

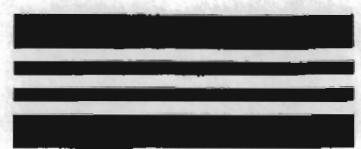
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Book 10883 Page 6612

No. Pages 0007

Instrument DECL PROTCT COV

Date : 3/03/1995

Time : 2:29:27

Return To:

BOND SCHOENECK & KING
ONE LINCOLN CENTER
SYRACUSE NY 14202
ATT JOAN MARSHALL LEGAL ASSISTANT

GENERAL MOTORS CORPORATION

MORTGAGE TAX

Serial #

City/Town \$.00

S.M.A. \$.00

Trans. Auth. \$.00

Total \$.00

COUNTY	\$	26.50
	\$	.00
COE	\$	5.00
	\$	.00
	\$	.00
	\$	.00
	\$	.00
	\$	.00
	\$	.00
	\$	.00
Total:	\$	31.50

STATE OF NEW YORK
Erie County Clerk's Office

TRANSFER TAX

Transfer Tax \$.00

Amount \$.00

Transfer Tax #

WARNING - THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 316-A(5) OF
THE REAL PROPERTY LAW OF THE STATE OF NEW YORK
DO NOT DETACH

DAVID J SWARTS
County Clerk



D108836612

DECLARATION OF COVENANTS AND RESTRICTIONS

TO WHOM IT MAY CONCERN:

GENERAL MOTORS CORPORATION (Saginaw Division) ("GM") entered into an Order on Consent (Index # B9-O410-92-09 - the "Order") with the New York State Department of Environmental Conservation (the "Department") to implement an Interim Remedial Measure Program at the site of its former Saginaw Division facility located at 1001 East Delevan Avenue, Buffalo, New York (the "Facility"). The Facility is currently owned by American Axle & Manufacturing, Inc. ("AAM"), which purchased the Facility as of March 1, 1994.

The Facility is included within the property conveyed to AAM which is described in a Bargain and Sale Deed, made as of February 26, 1994 and filed in the Erie County Clerk's office at Book 10867 of Deeds at page 4548 & c. *(A copy of which is attached as Schedule A)* ✓

An investigation of a spill of reclaimed industrial oil at an area near the Facility's oily wastewater treatment plant ("WWTP") detected polychlorinated biphenyls ("PCBs") in subsurface soil and groundwater below existing pavement, as well as elevated levels of lead in soil. The New York April 1994 Registry of Inactive Hazardous Waste Disposal Sites (the "Registry") describes the site as an area of PCB and lead contamination found in an approximately one-acre portion of an employee parking lot adjacent to the WWTP (the "Site"). The presence of lead contamination has also been confirmed in soils outside the one-acre area described in the Registry.

The Department has designated the Site on the Registry as a Class "3" site. A classification of "3" is assigned by the Department to sites which do not present a significant threat to the public health or the environment and at which action may be deferred.

The scope of work to be performed is set forth in the Department-approved work plan prepared by Wehran EMCON, which is attached as Exhibit B to the Order. A copy of the Order and work plan can be obtained by contacting one of the following Department representatives under the Order: Jaspal Wahlia, Division of Hazardous Waste Remediation, New York State Department of Environmental Conservation, 270 Michigan Avenue, Buffalo, New York 14203-2999 or Attorney James Hazel from the Department's Division of Environmental Enforcement at the same address.

The effective date of the Order is February 2, 1995. This Declaration of Covenants and Restrictions is being filed with the Erie County Clerk in accordance with paragraph X of the Order to give all parties who may acquire any interest in the Site notice of this Order.

F824

-31.50

777-6-1

WHEREFORE, the undersigned has signed this Declaration of Covenants and Restrictions to comply with the Department's Order.

GENERAL MOTORS CORPORATION

By: Jeffrey N. Braun

Dated: February , 1995

STATE OF MICHIGAN)

S.S.:

COUNTY OF WAYNE)

On this 17 day of February, 1995, before me personally came Jeffrey N. Braun, to me known, who being duly sworn, did depose and say that he resides in Detroit, Michigan; that he is an Attorney for General Motors Corporation, the corporation described in and which executed the foregoing instrument; that he signed his name hereto on behalf of said corporation and that he is authorized to obligate the corporation in such matters pursuant to the articles of incorporation, by-laws and duly delegated powers of the corporation.

Jacqueline Petersen
Notary Public
Commission Expires: _____

JACQUELINE PETERSEN
NOTARY PUBLIC, Oakland County, Mich.
Acting in Wayne County, Mich.
My Commission Expires: Feb. 8, 1997

Record and Return to: Mrs. Joan Marshall, Legal Assistant, Bond, Schoeneck & King,
One Lincoln Center, Syracuse, New York 13202

* at 3044 W. Grand Blvd., 12th Floor
Detroit MI 48232.

EXHIBIT A
LEGAL DESCRIPTION

PARCEL "A"

ALL THAT TRACT OR PARCEL OF LAND situate, lying and being in the City of Buffalo, County of Erie and State of New York, being part of Lot Number 53, Township 11, Range 7 of the Holland Land Company's Survey and being more particularly bounded and described as follows:

BEGINNING at the point of intersection of the east right of way line of Cornwall Avenue (60 feet wide) with the south right of way line of East Delavan Avenue (66 feet wide); thence north $89^{\circ}17'18''$ east along the south right of way line of said East Delavan Avenue, 801.86 feet to a point in the west line of Conrail (Erie Lackawanna Railroad); thence southerly along the west line of said Conrail the following bearings and distances: 1) south $00^{\circ}27'30''$ west, 82.47 feet, 2) south $00^{\circ}16'10''$ west 440.05 feet, 3) south $02^{\circ}30'10''$ west, 68.84 feet, 4) south $03^{\circ}47'20''$ west, 117.14 feet, 5) south $00^{\circ}10'10''$ west, 441.45 feet, 6) south $01^{\circ}58'00''$ west 391.16 feet, 7) south $00^{\circ}03'18''$ west, 1.30 feet, 8) south $81^{\circ}42'36''$ west, 52.00 feet, 9) south $02^{\circ}55'45''$ east, 150.40 feet, 10) south $00^{\circ}35'44''$ west, 274.97 feet to a point in the north right of way line of Scajaquada Street (width varies); thence north $88^{\circ}35'48''$ west and along said north right of way line, 131.64 feet to a point in the east right of way line of Colorado Avenue (60 feet wide formerly Norfolk Avenue); thence north $00^{\circ}05'54''$ west and along said east right of way line 112.13 feet to a point in the north right of way line of said Colorado Avenue; thence south $89^{\circ}54'06''$ west and along said north right of way line, 60.00 feet to a point in the west right of way line of Colorado Avenue; thence south $00^{\circ}05'54''$ east and along said right of way line, 113.64 feet to a point in the north right of way line of Scajaquada

Street; thence westerly along the north right of way line of said Scajaquada Street, the following bearing and distances: 1) a curve to the left with a chord bearing of south 75°17'03" west with a radius of 240.36 feet an arc distance of 57.96 feet, 2) south 68°22'26" west, 66.71 feet, 3) north 00°05'54" west, 2.71 feet, 4) south 89°54'06" west, 118.00 feet to a point in the east right of way line of Northumberland Avenue (60 feet wide); thence north 00°05'54" west and along said east right of way line, 187.46 feet to a point in the north right of way line of said Northumberland Avenue; thence south 89°54'06" west and along said north right of way line, 60 feet to a point in the west right of way line of said Northumberland Avenue; thence south 00°05'54" east and along said west right of way line 257.43 feet to a point in the north right of way line of Scajaquada Street; thence westerly along the north right of way line of said Scajaquada Street the following bearings and distances: 1) south 68°22'25" west, 40.85 feet, 2) along a curve to the right, with a chord bearing of south 75°26'05" west, a radius of 180.36 feet, an arc distance of 83.36 feet, 3) north 00°05'54" west, 2.81 feet, 4) south 89°54'06" west, 118.00 feet to a point in the east right of way line of said Cornwall Avenue; thence north 00°05'54" west and along said east right of way line 2103.00 feet to the point or place of beginning.

PARCEL "B"

ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate, lying and being in the City of Buffalo, County of Erie and State of New York, being part of Lot Number 53, Township 11, Range 7 of the Holland Land Company's Survey and being more particularly, bounded and described as follows:

BEGINNING at a point in the east line of Conrail (Erie Lackawanna Railroad), 425.67 feet south of its intersection with the south right of way line of East Delavan Avenue (66 feet wide); thence north $89^{\circ}17'30''$ east, 330.19 feet to a point; thence south $21^{\circ}55'36''$ east, 128.32 feet to a point; thence south $01^{\circ}18'00''$ west, 1446.61 feet to a point in the north right of way line of Scajaquada Street (60 feet wide); thence north $88^{\circ}42'00''$ west and along said north right of way line, 172.46 feet to a point; thence north $01^{\circ}00'00''$ east, 301.05 feet to a point; thence north $89^{\circ}00'00''$ west, 200.00 feet to a point in the east line of said Conrail; thence north $01^{\circ}00'00''$ east and along said Conrail, 1252.98 feet to the point or place of beginning.

PARCEL "C"

ALL THAT CERTAIN PIECE OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE City of Buffalo, County of Erie and State of New York, being part of Lot Number 54, Township 11, Range 7 of the Holland Land Company's Survey and being more particularly bounded and described as follows:

BEGINNING at the point of intersection of the north right of way line of East Delavan Avenue (66 feet wide) with the east right of way line of Norfolk Avenue (66 feet wide); thence north $00^{\circ}01'48''$ west along the east right of way line of said Norfolk Avenue, 451.86 feet to a point; thence north $89^{\circ}58'12''$ east, 108.00 feet to a point; thence north $00^{\circ}01'48''$ west, 116.28 feet to a point; thence north $89^{\circ}58'12''$ east, 125.50 feet to a point in the west line of Conrail (Erie Lackawanna Railroad); thence southerly along said boundary and curve to the right with a radius of 1877.08 feet, a chord bearing of south $04^{\circ}48'31''$ east an arc distance of 380.08 feet to a

point of tangency; thence south $00^{\circ}59'35''$ west and along said boundary 186.94 feet to a point in the north right of way line of said East Delavan Avenue; thence south $89^{\circ}17'18''$ west and along said right of way line, 261.79 feet to the point or place of beginning.

PARCEL "D"

ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate, lying and being in the City of Buffalo, County of Erie and State of New York, being part of Lot Number 53, Township 11, Range 7 of the Holland Land Company's Survey and being more particularly bounded and described as follows:

BEGINNING at the point of intersection of the west right of way line of Cornwall Avenue (60 feet wide) with the south right of way line of East Delavan Avenue (66 feet wide); thence south $00^{\circ}05'54''$ east and along the west right of way line of said Cornwall Avenue, 761.98 feet to a point; thence south $89^{\circ}54'06''$ west, 118.00 feet to a point; thence north $00^{\circ}05'54''$ west, 760.72 feet to a point in the south right of way line of said East Delavan Avenue; thence north $89^{\circ}17'18''$ east and along said right of way line, 118.00 feet to the point or place of beginning.

A9809A



STATE OF NEW YORK, COUNTY OF ERIE, ss:
I, DAVID J. SWARTS, Clerk of said County, and also Clerk
of Supreme and County Courts of said County, do hereby
certify that I have compared the annexed copy with the original

Declaration of Covenants & Restrictions
filed in my office and that the same is a correct transcript there-
from and of the whole of said original.

WITNESS my hand and seal of said County and Courts on _____
day of AUG - 2 2002 19 _____

David J. Swarts
COUNTY CLERK

