facility:

- Prevent direct contact with soil containing concentrations of constituents above applicable screening levels.
- Prevent drinking water exposure to all constituents that exceed EPA Maximum Contaminant Levels (MCLs) and the Department's Medium-Specific Concentrations.
- Control groundwater discharge to South Branch of Bear Creek such that applicable surface water quality criteria are not exceeded and free-phase material is not observed in the Creek within the Facility.

Additionally, EPA's Final Remedy required the development of a Post-Remediation Care Plan (PRCP) to include a Soil Management Plan detailing work procedures and personal protective equipment requirements for any intrusive operations conducted within the area of impacted soil or groundwater, inspection and maintenance requirements that ensure the long-term integrity of physical barriers placed over areas of contamination to prevent exposure to potential receptors or mitigate occurrence of free-phase material, maintenance of fencing and/or surveillance methods to restrict Facility access, and a monitoring plan for groundwater and surface water. EPA approved a PRCP with an attached Soil Management Plan for the Property on August 21, 2019 and an addendum to the PRCP on November 16, 2020.

Also, the FDRTC sets forth engineering and institutional controls to be established to meet the Facility's corrective action goals. The activity and use limitations required for the Property are set forth in Section 5, below.

The Administrative Record pertaining to environmental conditions at the Facility and all information considered by EPA in connection with the Final Remedy will be available at the RCRA Records Center at the EPA Region 3 office located at 1650 Arch Street in Philadelphia until October 31, 2021, but located at 4 Penn Center, Philadelphia, Pennsylvania after March 31, 2022.

5. **Activity and Use Limitations.**

The Property is subject to the following activity and use limitations, which the current owner of the Property, and its tenants, agents, employees and other persons under its control, shall abide by:

- Groundwater at the Property shall not be used for any potable and/or domestic purposes.
- The area of the Property where the Soil Management Plan applies shall not be used for residential purposes, unless it is demonstrated to EPA that such use shall not pose a threat to the environment or adversely affect or interfere with the Final Remedy and EPA provides prior written approval for such use. This area is shown on **Exhibit D**.
- Excavation within the footprint of the capped former lagoon is prohibited without the EPA's prior written approval. The location of the capped former lagoon shown on **Exhibit D**.
- Any excavation or earth-moving within any area of the Property identified in **Exhibit D** as an "area where the Soil Management Plan applies" will be performed in accordance with the EPA-approved PRCP and Soil Management Plan.
- The then current Owner shall comply with the activity and use limitations described in this Environmental Covenant and the EPA-approved PRCP for the Property.

6. **Notice of Limitations in Future Conveyances.** Each instrument hereafter conveying any interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of this Environmental Covenant.

7. **Compliance Reporting.** By the end of every year following the effective date of this Environmental Covenant, the then current owner of the Property shall submit, to the EPA and any Holder listed in paragraph 3, above, written documentation stating whether or not the activity and use limitations in this Environmental Covenant are being abided by. In addition, within 21 days after a) written request by EPA, b) transfer of title of the Property or of any part of the Property affected by this Environmental Covenant, c) noncompliance with paragraph 5 (Activity and Use Limitations), or d) an application for a permit or other approval for any building or site work that could affect contamination on any part of the Property, the then current owner will send a report to the EPA and any Holder. The report shall state whether or not there is compliance with paragraph 5. If there is noncompliance, the report shall state the actions that will be taken to assure compliance.

8. **Access by EPA and the Department.** In addition to any rights already possessed by EPA and the Department, this Environmental Covenant grants to EPA and

the Department a right of reasonable access of the Property in connection with implementation or enforcement of this Environmental Covenant.

9. **Recording and Notification of Recording.** Within 30 days after the date of the EPA's approval of this Environmental Covenant, Beazer shall file this Environmental Covenant with the Recorder of Deeds for Butler County and send a file-stamped copy of this Environmental Covenant to the EPA within 90 days of the EPA's approval of this Environmental Covenant. Within that time period, Beazer also shall send a file-stamped copy to each of the following: Petrolia Borough, Fairview Township, and any Holder listed in Paragraph 3.

10. **Termination or Modification.**

(a) This Environmental Covenant runs with the land of the Property unless terminated or modified in accordance with 27 Pa. C.S. § 6509 or 6510, or in accordance with paragraph 10.(b). The then current owner of the Property shall provide EPA written notice of the pendency of any proceeding that could lead to a foreclosure, as referred to in 27 Pa. C.S. § 6509(a)(4), within 7 calendar days of the owner's receiving notice of the pendency of such proceeding.

(b) In accordance with 27 Pa. C.S. § 6510(a)(3)(i). Grantor hereby waives the right to consent to any amendment or termination of the Environmental Covenant by consent; it being intended that any amendment to or termination of this Environmental Covenant by consent in accordance with this Paragraph requires only the following signatures on the instrument amending or terminating this Environmental Covenant: (i) the Holder at the time of such amendment or termination; (ii) the then current owner of the Property; and (iii) EPA.

11. **EPA and The Department.**

(a) **Notification.** The then current owner shall provide EPA and the Department written notice of:

- (1) the pendency of any proceeding that could lead to a foreclosure as referred to in 27 Pa. C.S. § 6509(a)(4), within seven calendar days of the owner's receiving notice of the pendency of such proceeding;
- (2) any judicial action referred to in 27 Pa. C.S. § 6509(a)(5), within seven calendar days of the owner's receiving notice of such judicial action;
- (3) any judicial action referred to in 27 Pa. C.S. § 6509(b), within seven calendar days of the owner's receiving notice of such judicial action; and
- (4) termination or amendment of this Environmental Covenant pursuant to 27 Pa. C.S. § 6510, within seven calendar days of the owner's becoming aware of such termination or amendment.

(b) Enforcement.

A civil action for injunctive or other equitable relief for violating this Environmental Covenant may be maintained by the Attorney General of the United States, on behalf of EPA. In addition, EPA reserves its regulatory authorities under any law to enforce the activity and use limitations described in Paragraph 5, above.

12. EPA and the Department addresses.

Communications with EPA:

A file-stamped copy of this Environmental Covenant shall be sent to:

US EPA Region 3
1650 Arch Street
Philadelphia, PA 19103

Subsequent submissions required by this Environmental Covenant shall be sent to the Region 3 RCRA Corrective Action digital repository for institutional control and reporting documents. The documents shall reference the RCRA Facility name and RCRA ID Number. The documents shall be submitted to: R3_RCRAPOSTREM@epa.gov

Communications with the Department regarding this Environmental Covenant shall be sent to:

Pennsylvania Department of Environmental Protection
Northwest Regional Office
230 Chestnut Street
Meadville, PA 16335

13. Severability. The paragraphs of this Environmental Covenant shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

ACKNOWLEDGMENTS

BEAZER EAST, INC.. Grantor

Date:

By:

Name:

Title:

August 31

2021

Michael Slenska
Michael Slenska
President

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF ALLEGHENY)

) SS:

On this 31 day of August, 2021, before me, the undersigned officer, personally appeared Michael Slenska, known to me or satisfactorily proven to be the President of Beazer East, Inc., a Delaware corporation, who acknowledged himself/herself to be the person whose name is subscribed to this Environmental Covenant, and acknowledged that s/he executed same on behalf of said corporation for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Shirley O'Kelly
Notary Public

Commonwealth of Pennsylvania - Notary Seal
Shirley O'Kelly, Notary Public
Allegheny County
My commission expires January 28, 2023
Commission number 1287950
Member, Pennsylvania Association of Notaries

Date: BEAZER EAST, INC., Grantee

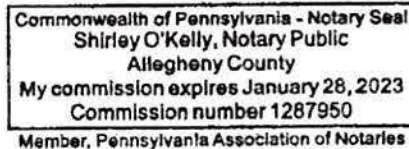
By: Michael Slensky
 Name: Michael Slensky
August 31, 2021 Title: President

COMMONWEALTH OF PENNSYLVANIA)
)
 COUNTY OF ALLEGHENY) SS:

On this 31 day of August, 2021, before me, the undersigned officer, personally appeared Michael Slensky, known to me or satisfactorily proven to be the President of Beazer East, Inc., a Delaware corporation, who acknowledged himself/herself to be the person whose name is subscribed to this Environmental Covenant, and acknowledged that s/he executed same on behalf of said corporation for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Shirley O'Kelly
 Notary Public



APPROVED, by United States Environmental Protection Agency

Date:

By:

Name:

Title:

Sept. 3, 2021

[Signature]
Dana R. Aunkst
Director

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF Cumberland)

SS:

On this 3 day of September, 2021, before me, the undersigned officer, personally appeared Dana Aunkst who acknowledged himself/herself to be the Director of the Land, Chemicals and Redevelopment Division of the United States Environmental Protection Agency, Region III, whose name is subscribed to this Environmental Covenant, and acknowledged that s/he executed same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Commonwealth of Pennsylvania - Notary Seal
 RACHEL TOMREDLE - Notary Public
 Cumberland County
 My Commission Expires July 11, 2025
 Commission Number 1317035

[Signature]
 Notary Public

Rachel Tomredle

CERTIFICATE OF RESIDENCE

<p>I do hereby certify that the <u>TAX BILL MAILING ADDRESS</u> of the within named Grantee is:</p> <p>Beazer East, Inc. c/o Three Rivers Management 600 River Avenue, Suite 200 Pittsburgh, PA 15212</p>	<p>I do hereby certify that the <u>OWNER ADDRESS</u> of the within named Grantee is:</p> <p>Beazer East, Inc. c/o Three Rivers Management 600 River Avenue, Suite 200 Pittsburgh, PA 15212</p>
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Witness my hand and seal this 31st day of August, 2021.

BEAZER EAST, INC.

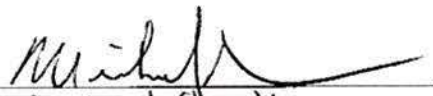
By: 
 Name: Michael Slenska
 Title: President

EXHIBIT A
TO ENVIRONMENTAL COVENANT

DESCRIPTION OF PROPERTY

Tract 1 in that certain Sub-Division Plan of Koppers Company, Inc. dated December 9, 1988 and recorded in the Office of the Recorder of Deeds of Butler County, Pennsylvania on January 19, 1989 at Plan Book Volume 129, Page 20.

Tax Parcel Nos. 470-S2-A1-0000 and 150-1F27-3-0000.

Being a portion of the property conveyed to Grantor (then known as Koppers Company, Inc.) by Quitclaim Deed from National Transit Company dated December 18, 1980 and recorded in the Office of the Recorder of Deeds of Butler County, Pennsylvania, on February 19, 1981 at Deed Book Volume 1126, Page 1024.

By Certificate of Amendment of Restated Certificate of Incorporation of Grantor dated January 16, 1989 and recorded in the Office of the Recorder of Deeds of Butler County, Pennsylvania, on May 10, 1989 at Deed Book Volume 1461, Page 439. Grantor's name was changed from Koppers Company, Inc. to Beazer Materials and Services, Inc.

By Certificate of Amendment dated March 23, 1990 and recorded in the Office of the Recorder of Deeds of Butler County, Pennsylvania, on December 20, 1990 at Deed Book Volume 1921, Page 231, Grantor's name was changed from Beazer Materials and Services, Inc. to Beazer East, Inc. (its current name).

EXHIBIT B
TO ENVIRONMENTAL COVENANT

DEPICTION OF PROPERTY

[See Tract 1 in attached two-page Sub-Division Plan of Koppers Company, Inc. dated December 9, 1988 and recorded in the Office of the Recorder of Deeds of Butler County, Pennsylvania, on January 19, 1989 at Plan Book Volume 129, Page 20.]

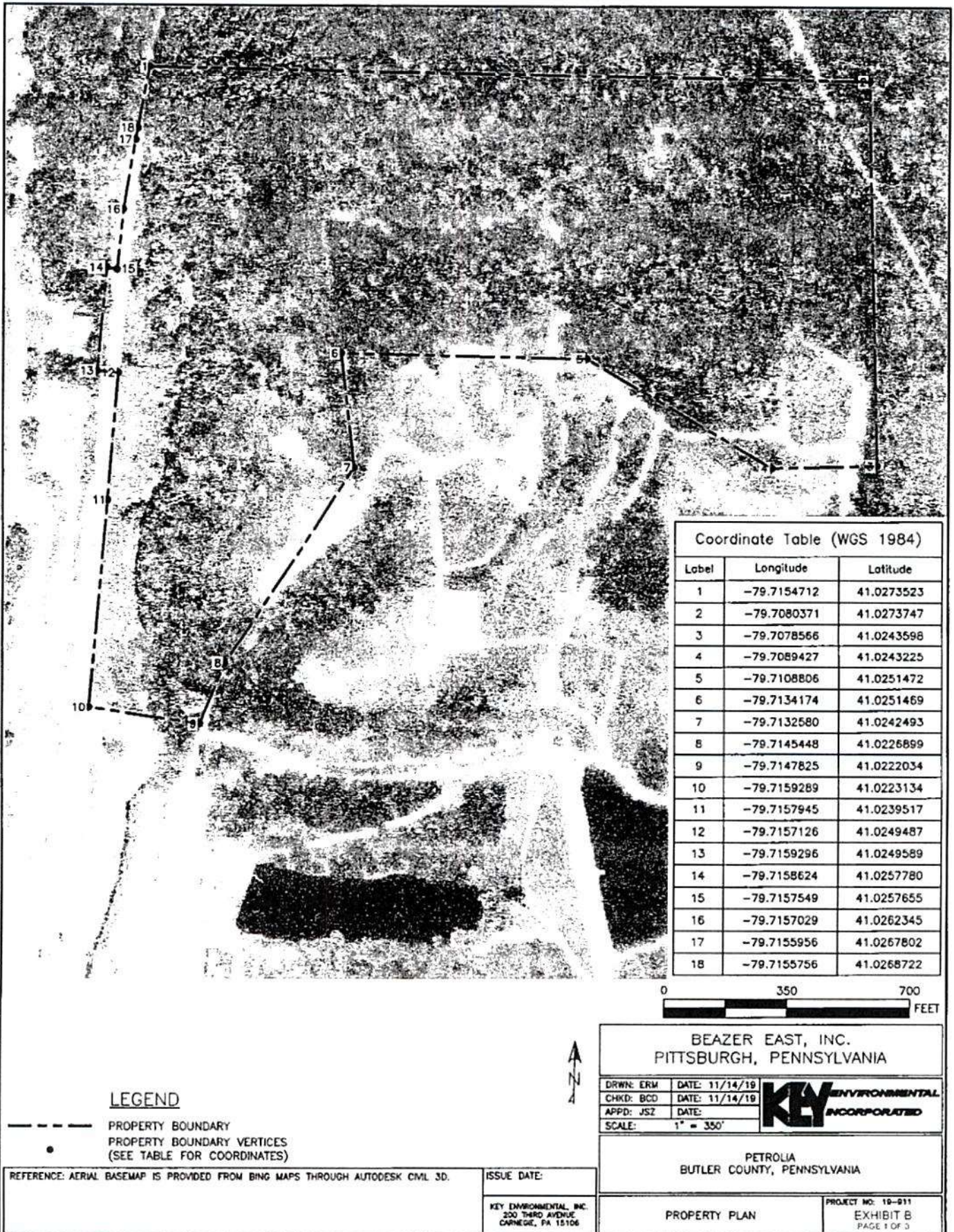
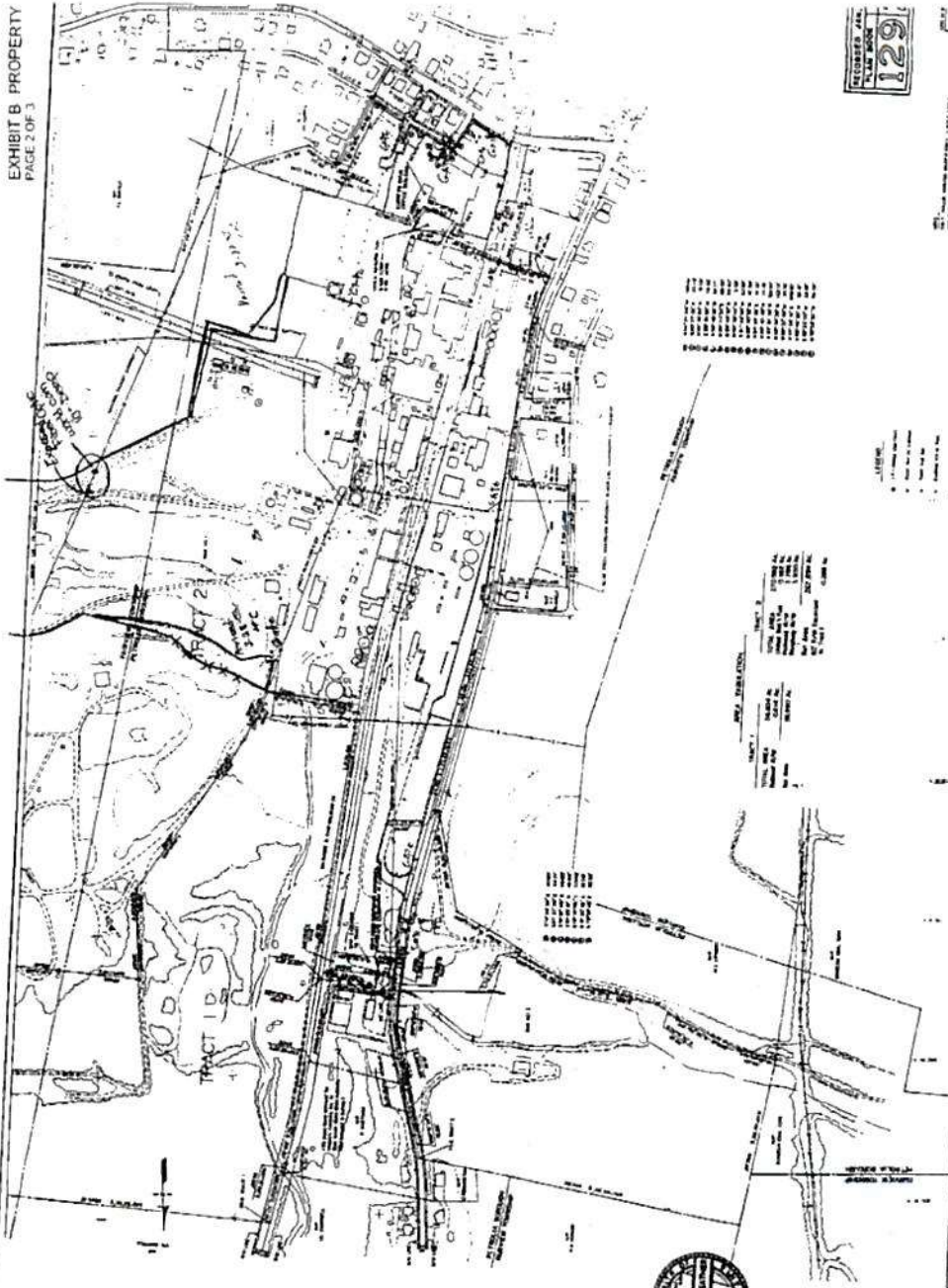


EXHIBIT B PROPERTY
PAGE 2 OF 3

[illegible]

APPROVED BY THE BUREAU OF APPROVAL

Approved by the Bureau Council of the Bureau of
Investigation on _____ day of
September, 1948.

Raymond W. Higgins Sec. of Bureau
Secretary

ADVERSE STAND-UP RECORD

arrived in the vicinity of the property of
investigate this day in Kansas Mo. 1908.

Edw. H. Ward *John H. Ward*
Attorney General Secretary of the Board

[illegible]

MEMORANDUM FOR THE RECORD
SUBJECT: [REDACTED]

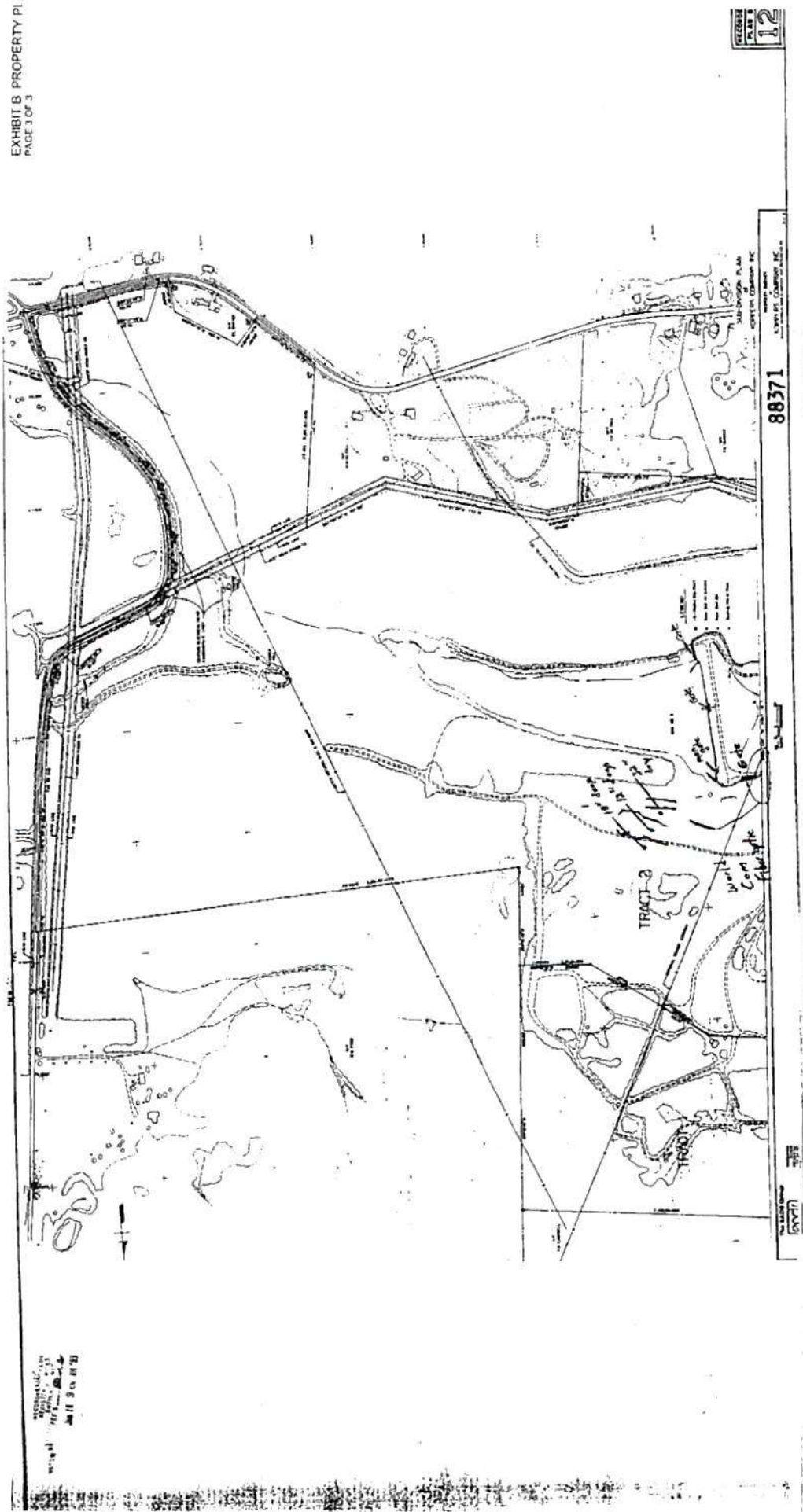
James McKeen
Jasde McKello

Lawrence S. Fawcett, a Registered Professional Surveyor in the Commonwealth of Massachusetts, can verify just this claim as recent history is now actual field survey for the land used and that all angles, distances and areas are correctly stated. Just the evidence and have been used as shown.

for the purpose of entry,
5.1988
Date
James H. Fisher
May. No. 028762-4

100

EXHIBIT B PROPERTY PL
PAGE 1 OF 3



12

EXHIBIT C
TO ENVIRONMENTAL COVENANT

DEPICTION OF FACILITY

[See Attachment.]

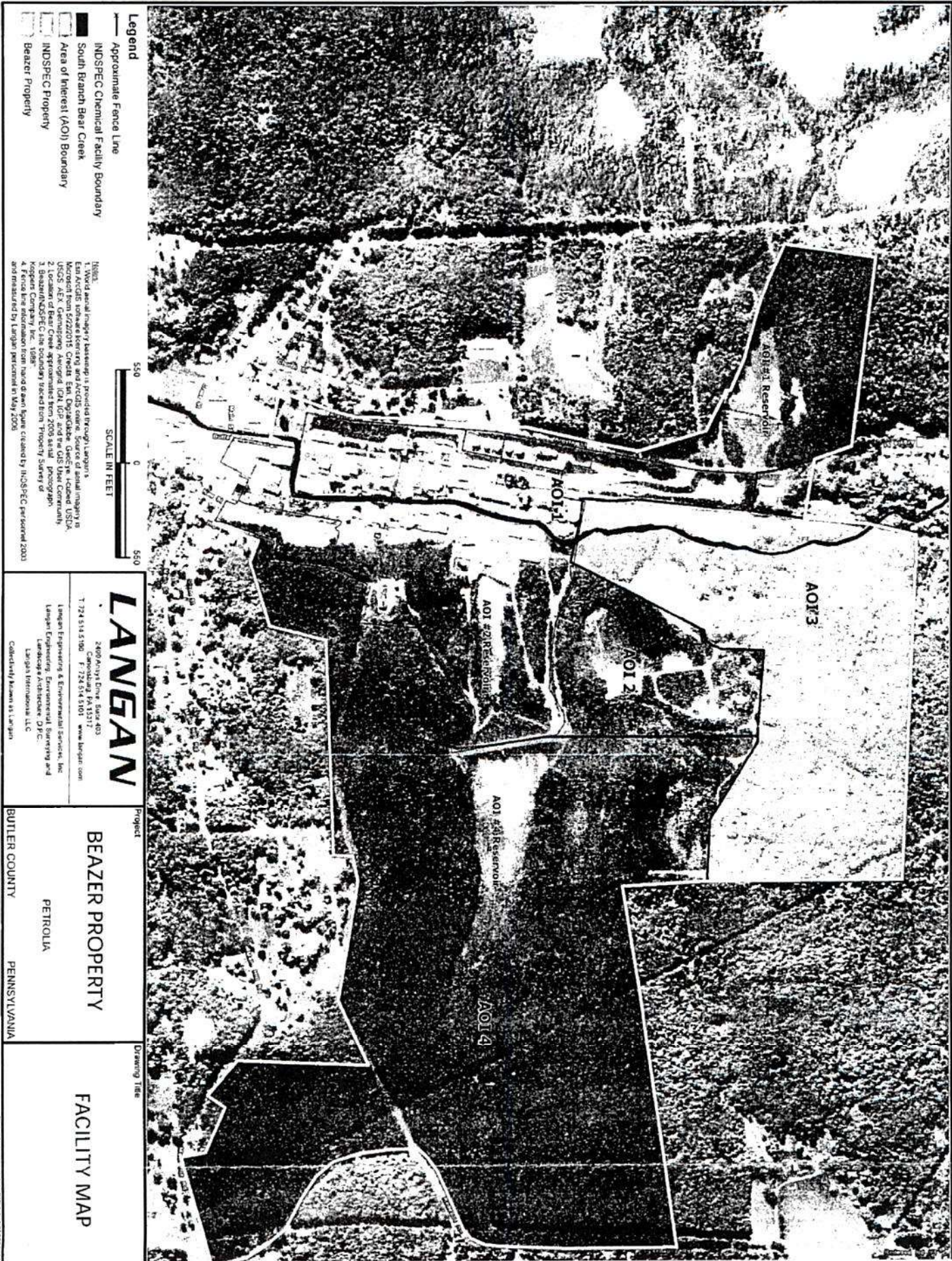


EXHIBIT D
TO ENVIRONMENTAL COVENANT
DEPICTION OF PORTION OF PROPERTY
SUBJECT TO SOIL MANAGEMENT PLAN

[See Attachment.]

