



County Clerk's Recording Page

Return to:

GREIF INC  
ATTN: DANIEL HEALY  
2122 COLVIN BLVD  
TONAWANDA, NY 14150

**Book Type: D Book: 11248 Page: 994**

Page Count: 6  
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Document Sequence Number

Party 1:  
GREIF INC

Party 2:

**Consideration Amount:**

**Recording Fees:**

RECORDING	\$50.00
COE CO \$1 RET	\$1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75

BASIC MT	\$0.00
SONYMA MT	\$0.00
ADDL MT/NFTA	\$0.00
SP MT/M-RAIL	\$0.00
NY STATE TT	\$0.00
ROAD FUND TT	\$0.00

**Total: \$70.00**

STATE OF NEW YORK  
ERIE COUNTY CLERK'S OFFICE

WARNING – THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

Christopher L. Jacobs  
County Clerk

## DECLARATION of COVENANTS and RESTRICTIONS

**THIS COVENANT** is made the 28<sup>th</sup> day of March, 2013 by Greif, Inc., a Corporation incorporated in the State of Delaware and having an office for transaction of business at 425 Winter Road, Delaware, Ohio.

**WHEREAS**, Greif, Inc. is the subject of Voluntary Cleanup Agreement (VCA) executed by Greif, Inc. as part of the New York State Department of Environmental Conservation's (the "Department's") VCA Program, namely that parcel of real property located at 2122 Colvin Boulevard in the Town of Tonawanda, County of Erie, State of New York, which is part of lands conveyed by New York Life Insurance Company, a New York Corporation to Continental Fibre Drum, Inc. (the predecessor to Sonoco Fibre Drum Inc., Greif Fibre Drum Inc. and Greif, Inc.) by deed dated December 24, 1984 and recorded in the Erie County, New York in Liber 9408 of Deeds, page 565. And being more particularly described in Exhibit "A," attached to this declaration and made a part hereof, and hereinafter referred to as "the Property," and

**WHEREAS**, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Property and such remedy requires that the Property be subject to restrictive covenants.

**NOW, THEREFORE**, Greif, Inc., for itself and its successors and/or assigns, covenants that:

First, the Property subject to this Declaration of Covenants and Restrictions is as shown on a map attached to this declaration as Exhibit "B" and made part hereof.

Second, unless prior written approval by the Department or, if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens, hereinafter referred to as "the Relevant Agency," is first obtained, where contamination remains at the Property subject to the provisions of the Site Management Plan ("SMP"), there shall be no construction, use or occupancy of the Property that results in the disturbance or excavation of the Property which threatens the integrity of the engineering controls or which results in unacceptable human exposure to contaminated soils.

Third, the owner of the Property shall not disturb, remove, or otherwise interfere with the installation, use, operation, and maintenance of engineering controls required for the Remedy which are described in the SMP, unless in each instance the owner first obtains a written waiver of such prohibition from the Department or Relevant Agency.

Return to:  
Daniel Healy  
2122 Colvin Blvd.  
Tonawanda, NY 14150

781-5-0

Fourth, the owner of the Property shall prohibit the Property from ever being used for purposes other than for Commercial or Industrial use without the express written waiver of such prohibition by the Department or Relevant Agency.

Fifth, the owner of the Property shall prohibit the use of groundwater underlying the Property without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Department or Relevant Agency.

Sixth, the owner of the Property shall provide a periodic certification, prepared and submitted by a professional engineer or environmental professional acceptable to the Department or Relevant Agency, which will certify that the institutional and engineering controls put in place are unchanged from the previous certification, comply with the SMP, and have not been impaired.

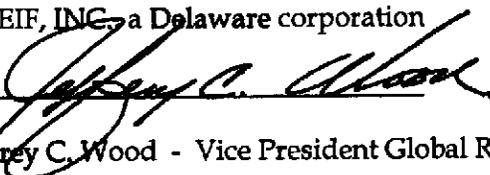
Seventh, the owner of the Property shall continue in full force and effect any institutional and engineering controls required for the Remedy and maintain such controls, unless the owner first obtains permission to discontinue such controls from the Department or Relevant Agency, in compliance with the approved SMP, which is incorporated and made enforceable hereto, subject to modifications as approved by the Department or Relevant Agency.

Eighth, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Department or Relevant Agency of the prohibitions and restrictions that the VCA requires to be recorded and hereby covenant not to contest the authority of the Department or Relevant Agency to seek enforcement.

Ninth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Department or Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

IN WITNESS WHERE OF, the undersigned has executed this instrument the day written below.

GREIF, INC., a Delaware corporation

By: 

Jeffrey C. Wood - Vice President Global Risk Management

Date: 04/05/2013

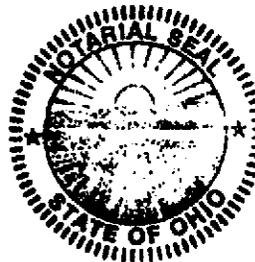
STATE OF OHIO )  
 ) s.s.:  
COUNTY OF DELAWARE )

On the 5<sup>th</sup> day of April, in the year 2013, before me, the undersigned, personally appeared Jeffrey C. Wood, personally know to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Pamela S. Price

Notary Public State of Ohio



PAMELA S PRICE  
Notary Public, State of Ohio  
My Commission Expires 1/24/2018

EXHIBIT A

LEGAL DESCRIPTION

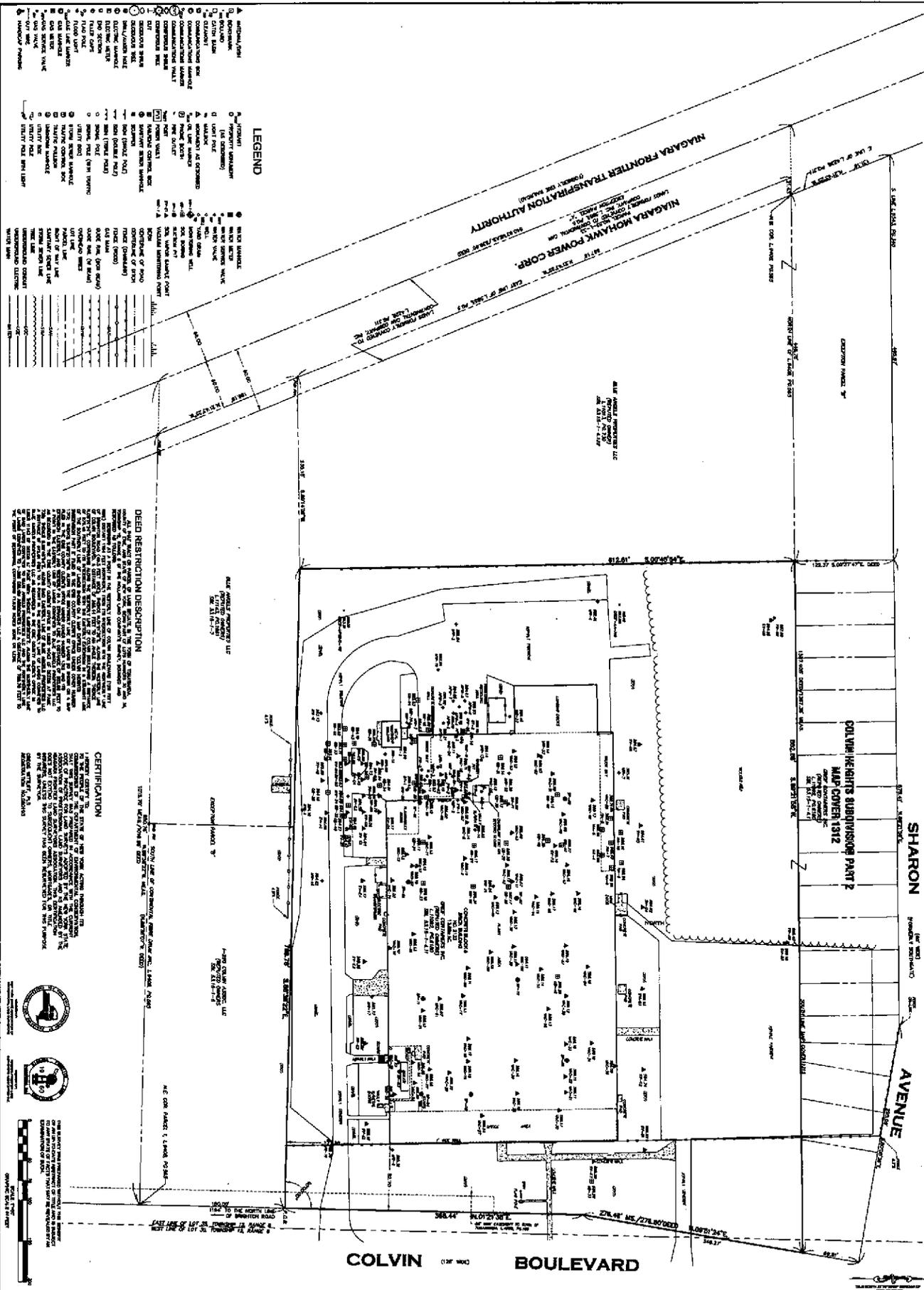
ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Tonawanda, County of Erie, and State of New York, being parts of Lots Numbers 30 and 35, Township 12, Range 8 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the westerly line of Colvin Boulevard (125 feet wide) distant 1194 feet northerly from its intersection with the northerly line of Brighton Road (49.5 feet wide); thence N.01°21'38"E. along the westerly line of Colvin Boulevard, a distance of 368.44 feet to an angle therein; thence N.09°51'24"E. continuing along the westerly line of Colvin Boulevard a distance of 276.46 feet to its intersection with the easterly extension in a straight line of the southerly line of lands shown on a map entitled "Colvin Heights Subdivision Part 2" filed in the Erie County Clerk's office under Cover Number 1312; thence S.89°21'58"W. along the southerly line of lands so shown on a map filed in the Erie County Clerk's office under Cover Number 1312 and its extension easterly and westerly in a straight line a distance of 852.86 feet to a point in the easterly line of lands conveyed to Blue Angels Properties LLC as recorded in the Erie County Clerk's office in Liber 11013 of Deeds at Page 730; thence S.00°45'54"E. along said easterly line of Blue Angels Properties LLC a distance of 612.61 feet to a point in the northerly line of lands conveyed to Blue Angels Properties LLC as recorded in the Erie County Clerk's office in Liber 11143 of Deeds at Page 1861; thence S.88°38'22"E. along the northerly line of said lands conveyed to Blue Angels Properties LLC and the northerly line of lands conveyed to I-290 Colvin Associates LLC a distance of 788.78 feet to the point of beginning, containing 11.636 acres more or less.

EXHIBIT B

SURVEY

FILING REQUESTED print size



## DECLARATION of COVENANTS and RESTRICTIONS

**THIS COVENANT** is made the 28<sup>th</sup> day of March, 2013 by Greif, Inc., a Corporation incorporated in the State of Delaware and having an office for transaction of business at 425 Winter Road, Delaware, Ohio.

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**WHEREAS**, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination disposed at the Property and such remedy requires that the Property be subject to restrictive covenants.

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Third, the owner of the Property shall not disturb, remove, or otherwise interfere with the installation, use, operation, and maintenance of engineering controls required for the Remedy which are described in the SMP, unless in each instance the owner first obtains a written waiver of such prohibition from the Department or Relevant Agency.

Fourth, the owner of the Property shall prohibit the Property from ever being used for purposes other than for Commercial or Industrial use without the express written waiver of such prohibition by the Department or Relevant Agency.

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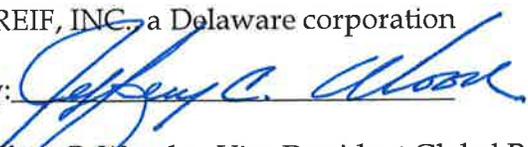
Seventh, the owner of the Property shall continue in full force and effect any institutional and engineering controls required for the Remedy and maintain such controls, unless the owner first obtains permission to discontinue such controls from the Department or Relevant Agency, in compliance with the approved SMP, which is incorporated and made enforceable hereto, subject to modifications as approved by the Department or Relevant Agency.

Eighth, this Declaration is and shall be deemed a covenant that shall run with the land and shall be binding upon all future owners of the Property, and shall provide that the owner and its successors and assigns consent to enforcement by the Department or Relevant Agency of the prohibitions and restrictions that the VCA requires to be recorded and hereby covenant not to contest the authority of the Department or Relevant Agency to seek enforcement.

Ninth, any deed of conveyance of the Property, or any portion thereof, shall recite, unless the Department or Relevant Agency has consented to the termination of such covenants and restrictions, that said conveyance is subject to this Declaration of Covenants and Restrictions.

**IN WITNESS WHERE OF**, the undersigned has executed this instrument the day written below.

GREIF, INC., a Delaware corporation

By: 

Jeffrey C. Wood - Vice President Global Risk Management

Date: 04/05/2013

STATE OF OHIO )  
 ) s.s.:  
COUNTY OF DELAWARE )

On the 5<sup>th</sup> day of April, in the year 2013, before me, the undersigned, personally appeared Jeffrey C. Wood, personally know to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Pamela S. Price

Notary Public State of Ohio



PAMELA S PRICE  
Notary Public, State of Ohio  
My Commission Expires 1/24/2018

EXHIBIT A

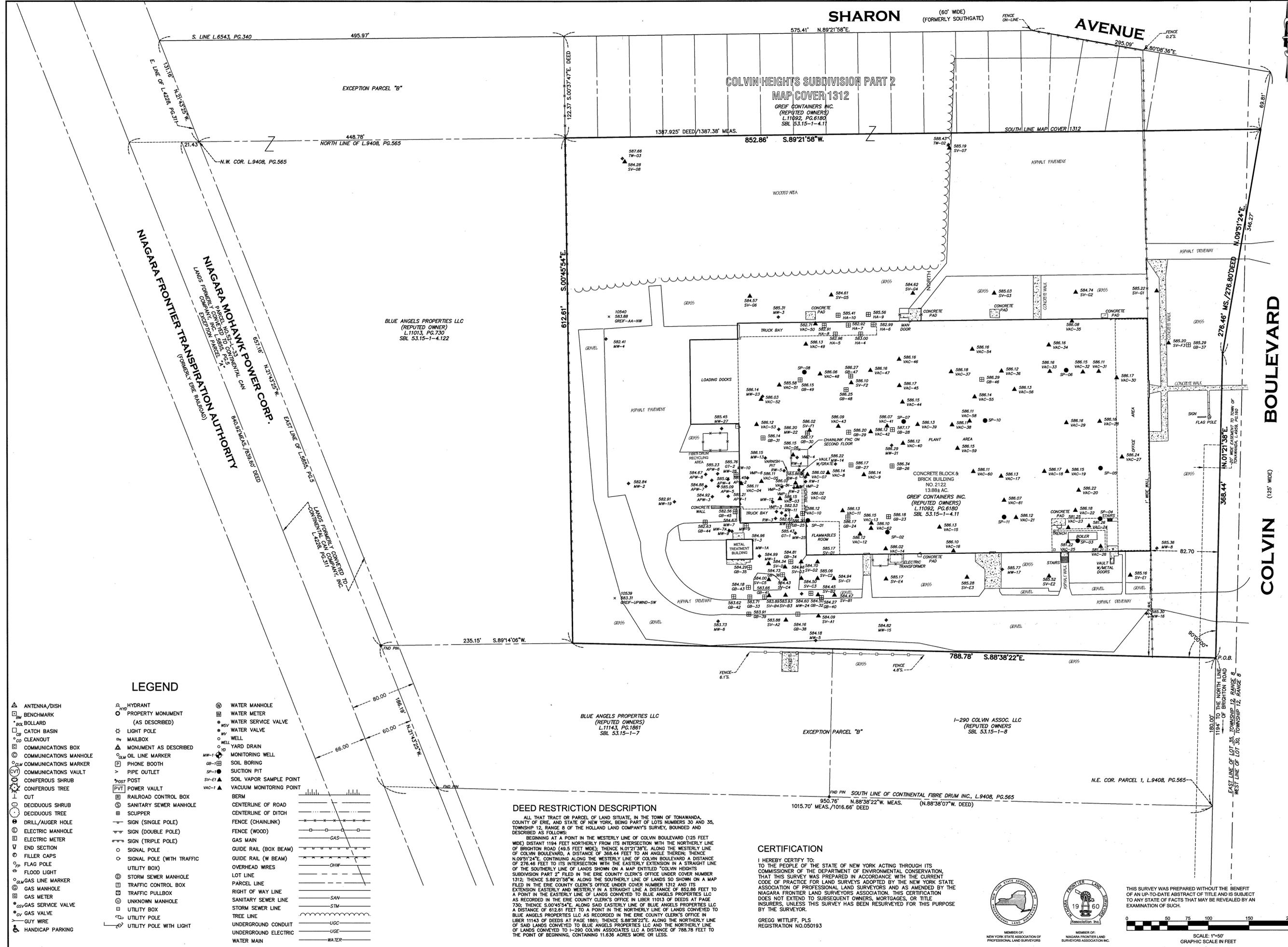
LEGAL DESCRIPTION

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EXHIBIT B

SURVEY



**LEGEND**

- |                          |  |                           |
|--------------------------|--|---------------------------|
| ▲ ANTENNA/DISH           | ⊙ HYDRANT                                | ⊕ WATER MANHOLE           |
| ⊕ BENCHMARK              | ○ PROPERTY MONUMENT (AS DESCRIBED)       | ⊕ WATER METER             |
| ⊕ BOLLARD                | ⊕ CATCH BASIN                            | ⊕ WATER SERVICE VALVE     |
| ⊕ CLEANOUT               | ⊕ MAILBOX                                | ⊕ WATER VALVE             |
| ⊕ COMMUNICATIONS BOX     | ⊕ MONUMENT AS DESCRIBED                  | ⊕ WELL                    |
| ⊕ COMMUNICATIONS MANHOLE | ⊕ OIL LINE MARKER                        | ⊕ YARD DRAIN              |
| ⊕ COMMUNICATIONS MARKER  | ⊕ PHONE BOOTH                            | ⊕ MONITORING WELL         |
| ⊕ COMMUNICATIONS VAULT   | ⊕ PIPE OUTLET                            | ⊕ SOIL BORING             |
| ⊕ CONFEROUS SHRUB        | ⊕ POST                                   | ⊕ SUCTION PIT             |
| ⊕ CONFEROUS TREE         | ⊕ POWER VAULT                            | ⊕ SOIL VAPOR SAMPLE POINT |
| ⊕ CUT                    | ⊕ RAILROAD CONTROL BOX                   | ⊕ VACUUM MONITORING POINT |
| ⊕ DECIDUOUS SHRUB        | ⊕ SANITARY SEWER MANHOLE                 |                           |
| ⊕ DECIDUOUS TREE         | ⊕ SCUPPER                                |                           |
| ⊕ DRILL/AUGER HOLE       | ⊕ SIGN (SINGLE POLE)                     |                           |
| ⊕ ELECTRIC MANHOLE       | ⊕ SIGN (DOUBLE POLE)                     |                           |
| ⊕ ELECTRIC METER         | ⊕ SIGN (TRIPLE POLE)                     |                           |
| ⊕ END SECTION            | ⊕ SIGNAL POLE                            |                           |
| ⊕ FILLER CAPS            | ⊕ SIGNAL POLE (WITH TRAFFIC UTILITY BOX) |                           |
| ⊕ FLAG POLE              |  |                           |
| ⊕ FLOOD LIGHT            |  |                           |
| ⊕ GAS LINE MARKER        |  |                           |
| ⊕ GAS MANHOLE            |  |                           |
| ⊕ GAS METER              |  |                           |
| ⊕ GAS SERVICE VALVE      |  |                           |
| ⊕ GAS VALVE              |  |                           |
| ⊕ GUY WIRE               |  |                           |
| ⊕ HANDICAP PARKING       |  |                           |

**DEED RESTRICTION DESCRIPTION**

ALL THAT TRACT OR PARCEL OF LAND SITUATE, IN THE TOWN OF TONAWANDA, COUNTY OF ERIE, AND STATE OF NEW YORK, BEING PART OF LOTS NUMBERS 30 AND 35, TOWNSHIP 12, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WESTERLY LINE OF COLVIN BOULEVARD (125 FEET WIDE) DISTANT 1154 FEET NORTHERLY FROM ITS INTERSECTION WITH THE NORTHERLY LINE OF BRIGHTON ROAD (49.5 FEET WIDE); THENCE N.01°21'38"E. ALONG THE WESTERLY LINE OF COLVIN BOULEVARD, A DISTANCE OF 368.44 FEET TO AN ANGLE THEREIN; THENCE N.09°51'24"E. CONTINUING ALONG THE WESTERLY LINE OF COLVIN BOULEVARD A DISTANCE OF 276.46 FEET TO ITS INTERSECTION WITH THE EASTERLY EXTENSION IN A STRAIGHT LINE OF THE SOUTHERLY LINE OF LANDS SHOWN ON A MAP ENTITLED "COLVIN HEIGHTS SUBDIVISION PART 2" FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER COVER NUMBER 1312; THENCE S.89°21'58"W. ALONG THE SOUTHERLY LINE OF LANDS SO SHOWN ON A MAP FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER COVER NUMBER 1312 AND ITS EXTENSION EASTERLY AND WESTERLY IN A STRAIGHT LINE A DISTANCE OF 852.86 FEET TO A POINT IN THE EASTERLY LINE OF LANDS CONVEYED TO BLUE ANGELS PROPERTIES LLC AS RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11013 OF DEEDS AT PAGE 730; THENCE S.00°45'54"E. ALONG SAID EASTERLY LINE OF BLUE ANGELS PROPERTIES LLC A DISTANCE OF 612.61 FEET TO A POINT IN THE NORTHERLY LINE OF LANDS CONVEYED TO BLUE ANGELS PROPERTIES LLC AS RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11443 OF DEEDS AT PAGE 1851; THENCE S.88°38'22"E. ALONG THE NORTHERLY LINE OF SAID LANDS CONVEYED TO BLUE ANGELS PROPERTIES LLC AND THE NORTHERLY LINE OF LANDS CONVEYED TO I-290 COLVIN ASSOC. LLC A DISTANCE OF 788.78 FEET TO THE POINT OF BEGINNING, CONTAINING 11.536 ACRES MORE OR LESS.

**CERTIFICATION**

I HEREBY CERTIFY TO THE PEOPLE OF THE STATE OF NEW YORK ACTING THROUGH ITS COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE CURRENT CODE OF PRACTICE FOR LAND SURVEYS ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS AND AS AMENDED BY THE NIAGARA FRONTIER LAND SURVEYORS ASSOCIATION. THIS CERTIFICATION DOES NOT EXTEND TO SUBSEQUENT OWNERS, MORTGAGES, OR TITLE INSURERS, UNLESS THIS SURVEY HAS BEEN RESERVED FOR THIS PURPOSE BY THE SURVEYOR.

GREGG WITLUFF, PLS  
REGISTRATION NO.050193



THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN UP-TO-DATE ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

0 50 75 100 150 200  
SCALE: 1"=50'  
GRAPHIC SCALE IN FEET

TOWN OF TONAWANDA  
COUNTY OF ERIE, STATE OF NEW YORK  
PART OF LOT 35, TOWNSHIP 12, RANGE 8  
HOLLAND LAND COMPANY'S SURVEY  
2122 COLVIN BLVD.  
N.Y.S.D.E.C. VCP SITE NO.V00334-9

1 OF 1  
DRAWING SCALE: 1"=50'  
SURVEY FILE: D101351-04  
WSA PROJECT NO. 01351

**WM SCHUTT ASSOCIATES**  
37 CENTRAL AVE.  
LANCASTER, NY 14086-2143  
PH. 716-683-5961  
FAX 716-683-0169  
WWW.WMSCHUTT.COM

DESIGNED BY: JAL/FWN  
DRAWN BY: JAL/FWN  
CHECKED BY: GCW  
DATE: 05/06/10

WARNING: THIS DOCUMENT IS IN VIOLATION OF THE LAW EXCEPT AS PROVIDED IN SECTION 13-100 OF THE LAND SURVEYORS' EDUCATION LAW. © COPYRIGHT 2013 WM. SCHUTT & ASSOCIATES P.C.

DATE	DESCRIPTION