

## THORP, REED &amp; ARMSTRONG

ONE RIVERFRONT CENTER

PITTSBURGH, PENNSYLVANIA 15222

TELEPHONE (412) 394-7771 CABLE THORREED, PITTSBURGH

TELECOPIER (412) 394-2555/2350 TWX 710-664-4290

WRITER'S DIRECT DIAL 412-394-2373

July 20, 1989

FEDERAL EXPRESS

Ms. Christine E. Chulick (3HW12)  
U.S. Environmental Protection Agency  
Region III  
PA CERCLA Remedial Enforcement Section  
841 Chestnut Building  
Philadelphia, PA 19107

Re: Saegertown Industrial Site  
Crawford County, Pennsylvania

Dear Ms. Chulick:

This office represents Flowline Corporation ("Flowline") with respect to the activities of the Environmental Protection Agency ("EPA") at the Saegertown Industrial Site (the "Site"). By letter dated May 25, 1989 from Stephen R. Wassersug, EPA notified Flowline that EPA considered Flowline to be a Potentially Responsible Party ("PRP") for the presence of hazardous substances at the Site. Flowline was represented by myself and Anthony Bartley, Treasurer of Flowline, at EPA's pre-RI/FS scoping meeting held on July 7, 1989 in Meadville, Pennsylvania. Mr. Bartley and I attended the July 7 meeting principally to obtain information regarding EPA's determination that Flowline is a PRP.

Based upon Flowline's understanding of EPA's determination, and our review of the case law interpreting the liability provisions of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, 42 U.S.C. § 6901 et seq., Flowline hereby requests that EPA remove Flowline's name from the list of PRPs at the Site.

Flowline believes that the only possible basis for EPA's designation of Flowline as a PRP is Flowline's ownership from January 8, 1971 to August 5, 1976 of a 31.79 acre parcel of real estate (the "Property") located at the Site. This understanding is based in part upon Flowline's review of the Potentially Responsible Party Search dated May 21, 1987 prepared for EPA by Resource Applications, Inc. For the reasons set forth below, the mere fact that Flowline is in the chain of title to the Property is not a sufficient basis to find that Flowline is a PRP.

AR201194

Ms. Christine E. Chulick  
July 20, 1989  
Page 2

Flowline purchased the Property on January 8, 1971 from the Meadville Area Industrial Commission ("MAIC"). MAIC had purchased the Property on December 28, 1970 from General American Transportation Corporation ("GATX"). Flowline subsequently sold the Property to Clair J. Ferry and James Rodgers d/b/a F & R Bus Lines on August 5, 1976. Copies of the deeds evidencing these transactions are attached as exhibits to the Affidavit of Roger S. Brown, Jr., President and Chief Executive Officer of Flowline, (the "Brown Affidavit"), which is attached hereto.

At the time of Flowline's purchase from MAIC, no structures existed on the property. Flowline intended to construct a manufacturing plant on the Property for Badger Expansion Joint Company, now known as Badger Industries, Inc., a 90% owned subsidiary of Flowline. However, Badger instead commenced manufacturing in 1971 at an existing Flowline facility located in Cranberry Township, Butler County, Pennsylvania. Flowline never broke ground at the Property and when Flowline sold the Property to Ferry and Rodgers, it was in the same undeveloped condition as when Flowline purchased the Property from MAIC. See the Brown Affidavit.

We assume that EPA's characterization of Flowline as a PRP is based upon EPA's belief that Flowline may be liable under Section 107 of CERCLA, 42 U.S.C. § 9607. Section 107(a) of CERCLA sets out four categories of covered persons who may be liable for the release of a hazardous substance:

- (1) the owner and operator of . . . a facility,
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,
- (3) any person who...arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility . . . owned or operated by another party or entity and containing such hazardous substances, and
- (4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities or sites selected by such person. . .

AR201195

Ms. Christine E. Chulick  
July 20, 1989  
Page 3

42 U.S.C. § 9607(a); Artesian Water Co. v. New Castle County, 659 F. Supp. 1269, 1279-80 (D. Del. 1987), aff'd, 851 F.2d 643 (3rd Cir. 1988).

As set forth in the Brown Affidavit attached hereto, during Flowline's ownership of the Property, Flowline did not arrange for the storage, treatment or disposal of hazardous substances on the Property, nor did Flowline authorize any other person to store, treat or dispose of hazardous substances on the Property. Therefore, Flowline would not fall within categories 3 or 4 above. In addition, because it is clear that Flowline is not the current owner of the Property, Flowline also does not fall within category 1 above.

Thus, the only possible category within which Flowline might arguably fall is the second category - former owners or operators. Indeed, the PRP Search suggests that Flowline's prior ownership of the Property is the primary, if not sole, basis for EPA's determination that Flowline is a PRP. However, the language of the statute itself, and the case law interpreting Section 107(a)(2) of CERCLA, provides that a prior owner is liable only if he owned the site in question at the time of disposal of the hazardous substances present at such site.

In Cadillac Fairview/California, Inc. v. Dow Chemical Co., 21 ERC 1108, 14 ELR 20376 (C.D. Cal. 1984), reversed as to other defendants, 840 F.2d 691 (8th Cir. 1988), Cadillac Fairview brought a private action under CERCLA to recover its costs in responding to the presence of hazardous substances on a piece of property which it had purchased. The defendants included Dow Chemical Co. ("Dow") and Shell Oil Co. ("Shell"), who allegedly dumped hazardous substances on the property, and Cabot, Cabot & Forbes Interim Co., Inc. ("Cabot"), the successor corporation to the corporation which sold the property to Cadillac Fairview. Cadillac Fairview alleged that Cabot knew of the presence of the hazardous substances when Cabot's predecessor corporation owned the property and failed to take any removal, remedial or other action to prevent release of such hazardous substances from the property into the environment. By way of comparison, as set forth in the attached Brown Affidavit, Flowline was not aware of the alleged presence of hazardous substances on the Property during the time that Flowline owned the Property.

In a motion to dismiss the complaint for failure to state a claim, Cabot argued that the scope of liability under

AR201196

Ms. Christine E. Chulick  
July 20, 1989  
Page 4

CERCLA was not so broad as to encompass a party who merely owned the property at a previous point in time, who neither deposited nor allowed others to deposit hazardous substances on the property. The U.S. District Court for the Central District of California agreed with Cabot's argument and granted Cabot's motion:

Since this defendant [Cabot] is not alleged to be an owner at any time when the disposals complained of were made, but is alleged to have merely owned the site after such disposal and prior in time to plaintiff's ownership, it cannot be liable under the Act [CERCLA].

21 ERC at 1113. This interpretation of the limited scope of the liability provision in Section 107(a)(2) has also been adopted in the following cases: New York v. Shore Realty Corp., 22 ERC 1625, 1633 (2d Cir. 1985) ([Under Section 107(a)(2)], "[p]rior owners and operators are liable only if they owned or operated the facility 'at the time of disposal of any hazardous substances.'"); United States v. Conservation Chemical Co., 619 F. Supp. 162, 253 (W.D. Mo. 1985) ("[A] past owner of land upon which hazardous wastes have been disposed who neither received nor disposed of the waste while it owned the land is not subject to liability under Section 107 of CERCLA.") (citing Cadillac Fairview); Artesian Water Co. v. New Castle County, 659 F. Supp. 1269, 1280 (D. Del. 1987) ("[S]ubsection (2) [of Section 107(a)] applies to former owners and operators, but only if they owned or operated the facility at the time of hazardous waste disposal"); BCW Associates, Ltd., et al. v. Occidental Chemical Corp., et al., 1988 U.S. Dist. LEXIS 11275 (E.D. Pa. 1988).

Inasmuch as Flowline did not own the property "at the time of disposal of any hazardous substance", Flowline cannot be a liable person under Section 107(a)(2) of CERCLA. Therefore, Flowline requests that EPA delete its name from the list of PRPs at the Saegertown Industrial Site.

I understand from our brief telephone conversation on June 21, 1989 that Andrew Levine is now the EPA attorney assigned to this Site and, accordingly, I am forwarding a copy of this letter to Mr. Levine. In addition, I hereby request that this letter be included as part of the administrative record with respect to the Saegertown Industrial Site.

AR201197

THORP, REED & ARMSTRONG

Ms. Christine E. Chulick  
July 20, 1989  
Page 5

If you have any questions regarding the enclosed,  
please feel free to contact me.

Very truly yours,

*Joseph R. Brendel*

Joseph R. Brendel

JRB/ep

cc: Andrew Levine, Esq.  
Anthony Bartley  
James E. Kane  
Peter G. Veeder, Esq.

AR201198

AFFIDAVIT IN SUPPORT OF FLOWLINE CORPORATION'S  
REQUEST TO BE REMOVED FROM THE LIST OF POTENTIALLY  
RESPONSIBLE PARTIES AT THE SAEGERTOWN INDUSTRIAL SITE

COMMONWEALTH OF PENNSYLVANIA    )  
  )   SS:  
COUNTY OF LAWRENCE                )

Before me, the undersigned officer, a Notary Public in and for said State and County, personally appeared Roger S. Brown, Jr. who acknowledged himself to be President and Chief Executive Officer of Flowline Corporation and who being duly sworn according to law did depose and say that the following factual averments are true and correct to the best of his knowledge, information and belief:

1. By deed dated January 8, 1971, Flowline Corporation ("Flowline") purchased a 31.79 acre parcel of land in the Borough of Saegertown, Crawford County, Pennsylvania (the "Property") from the Meadville Area Industrial Commission ("MAIC"). The deed from MAIC to Flowline, a copy of which is attached hereto as Exhibit "A", was recorded in the Office of the Recorder of Deeds of Crawford County on January 8, 1971 at Deed Book 453, Pages 608-610.

2. MAIC had purchased the Property by deed dated December 28, 1970 from General American Transportation Corporation ("GATX"). The deed from GATX to MAIC, a copy of which is attached hereto as Exhibit "B", was recorded in the Office of the Recorder of Deeds of Crawford County on January 8, 1971 at Deed Book 453, Pages 599-601.

AR201199

3. No structures existed on the Property at the time of the sale from MAIC to Flowline. Flowline purchased the Property with the intent to construct a manufacturing plant for Badger Expansion Joint Company, a newly-established, 90% owned subsidiary of Flowline. Badger Expansion Joint Company changed its name in 1987 to Badger Industries, Inc. (hereinafter referred to as "Badger").

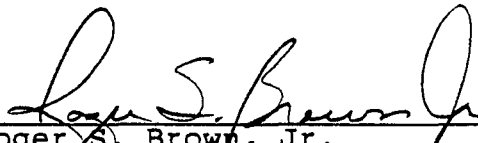
4. Although representatives of Flowline and Badger visited the Property to determine where a manufacturing building could be erected, ground was never broken. Flowline changed its plans and Badger commenced manufacturing at an existing facility owned by Flowline located in Cranberry Township, Butler County, Pennsylvania. Badger operated at the Butler County location from 1971 to 1986, at which time Badger's operations were moved to Zelienople, Butler County, Pennsylvania.

5. By deed dated August 5, 1976, Flowline sold the Property to Clair J. Ferry and James Rodgers, d/b/a F & R Bus Lines ("Ferry and Rodgers"). The deed from Flowline to Ferry and Rodgers, a copy of which is attached hereto as Exhibit "C", was recorded in the Office of the Recorder of Deeds of Crawford County on August 9, 1976 at Deed Book 501, Pages 845-846. At the time of the sale from Flowline to Ferry and Rodgers, the Property was in the same undeveloped condition as when Flowline purchased the Property from MAIC.

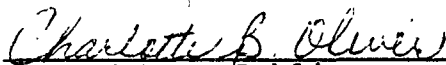
6. During Flowline's ownership of the Property, from January 8, 1971 to August 5, 1976, neither Flowline nor Badger arranged for the storage, disposal or treatment of hazardous substances on the Property. In addition, neither Flowline nor Badger authorized any other person to store, dispose of or treat hazardous substances on the Property. Furthermore, neither Flowline nor Badger arranged for the storage, treatment or disposal of hazardous substances on any other property located within the Saegertown Industrial Site as identified by the U.S. Environmental Protection Agency ("EPA").

7. From the time of Flowline's purchase of the Property from MAIC until the subsequent sale to Ferry and Rodgers, Flowline was not aware of the presence of any hazardous substances on the Property.

Further your deponent saith not.

  
\_\_\_\_\_  
Roger S. Brown, Jr.  
President and Chief Executive  
Officer  
Flowline Corporation

Sworn to and subscribed  
before me this 18<sup>th</sup> day of  
July, 1989.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

NOTARIAL SEAL  
CHARLOTTE B. OLIVER, Notary Public  
Shenango Twp, Lawrence County, PA  
My Commission Expires May 15, 1992



# This Deed,

Made the 8th day of January  
in the year nineteen hundred and seventy-one (1971).

Between MEADVILLE AREA INDUSTRIAL COMMISSION, a Pennsylvania Non-Profit Corporation, Grantor

A  
N  
D

FLOWLINE CORP., a Pennsylvania Corporation with its principal office being at Butler Avenue Extension, New Castle, Pennsylvania, 16103, Grantee.

Witnesseth, That in consideration of Thirty-five Thousand and No/100-----  
----- (\$35,000.00) ----- Dollars,  
in hand paid, the receipt whereof is hereby acknowledged, the said grantor do es hereby  
grant and convey, sell and confirm unto the said grantee its heirs and assigns,

All that certain piece or parcel of land situate in the Borough of Saegertown, Crawford County, Pennsylvania, bounded and described as follows, to-wit:

Beginning at a point on the North line of the Black Top Road leading from Saegertown to Fountain House Corners, said point being One Hundred (100) feet East of the center line of the existing double track of the Erie Railroad Company; thence North Five (5°) degrees Thirty-two (32') minutes East along the Erie Railroad Company Right of Way Seven Hundred and Seventy-one and Eighty one-hundredths (771.80) feet to land formerly of Harold R. Pettit and wife; thence South Eighty-four (84°) degrees Twenty-two (22') minutes Twenty (20") seconds East along the line of said land formerly of Pettit Sixteen Hundred Sixty and Twenty-five one-hundredths (1660.25) feet to a stake; thence South Two (2°) degrees Fifty-three (53') minutes Twenty (20") seconds East along other land formerly of Nola M. Bell Fanning Eight Hundred Twenty-two and Fifteen one-hundredths (822.15) feet to a stake in line of land of the County of Crawford; thence North Eighty-three (83°) degrees Fifty-four (54') minutes Forty (40") seconds West along said land of County of Crawford Five Hundred and Seventy-five (575) feet to a point in the North line of the aforesaid Black Top Road; thence North Seventy-three (73°) degrees Twenty-four (24') minutes Forty (40") seconds West along the North line of said road One Hundred Thirty-five (135) feet to a point; thence continuing along the North line of said road North Eighty-three (83°) degrees Fifty-four (54') minutes Forty (40") seconds West Ten Hundred Sixty-two and Eighty one-hundredths (1062.80) feet to the place of beginning, containing Thirty-one and Seventy-nine one-hundredths (31.79) acres of land, more or less.

Being part of the same land conveyed to the Grantor herein by Deed of General American Transportation Corporation dated December 28, 1970 and recorded simultaneously herewith.

Subject to a right and privilege agreement to lay, repair and maintain a water line over, across and under that portion of the above described property and subject to all of the terms and conditions of that certain Agreement between General American Transportation Corporation and the Borough of Saegertown, dated November 6, 1961 and recorded in the records of Crawford County simultaneously herewith.

EXHIBIT "A"

AR201202

And the said grantor will Generally Warrant and Forfeet Defend the propert) hereby conveyed.

In Witness whereof, said grantor ha s hereunto set its hand and seal , the day and year first above written.

ATTESTS BY: [Signature] Secretary

MEADVILLE AREA INDUSTRIAL COMMISSION

BY: [Signature] President

[SEAL] [SEAL] [SEAL] [SEAL] [SEAL]

Certificate of Residence

I hereby certify, that the precise residence of the grantee herein is as follows: Butler Avenue Extension, New Castle, Pa. 16103

[Signature] Attorney -- Agent -- for Clerks

Commonwealth of Pennsylvania } County of Crawford } SS:

On this, the day of 19 , before me the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument, and acknowledged that executed the same for the purpose therein contained. IN WITNESS WHEREOF, I have hereunto set my hand and seal.

My Commission Expires

Commonwealth of Pennsylvania } County of } SS:

On this, the day of 19 , before me the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument, and acknowledged that executed the same for the purpose therein contained. IN WITNESS WHEREOF, I have hereunto set my hand and seal.

My Commission Expires

State of }  
County of } SS:

On this, the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me  
the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name \_\_\_\_\_ subscribed to the with-  
in instrument, and acknowledged that he executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and \_\_\_\_\_ seal.

My Commission Expires \_\_\_\_\_

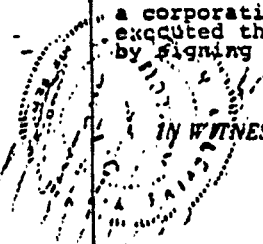
State of PENNSYLVANIA }  
County of CRAWFORD } SS:

On this, the 8th day of January 1971, before me, a Notary Public,  
the undersigned officer, personally appeared R. W. Hunter, who acknowledged  
himself to be the President of MEADVILLE AREA INDUSTRIAL COMMISSION,  
a corporation, and that he, as such President, being authorized so to do,  
executed the foregoing instrument for the purpose therein contained  
by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial seal.

My Commission Expires March 19, 1973

Meadville, Crawford County, Pennsylvania



R 76 Y

**DEED**  
(Short Form)

MEADVILLE AREA INDUSTRIAL  
COMMISSION, Grantor  
A N D

FLOWLINE CORP., Grantee.

DO NOT WRITE IN THIS SPACE

CRAWFORD COUNTY

JAN 3 2 34

REC'D  
NOTARY PUBLIC

Federal Revenue

State Revenue

JOHN V. PEPICELLI  
Attorney at Law  
363 Chestnut Street  
Meadville, Pa. 16335

Commonwealth of Pennsylvania }  
County of Crawford } SS:

Recorded in the Office for Recording of Deeds, in and for said County, in  
Deed Book No. \_\_\_\_\_, Page \_\_\_\_\_

Witness my Hand and Official Seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Recorder of Deeds

BOOK 453 PAGE 599

THIS DEED,

made the Twenty-eighth day of December  
in the year nineteen hundred and seventy.

Between GENERAL AMERICAN TRANSPORTATION CORPORATION, a corporation organized under the laws of the State of New York, and having its principal office in the City of Chicago, Illinois, Party of the First Part, Grantor

A  
N  
D

MEADVILLE AREA INDUSTRIAL COMMISSION, a Pennsylvania Non-Profit Corporation duly organized under the Laws of Pennsylvania, with its principal office at 381 Chestnut Street, Meadville, Crawford County, Pennsylvania, Grantee.

WITNESSETH, That in consideration of Fifty Thousand and No/100 (\$50,000.00) Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey, sell and confirm unto the said Grantee its heirs and assigns, ALL that certain piece or parcel of land situate in the Borough of Saegertown, Crawford County, Pennsylvania, bounded and described as follows, to-wit:

Beginning at a point on the North line of the Black Top Road leading from Saegertown to Fountain House Corners, said point being One Hundred (100) feet East of the center line of the existing double track of the Erie Railroad Company; thence North Five (5°) degrees Thirty-two (32') minutes East along the Erie Railroad Company Right of Way Seven Hundred and Seventy-one and Eighty one-hundredths (771.80) feet to land formerly of Harold R. Pettit and wife; thence South Eighty-four (84°) degrees Twenty-two (22') minutes Twenty (20") seconds East along the line of said land formerly of Pettit Sixteen Hundred Sixty and Twenty-five one-hundredths (1660.25) feet to a stake; thence South Two (2°) degrees Fifty-three (53') minutes Twenty (20") seconds East along other land formerly of Nola M. Bell Fanning Eight Hundred Twenty-two and Fifteen one-hundredths (822.15) feet to a stake in line of land of the County of Crawford; thence North Eighty-three (83°) degrees Fifty-four (54') minutes Forty (40") seconds West along said land of County of Crawford Five Hundred and Seventy-five (575) feet to a point in the North line of the aforesaid Black Top Road; thence North Seventy-three (73°) degrees Twenty-four (24') minutes Forty (40") seconds West along the North line of said road One Hundred Thirty-five (135) feet to a point; thence continuing along the North line of said road North Eighty-three (83°) degrees Fifty-four (54') minutes Forty (40") seconds West Ten Hundred Sixty-two and Eighty one-hundredths (1062.80)

EXHIBIT "B"

AR201205

feet to the place of beginning, containing Thirty-one and Seventy-nine one-hundredths (31.79) acres of land, more or less. / Being the same land conveyed to the Party of the First Part by Deed of Nola M. Bell Fanning, dated October 25, 1949 and recorded in Crawford County Deed Book 353, Page 28.

ALSO ALL that certain piece or parcel of land situate in the Borough of Saegertown, Crawford County, Pennsylvania, bounded and described as follows, to-wit:

Beginning at a point in the South line of Erie Street, said point being One Hundred (100) feet East of the center line of the existing double track of the Erie Railroad Company; thence South Eighty-four (84°) degrees Thirty (30') minutes East along the South line of Erie Street Fourteen Hundred and Six and Two-tenths (1406.2) feet to a stake in the South line of said street; thence South Ten (10°) degrees Forty-four (44') minutes Twenty (20") seconds West along other land formerly of Harold R. Pettit, et ux, Two Hundred and Forty (240) feet to a stake; thence continuing South Nineteen (19°) degrees Fifty-one (51') minutes Twenty (20") seconds East along other land formerly of Pettit Six Hundred Thirty-two and Eighty-two one-hundredths (632.82) feet to a stake in the North line of land formerly of Nola Fanning; thence North Eighty-four (84°) Degrees Twenty-two (22') minutes Twenty (20") seconds West along said land formerly of Fanning Sixteen Hundred Sixty and Twenty-five one-hundredths (1660.25) feet to the East line of the Erie Railroad Company's Right of Way; thence North Five (5°) degrees Thirty-two (32') minutes East along the said Right of Way Eight Hundred Two and Ninety-one one-hundredths (802.91) feet to the place of beginning, containing Twenty-three and Fifty-three one-hundredths (23.53) acres of land, more or less. Being the same land conveyed to Party of the First Part by Harold R. Pettit, et ux, by Deed dated October 25, 1949 and recorded in Crawford County Deed Book 353, Page 29.

Both parcels above described are conveyed subject to the following:

(1) Right and privilege agreement for gas meter, gas regulator and lines as fully set forth in Agreement between the Grantor herein and United Natural Gas Company dated January 2, 1962 and recorded in Crawford County Agreement Book 47, Page 424 on April 6, 1962.

(2) Right of way for a light, heat and power line as fully set forth in Agreement dated August 21, 1950 conveying rights from Grantor herein to H. D. Carpenter.

(3) Right of way for an electric line as fully set forth in Agreement dated August 4, 1964 conveying rights from Grantor herein to Pennsylvania Electric Company.

(4) Right and privilege agreement for one guy anchor as fully set forth in Agreement dated April 25, 1962 between the Grantor herein and Pennsylvania Electric Company.

(5) Right and privilege for a water line as fully set forth in Agreement dated November 6, 1961 conveying rights from Grantor herein to the Borough of Saegertown, Crawford County, Pennsylvania.

(6) All rights or claims of parties in possession.

(7) All roads, public or private, in any way affecting either or both parcels.

(8) Right of way of the Erie Railroad adjoining parcels on the West (refers to cuts, fills, drains and slopes).

And the said Grantor will generally Warrant and Forever Defend the property hereby conveyed

In Witness Whereof, said Grantor has hereunto set its hand and seal, the day and year first above written.

GENERAL AMERICAN TRANSPORTATION CORPORATION

By Jack I. Levy  
Vice President

ATTEST:  
Allen Lewis  
Assistant Secretary

Certificate of Residence

I hereby certify, that the precise residence of the Grantee herein is as follows:

381 Chestnut Street, Meadville, Pennsylvania 16335

John G. Zell

STATE OF ILLINOIS )  
                              ) SS:  
COUNTY OF C O O K )

On this, the 28<sup>th</sup> day of December, 1970, before me, a Notary Public, the undersigned officer, personally appeared JACK I. LEVY, who acknowledged himself to be a Vice President of GENERAL AMERICAN TRANSPORTATION CORPORATION, a corporation, and that he, as such Vice President being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Raymond L. Galt

AR201207

# Gift Indenture Made the

5 day of August in the year of our Lord one thousand nine hundred and seventy-six.

Between FLOWLINE CORP., a Pennsylvania Corporation, with its principal office being at Butler Avenue Extension, New Castle, Pennsylvania, 16103, GRANTOR

A N D

CLAIR J. FERRY and JAMES RODGERS, d/b/s F & R BUS LINES of Saegertown, Crawford County, Pennsylvania, Parties of the Second Part, GRANTEES

Witnesseth, That the said party of the first part, for and in consideration of the sum of Fifty Thousand and no/100-----(\$50,000.00)-----

lawful money of the United States of America, unto the party of the first part, well and truly paid by the said party of the second part, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released and confirmed, and by these presents does grant, bargain, sell, release and confirm unto the said party of the second part, its, his, her or their heirs, executors, administrators, successors and assigns, all that certain piece or parcel of land situate in the Borough of Saegertown, Crawford County, Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at a point on the North line of the Black Top Road leading from Saegertown to Fountain House Corners, said point being One Hundred (100) feet East of the center line of the existing double track of the Erie Railroad Company; thence North five (5°) degrees thirty two (32') minutes East along the Erie Railroad Company Right of Way seven hundred and seventy-one and eighty one hundredths (771.80) feet to land formerly of Harold R. Pettit and wife; thence South eighty-four (84°) degrees twenty-two (22') minutes twenty (20") seconds East along the line of said land formerly of Pettit sixteen hundred sixty and twenty five one hundredths (1660.25) feet to a stake; thence South two (2°) degrees fifty-three (53') minutes twenty (20") seconds East along other land formerly of Nola M. Bell Fanning eight hundred twenty-two and fifteen one hundredths (822.15) feet to a stake in line of land of the County of Crawford; thence North eighty three (83°) degrees fifty-four (54') minutes forty(40") seconds West along said land of County of Crawford five hundred and seventy-five (575) feet to a point in the North line of the aforesaid Black Top Road; thence North seventy-three (73°) degrees twenty-four (24') minutes forty (40") seconds West along the North line of said road one hundred thirty-five (135) feet to a point; thence continuing along the north line of said road North eighty-three (83°) degrees fifty-four (54') minutes forty (40") seconds West ten hundred sixty-two and eighty one hundredths (1062.80) feet to the place of BEGINNING. CONTAINING thirty one and seventy-nine one hundredths (31.79) acres of land, more or less.

Subject to a right and privilege agreement to lay, repair and maintain a water line over, across and under that portion of the above described property and subject to all of the terms and conditions of that certain agreement between General American Transportation Corporation and the Borough of Saegertown, dated November 6, 1961, and recorded in the records of Crawford County.

BEING and intended to be the same land conveyed to the GRANTOR herein by deed of Meadville Area Industrial Commission, a Pennsylvania non-profit corporation, dated January 8, 1971, and recorded in Crawford County Deed Book 453, page 608.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF REVENUE  
REALTY TRANSFER TAX 406-172  
500.00  
RECEIVED

EXHIBIT "C"

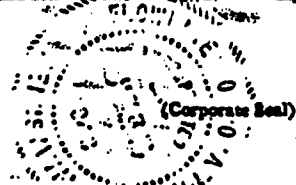
AR201208

Together with all and singular the improvements, ways, streets, alleys, passages, waters, watercourses, rights, liberties, privileges, hereditaments and appurtenances whatsoever, thereunto belonging, or in any wise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever, of the party of the first part, in law, equity, or otherwise howsoever, of, in, and to the same and every part thereof,

To Have and to Hold the said lot or piece of ground above described with the message or tenement thereon erected unto the said party of the second part, its, his, her or their heirs, executors, administrators, successors and assigns forever.

AND the said party of the first part hereby does and will warrant Generally the property hereby conveyed.

In Witness Whereof, the said party of the first part has hereunto caused its corporate seal to be affixed, and attested this 5th day of August A.D. one thousand nine hundred and seventy-six



FLOWLINE CORPORATION

By A. W. Beatty President  
Attest: [Signature] Secretary

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF LAWRENCE

} ss.

On this, the 5th day of August, 1976, before me a Notary Public, the undersigned officer, personally appeared A. W. Beatty, who acknowledged himself to be the President of Flowline Corporation, a corporation,

and that he as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

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



James R. McLean  
Notary Public  
My Commission Expires March 31, 1977  
George Twp. Lawrence County, Pa.

I, R. CHARLES THOMAS, ESQ. hereby certify that the residence of the within named Grantee is: 245 Grant St. Saegertown, Pa. 16433

[Signature]  
ATTY. FOR GRANTEE



Special Notice  
Flow

THORP, REED & ARMSTRONG

ONE RIVERFRONT CENTER

PITTSBURGH, PENNSYLVANIA 15222

TELEPHONE (412) 394-7711 CABLE THORREED, PITTSBURGH

TELECOMPER (412) 394-2555/2350 FAX 70-664-4290

WRITER'S DIRECT DIAL 412-394-2373

August 18, 1989

FEDERAL EXPRESS

Christine E. Chulick (3HW21)  
U.S. Environmental Protection Agency  
Region III  
SE Pennsylvania Remedial Section  
841 Chestnut Building  
Philadelphia, PA 19107

Re: Saegertown Industrial Site  
Crawford County, Pennsylvania

Dear Ms. Chulick:

This letter is in response to Stephen R. Wassersug's "special notice" letter dated August 9, 1989 to Roger Bro Chief Executive Officer of Flowline Corporation ("Flowline Mr. Wassersug's letter invited Flowline to submit a good faith proposal to conduct a Remedial Investigation/Feasibility Study ("RI/FS") at the Saegertown Industrial Site.

Flowline does not presently own or operate a facility at the Site and Flowline did not own or operate a facility at the Site at the time of disposal of any hazardous substance. Although Flowline did own a parcel of real estate at the Site from 1971 to 1976, the mere fact that Flowline is in the chain of title to this property is not a sufficient basis to establish liability under Section 107 of CERCLA.

Flowline's position that it is not a liable party under CERCLA at the Site is set forth in more detail in my letter to you dated July 20, 1989, a copy of which is attached hereto and incorporated herein.

Flowline renews its request that EPA cease to consider Flowline to be a liable party or even a potentially responsible party with respect to the Saegertown Industrial Site.

AR201210

P. REED & ARMSTRONG

Kristine E. Chulick (3HW21)  
August 18, 1989  
Page 2

If you have any questions regarding this matter, please  
feel free to contact me.

Very truly yours,

*Joseph R. Brendel*

Joseph R. Brendel

RB/ep

cc: Cynthia Nadolski, Esq.  
Anthony Bartley  
James E. Kane  
Peter G. Veeder, Esq.

AR201211