

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

\_\_\_\_\_)  
UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CHAINS AND LINKS, INC., )  
WEST GALENA DEVELOPMENT, INC. )  
ESTATE OF LOIS JEAN WIENEN, and )  
CONNIE K. WIENEN, as executor of the )  
Estate of Thomas A. Wienen, )  
 )  
Defendants. )  
\_\_\_\_\_)

Civil Action No. 3:18-cv-50268  
Judge Iain D. Johnston  
Magistrate Judge Lisa A. Jensen

CONSENT DECREE BETWEEN PLAINTIFF THE UNITED STATES AND  
DEFENDANTS WEST GALENA DEVELOPMENT, INC. AND THE ESTATE OF LOIS  
JEAN WIENEN RELATING TO THE  
THE BAUTSCH GRAY MINE SUPERFUND SITE

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## I. BACKGROUND

A. On March 22, 2019, the United States of America (“United States”), on behalf of the Administrator of the U.S. Environmental Protection Agency (“EPA”), filed an Amended Complaint in this matter pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9606 and 9607 (CERCLA), seeking reimbursement of response costs incurred and to be incurred for response actions taken and to be taken in connection with the release or threatened release of hazardous substances at and from a portion of the Bausch Gray Mine Superfund Site located in Jo Daviess County, near Galena, Illinois (“Site”). The portion of the Site at issue in the Amended Complaint is Parcel No. 14-000-026-10 (“Parcel 10”).

B. In its Amended Complaint, the United States sought to recover past response costs relating to Parcel 10 from four defendants: (1) Chains and Links, Inc. (2) Thomas Wienen, (3) West Galena Development, Inc., and (4) the Estate of Lois J. Wienen. In addition, the United States sought civil penalties from the two corporate defendants for the violation of an administrative order issued by EPA with respect to Parcel 10. Finally, with respect to all of the defendants, the United States sought a declaratory judgment on liability for response costs to be incurred in the future in performing the long-term remedial action associated with Parcel 10.

C. On February 1, 2021, the United States lodged with the Court a consent decree resolving claims in the Amended Complaint against two of the four defendants – namely, Chains and Links, Inc. and Thomas Wienen. After public notice and comment (and after substituting the Estate of Thomas A. Wienen as the defendant in this action following the death of Mr. Wienen), the United States moved for entry of the consent decree on May 14, 2021. (Doc. No. 163, hereinafter “C&L Consent Decree”).

D. This Consent Decree pertains to the United States' claims against the two remaining defendants – namely, West Galena Development and the Estate of Lois Jean Wienen (“Settling Defendants”) – and counterclaims asserted by West Galena Development against the United States.

E. None of the parties to this Consent Decree admit any liability arising out of the transactions or occurrences alleged in the pleadings.

F. The United States has reviewed the Financial Information and Insurance Information submitted by Settling Defendants to determine whether they are financially able to pay the response costs incurred and to be incurred in connection with releases at and from Parcel No. 14-000-026-10. Based upon this Financial Information and Insurance Information, the United States has determined that Settling Defendants have a limited financial ability to pay for (1) response costs incurred and to be incurred in connection with releases at and from Parcel No. 14-000-026-10 and (2) civil penalties arising from the violation of an administrative order issued by EPA.

G. The United States and Settling Defendants (“Parties”) agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter without further litigation and without the admission or adjudication of any issue of fact or law is appropriate and will avoid prolonged and complicated litigation among the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED:

## **II. JURISDICTION**

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9606, 9607, and 9613(b) and has personal jurisdiction over Settling Defendants. Solely for the purposes of this Consent Decree and the underlying Amended Complaint, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge entry or the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

## **III. PARTIES BOUND**

2. This Consent Decree is binding upon the United States and upon Settling Defendants and their heirs, successors, assigns and agents. Any change in ownership or corporate or other legal status, including, but not limited to, any Transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent Decree.

## **IV. DEFINITIONS**

3. Unless otherwise expressly provided in this Consent Decree, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in any appendix attached hereto, the following definitions shall apply:

a. "Affected Property" shall mean all real property at the Site owned, in whole or in part, by one or more of the Settling Defendants (including, but not limited to, Parcel 10 located along and to the east of S. Blackjack Road in Jo Daviess County, Illinois, near Galena, Illinois,

as depicted on the map that is attached to this Decree as Appendix A) where EPA determines, at any time, that access or land, water, or other resource use restrictions are needed to implement response actions at the Site.

b. “Bautsch Gray Mine Special Account” shall mean the special account, within the EPA Hazardous Substance Superfund, established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

c. “CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

d. “Consent Decree” shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, this Consent Decree shall control.

e. “Day” or “day” shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next working day.

f. “DOJ” shall mean the U.S. Department of Justice and its successor departments, agencies, or instrumentalities.

g. “Effective Date” shall mean the date upon which the approval of this Consent Decree is recorded on the Court’s docket.

h. “Environmental Covenant” shall have the same meaning as in Paragraph 26.c.

i. “EPA” shall mean the U.S. Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

j. “EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

k. “Financial Information” shall mean those financial documents identified in Appendix B.

l. “C&L Consent Decree” shall mean the Consent Decree with Chains and Links, Inc. and the Estate of Thomas Wiene approved and entered by the Court in this action.

m. “Insurance Information” shall mean those insurance documents identified in Appendix C.

n. “Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

o. “Institutional Controls” shall mean state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices that: (a) limit land, water, or other resource use to minimize the potential for human exposure to Waste Material at or in connection with the Site; (b) limit land, water, or other resource use to implement, ensure non-interference with, or ensure the protectiveness of the Remedy; and/or (c) provide information intended to modify or guide human behavior at or in connection with the Site.

p. “National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

q. “New Owner” shall have the same meaning as defined at Paragraph 31.a.

r. “Other Settling Defendants” shall mean Chains and Links, Inc. and the Estate of Thomas A. Wiene, and the term “Other Settling Defendant” shall mean either Chains and Links, Inc. or the Estate of Thomas A. Wiene.

s. “Settling Owner” shall mean any Settling Defendant or Other Settling Defendant that owns, in whole or in part, any Affected Property.

t. “Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

u. “Parties” shall mean the United States and the Settling Defendants West Galena Development (“WGD”) and the Estate of Lois J. Wiene (“Estate”).

v. “Plaintiff” shall mean the United States.

w. “Prior Encumbrances” shall have the meaning as defined in Paragraph 26.d(1).

x. “Proprietary Controls” shall mean easements or covenants running with the land that (a) limit land, water, or other resource use and/or provide access rights, and (b) are created pursuant to common law or statutory law by an instrument that is recorded in the appropriate land records office.

y. “RCRA” shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

z. “Remedy” shall mean the remedial action, selected by EPA in the Interim Record of Decision signed on April 15, 2020 to address contamination at the Site.

aa. “Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

bb. “Settling Defendants” shall mean WGD and the Estate, and the term “Settling Defendant” shall refer to either WGD or the Estate.



cc. "Site" shall mean the Bautsch-Gray Mine Superfund Site located in the vicinity of South Blackjack Road in Jo Daviess County, Illinois, and generally shown on the map included in Appendix A.

dd. "State" shall mean the State of Illinois.

ee. "Transfer" shall mean to sell, assign, convey, lease, mortgage, or grant a security interest in, or, where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

ff. "United States" shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

gg. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4) any "hazardous material" under 415 Illinois Compiled Statutes ("ILCS") 5/3.215.

## **V. STATEMENT OF PURPOSE**

4. By entering into this Consent Decree, the mutual objective of the Parties is for Settling Defendants to make a cash payment, to implement land use restrictions and other property requirements in Section XII, and to resolve (a) Settling Defendants' alleged civil liability for claims asserted against them in the amended complaint, as provided in the Covenants by the United States in Section VIII, and subject to the Reservations of Rights by the United States in Section IX and (b) the United States' alleged civil liability for claims asserted against it in WGD's counterclaims, as provided by the Covenants by the Settling Defendants in Section X. Settling Defendants' obligations under this Consent Decree are joint and several. In the event of

the insolvency of a Settling Defendant or the failure or inability of the Settling Defendant to perform any requirement of this Consent Decree, the other Settling Defendant shall complete all such requirements.

## VI. PAYMENT OF RESPONSE COSTS

5. **Payment of Response Costs.** Settling Defendants shall pay to EPA the principal amount of \$1,250,000. The payment of this amount shall be made within 30 days after the Effective Date and, if timely paid, shall include no Interest.

6. Settling Defendants shall make payments by Fedwire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice account, in accordance with instructions provided to Settling Defendants by the Financial Litigation Unit (“FLU”) of the U.S. Attorney’s Office for the Northern District of Illinois after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System (“CDCS”) number, which shall be used to identify all payments required to be made in accordance with this Consent Decree. The FLU will provide the payment instructions to:

Robert R. Roth, Esq.  
Vincent, Roth, Toepfer & Leinen, P.C.  
11406 Route 20 West  
P.O. Box 6346  
Galena, IL 61036  
(815)-777-0533  
Email: [RRoth@Galenalaw.net](mailto:RRoth@Galenalaw.net)

on behalf of Settling Defendants. Settling Defendants may change the individual to receive payment instructions on their behalf by providing written notice to DOJ and EPA of such change in accordance with Section XIV (Notices and Submissions).

7. **Deposit of Payment.** The total amount of each payment to be paid pursuant to Paragraph 5 (Payment of Response Costs) and Paragraph 31 (Transfer of Affected Property)

shall be deposited by EPA in the Bautsch Gray Mine Site Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA, at its unreviewable discretion, to the EPA Hazardous Substance Superfund.

8. **Notice of Payment.** At the time of payment under Paragraph 5 or other payments under Paragraphs 10 and 31.c, Settling Defendants shall send notice that payment has been made (a) to EPA in accordance with Section XIV (Notices and Submissions), (b) to DOJ in accordance with Section XIV; and (c) to the EPA Cincinnati Finance Center (CFC) at:

**EPA CFC by email:** cinwd\_acctsreceivable@epa.gov

**EPA CFC by regular mail:** EPA Cincinnati Finance Center  
26 W. Martin Luther King Drive  
Cincinnati, Ohio 45268

Such notice shall reference the CDCS Number, Site/Spill ID Number B5TS, and DJ # 90-11-3-10235.

## **VII. FAILURE TO COMPLY WITH CONSENT DECREE**

9. **Interest on Payments.** If Settling Defendants fail to make the payment required by Paragraph 5 (Payment of Response Costs) by the required due date, Interest shall accrue on the unpaid balance from the Effective Date through the date of payment. If Settling Defendants fail to make the payment required by Paragraph 31 (Transfer of Affected Property) by the required due date, Interest shall continue to accrue on the unpaid balance from the date payment was due through the date of payment.

### **10. Stipulated Penalty**

a. If any amounts due to EPA under Paragraph 5 (Payment of Response Costs) are not paid by the required date, Settling Defendants shall be in violation of this Consent

Decree and shall pay, as a stipulated penalty, in addition to the Interest required by Paragraph 9 (Interest on Payments), \$100 per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days after the date of the demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall be identified as “stipulated penalties” and shall be made by Fedwire EFT to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read “D 68010727  
Environmental Protection Agency”

Each payment shall reference the CDCS Number, Site/Spill ID Number B5TS, and DJ Number 90-11-3-10235.

c. At the time of payment, Settling Defendants shall send notice that payment has been made to EPA and DOJ in accordance with Paragraph 8 (Notice of Payment).

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendants of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment or performance is due or the day a violation occurs, and shall continue to accrue through the date of payment or the final day of correction of the noncompliance or completion of the activity.

Nothing in this Consent Decree shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

11. If the United States brings an action to enforce this Consent Decree, Settling Defendants shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

12. Payments made under this Section shall be in addition to any other remedies or sanctions available to the United States by virtue of Settling Defendants' failure to comply with the requirements of this Consent Decree.

13. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendants from payment as required by Section VI (Payment of Response Costs) or from performance of any other requirements of this Consent Decree.

#### **VIII. COVENANTS BY PLAINTIFF**

14. Except as specifically provided in Section IX (Reservation of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), regarding the Site. With respect to present and future liability, these covenants shall take effect upon the Effective Date. These covenants are conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree, including but not limited to payment of all amounts due under Section VI (Payment of Response Costs), and any Interest or stipulated penalties due thereon under Section VII (Failure to Comply with Consent Decree). These covenants are also conditioned upon the veracity and completeness of the Financial Information and the Insurance Information provided to EPA by Settling Defendants and the

financial, insurance, and indemnity certification made by Settling Defendants in Paragraph 35. These covenants extend only to Settling Defendants and do not extend to any other person.

**IX. RESERVATION OF RIGHTS BY UNITED STATES**

15. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within Paragraph 14 (Covenants by Plaintiff). Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants with respect to:

- a. liability for failure of Settling Defendants to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- d. liability based on the ownership or operation of the Site by Settling Defendants when such ownership or operation commences after signature of this Consent Decree by Settling Defendants;
- e. liability based on Settling Defendants' transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of a hazardous substance or a solid waste at or in connection with the Site, after signature of this Consent Decree by Settling Defendants; and
- f. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site.

16. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to reinstitute or reopen this

action, or to commence a new action seeking relief other than as provided in this Consent Decree, if the Financial Information or the Insurance Information provided by Settling Defendants, or the financial, insurance, or indemnity certification made by Settling Defendants in Paragraph 35, is false or, in any material respect, inaccurate.

**X. COVENANTS BY SETTLING DEFENDANTS**

17. Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States or its contractors or employees, with respect to the Site and this Consent Decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Illinois Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law;

c. any claim pursuant to Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law, relating to the Site, or

d. any claim arising out of the transactions and occurrences alleged in WGD's counterclaims (Dkt. No. 61), including any claim under the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, the Declaratory Judgement Act, 28 U.S.C. §§ 2201 – 2202, the Tucker Act, 28 U.S.C. §§ 1346 and 1491, the United States Constitution, or Illinois state law.

18. Except as provided in Paragraph 20 (claims against other PRPs) and Paragraph 25 (res judicata and other defenses), these covenants shall not apply in the event the United States brings a cause of action or issues an order pursuant to any of the reservations set forth in Section IX (Reservations of Rights by United States), other than in Paragraph 15.a (liability for failure to meet a requirement of the Consent Decree) or 15.b (criminal liability), but only to the extent that Settling Defendants' claims arise from the same response action or response costs that the United States is seeking pursuant to the applicable reservation.

19. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

20. Settling Defendants agree not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) and 113 of CERCLA) that they may have for response costs against each other or any other person who is a potentially responsible party under CERCLA at the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that a Settling Defendant may have against any person if such person asserts a claim or cause of action relating to the Site against such Settling Defendant.

#### **XI. EFFECT OF SETTLEMENT/CONTRIBUTION**

21. Except as provided in Paragraph 20 (claims against other PRPs), nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Except as provided in Section X (Covenants by Settling Defendants), each of the Parties expressly reserves any and all rights (including, but not limited to, under Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and



causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Consent Decree diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

22. The Parties agree, and by entering this Consent Decree this Court finds, that this settlement constitutes a judicially-approved settlement pursuant to which Settling Defendants have, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this Consent Decree. The “matters addressed” in this Consent Decree are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States or any other person, except for the State; provided, however, that if the United States exercises rights under the reservations in Section IX (Reservations of Rights by United States), other than in Paragraphs 15.a (liability for failure to meet a requirement of Consent Decree) or 15.b (criminal liability), the “matters addressed” in this Consent Decree will no longer include those response costs or response actions that are within the scope of the exercised reservation.

23. The Parties further agree, and by entering this Consent Decree this Court finds, that the complaint and amended complaint filed by the United States in this action are a civil action within the meaning of Section 113(f)(1) of CERCLA, 42 U.S.C. § 9613(f)(1), and that this Consent Decree constitutes a judicially-approved settlement pursuant to which Settling

Defendants have, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

24. Settling Defendants shall, with respect to any suit or claim brought by them for matters related to this Consent Decree, notify EPA and DOJ in writing no later than 60 days prior to the initiation of such suit or claim. Settling Defendants also shall, with respect to any suit or claim brought against them for matters related to this Consent Decree, notify EPA and DOJ in writing within 10 days after service of the complaint or claim upon it. In addition, Settling Defendants shall notify EPA and DOJ within 10 days after service or receipt of any Motion for Summary Judgment, and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

25. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by Plaintiff set forth in Section VIII.

## **XII. PROPERTY REQUIREMENTS**

26. **Proprietary Controls.** With respect to the Affected Property, Settling Defendants shall execute and record, in accordance with the procedures of Paragraph 26, Proprietary Controls that: (i) grant a right of access to conduct those activities listed in Paragraph 26.a, and (ii) grant the right to enforce the land, water, or other resource use restrictions set forth in Paragraph 26.b. Settling Defendants shall also use “best efforts” (in accordance with

Paragraph 28, below) to assist the Other Settling Defendants in fulfilling their obligations under Paragraph 26 of the C&L Consent Decree. To the extent that Settling Defendants' obligations under this Paragraph 26 overlap with the Other Settling Defendants' obligations under Paragraph 26 of the C&L Consent Decree, Settling Defendants may satisfy their obligations under this Paragraph 26 by assisting the Other Settling Defendants in satisfying the requirements of Paragraph 26 of the C&L Consent Decree so long as a single Environmental Covenant is executed and recorded by all Settling Owners for each Affected Property that they jointly own.

a. **Access Requirements.** The following is a list of activities for which access is required regarding the Affected Property:

- (1) Performing the remedial action set forth in the Interim Record of Decision issued by EPA in April 2020;
- (2) Verifying any data or information submitted to the United States or the State;
- (3) Conducting investigations regarding contamination at or near the Site;
- (4) Obtaining samples;
- (5) Assessing the need for, planning, or implementing additional response actions at or near the Site;
- (6) Determining whether the Affected Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted under the Consent Decree;
- (7) Assessing Settling Defendants' compliance with the Consent Decree;

(8) Implementing, monitoring, maintaining, reporting on, and enforcing any Institutional Controls; and

(9) As otherwise provided in the form of Environmental Covenant attached hereto as Appendix D.

b. **Activity and Use Limitations** The following is a list of land, water, or other resource use restrictions applicable to the Affected Property:

(1) **Restricted land use:** All uses of the Affected Property are prohibited except those compatible with industrial land use. Examples of land uses that are prohibited include: residential uses; occupancy on a 24-hour basis; and uses to house, educate or provide care for children, the elderly, the infirm, or other sensitive subpopulations.

(2) **Restricted groundwater use:** Except as required as part of an EPA or Illinois EPA approved response activity, construction of wells and activities that extract, consume, or otherwise use any ground water are prohibited on the Affected Property. For purposes of this restriction, “ground water” shall have the meaning as in Section 101(12) of CERCLA.

(3) **No interference with hazardous waste cap:** Except as provided in a plan approved in writing by EPA and Illinois EPA, activities that interfere with the hazardous waste cap constructed as part of the Remedy are prohibited, including but not limited to the activities set forth in subparagraphs (i) – (iii), below. Appendix E shows the proposed design of the cap set forth in the IROD, but the final boundaries of the cap may change during the remedial design process.

(i) Any excavation or other intrusive activity that could affect the integrity of the cap that has been placed over the mine tailings pile located on the Affected Property;

(ii) Any disturbance of the mine tailings, other waste, or contaminated soil underneath the cap; and/or

(iii) Any interference with or covering of the “capped iron (set)” permanent markers or engineered cap delineation posts currently placed at the Site or that may be placed there in the future.

(4) **No interference with Remedy:** There shall be no use of, or activity at the Affected Property that could interfere with or adversely affect the integrity or protectiveness of the Remedy or the operation, maintenance, or monitoring of any Remedy component, including, but not limited to any cap system, soil cover, vegetative cover, erosion protection features, storm water management system, leachate collection system, any other component of the containment system, or the function of the monitoring systems, including but not limited to the monitoring wells, or the on-going ground water monitoring.

(5) Owners shall comply with the O&M Plan and Worker Safety and Notice Requirements set forth in the form of Environmental Covenant attached hereto as Appendix D.

c. **Grantees/holders.** Settling Defendants shall cause WGD to enter into Proprietary Controls in the nature of a Uniform Environmental Covenants Act (765 ILCS 122/1 *et seq.*) (UECA) Environmental Covenant (“Environmental Covenant”) that shall substantially comport with the form attached hereto as Appendix D. The Proprietary Controls must be granted

to one or more of the following persons and their representatives, as determined by EPA: the United States, Illinois EPA, or other appropriate grantees. Proprietary Controls granted to persons other than the United States must include a designation that EPA (and/or Illinois EPA as appropriate) is an either an “agency” or party expressly granted the right of access and the right to enforce the covenants allowing EPA (and/or the Illinois EPA) to maintain the right to enforce the Proprietary Controls without acquiring an interest in real property.

d. **Initial Title Evidence.** Settling Defendants shall, within forty-five (45) days after the Effective Date:

(1) **Record Title Evidence.** Submit to EPA a title insurance commitment or other title evidence acceptable to EPA that: (i) names the proposed insured or the party in whose favor the title evidence runs, or the party who will hold the real estate interest, or if that party is uncertain, names the United States, the State, the Settling Defendants, “To Be Determined;” (ii) covers the Affected Property that is to be encumbered; (iii) demonstrates that the person(s) or entity(ies) that will execute and record the Proprietary Controls are the owner(s) of such Affected Property; (iv) identifies all record matters that affect title to the Affected Property, including all prior liens, claims, rights (such as easements), mortgages, and other encumbrances (collectively, “Prior Encumbrances”); and (v) includes complete, legible copies of such Prior Encumbrances; and

(2) **Non-Record Title Evidence.** Submit to EPA a report of the results of an investigation, including a physical inspection of the Affected Property, which identifies non-record matters that could affect the title, such as unrecorded leases or encroachments.

e. **Release or Subordination of Prior Liens, Claims, and Encumbrances.**

(1) Settling Defendants shall secure the release, subordination, modification, or relocation of all Prior Encumbrances on the title to the Affected Property revealed by the title evidence or otherwise known to the Settling Defendants, unless EPA waives this requirement as provided under Paragraphs 26.e(1)-(3).

(2) Settling Defendants may, by the deadline under Paragraph 26d, submit an initial request for waiver of the requirements of Paragraph 26.e(1) regarding one or more Prior Encumbrances, on the grounds that such Prior Encumbrances cannot defeat or adversely affect the rights to be granted by the Proprietary Controls and cannot interfere with the Remedy or result in unacceptable exposure to Waste Material.

(3) Settling Defendants may, within ninety days after the Effective Date, or if an initial waiver request has been filed, within forty-five days after EPA's determination on the initial waiver request, submit a final request for a waiver of the requirements of Paragraph 26.e(1) regarding any particular Prior Encumbrance on the grounds that Settling Defendants could not obtain the release, subordination, modification, or relocation of such Prior Encumbrance despite best efforts.

(4) The initial and final waiver requests must include supporting evidence including descriptions of and copies of the Prior Encumbrances and maps showing areas affected by the Prior Encumbrances. The final waiver request also must include evidence of efforts made to secure release, subordination, modification, or relocation of the Prior Encumbrances.

(5) Settling Defendants shall complete their obligations under Paragraph 26.e(1) regarding all Prior Encumbrances: within 180 days after the Effective Date; or

if an initial waiver request has been filed, within 135 days after EPA's determination on the initial waiver request; or if a final waiver request has been filed, within ninety days after EPA's determination on the final waiver request.

f. **Update to Title Evidence and Recording of Proprietary Controls.**

(1) Settling Defendants shall submit to EPA for review and approval, by the deadline specified in Paragraph 26.e(4), all draft Proprietary Controls and draft instruments addressing Prior Encumbrances. As required under Paragraph 26.c, the Proprietary Controls must be in substantially the form attached hereto as Appendix D.

(2) Upon EPA's approval of the proposed Proprietary Controls and instruments addressing Prior Encumbrances, Settling Defendants shall, within fifteen days, update the original title insurance commitment (or other evidence of title acceptable to EPA) under Paragraph 26.d. If the updated title examination indicates that no liens, claims, rights, or encumbrances have been recorded since the effective date of the original commitment (or other title evidence), Settling Defendants shall secure the immediate recordation of the Proprietary Controls and instruments addressing Prior Encumbrances in the appropriate land records office. Otherwise, Settling Defendants shall secure the release, subordination, modification, or relocation under Paragraph 26.e(1), or the waiver under Paragraphs 2626.e(1)-(3), regarding any newly-discovered liens, claims, rights, and encumbrances, prior to recording the Proprietary Controls and instruments addressing Prior Encumbrances.

(3) Settling Defendants shall, within thirty days after recording the Proprietary Controls and instruments addressing Prior Encumbrances, or such other deadline approved by EPA, provide to the United States and to all grantees of the Proprietary Controls: (i) certified copies of the recorded Proprietary Controls and instruments addressing Prior



Encumbrances showing the clerk's recording stamps; and (ii) the title insurance policy(ies) or other approved form of updated title evidence dated as of the date of recording of the Proprietary Controls and instruments.

(4) Settling Defendants shall monitor, maintain and enforce all Proprietary Controls required under this Consent Decree.

(5) Settling Defendants shall not Transfer the Affected Property until they have executed and recorded all Proprietary Controls and instruments addressing Prior Encumbrances regarding the Affected Property in accordance with this Paragraph 26.

g. **Modification of Proprietary Controls:** Settling Defendants shall consent to, sign, and record all amendments of the Proprietary Controls to add land-use restrictions that are determined by EPA or the State to be necessary to protect and/or maintain the Remedy. In the event that the Settling Defendants no longer own the Affected Property at the time that EPA or the State determines the need to add land-use restrictions to the Proprietary Controls, Settling Defendants hereby consent to the Amendment of the Proprietary Controls without need for their signature as provided under 765 ILCS § 122/10.

**27. Agreements Regarding Access and Non-Interference.**

a. With respect to the Affected Property, Settling Defendants shall:

(1) Provide EPA and the State and their representatives, contractors, and subcontractors with access at all reasonable times to such Affected Property to conduct any activity regarding the Consent Decree, including those listed in Paragraph 26.a (Access Requirements); and

(2) Refrain from using such Affected Property in any manner that EPA determines will: (i) pose an unacceptable risk to human health or to the environment due to

exposure to Waste Material, or (ii) interfere with or adversely affect the implementation, integrity, or protectiveness of the Remedy. The restrictions include those listed in Paragraph 26.b (Activity and Use Restrictions).

b. Settling Defendants shall not Transfer the Affected Property in accordance with Paragraph 31, below, without first securing EPA's approval of, and the proposed New Owner's consent to, an agreement that: (i) is enforceable by EPA and the State and (ii) requires the proposed New Owner to provide access to and to refrain from using the Affected Property to the same extent as is provided under Paragraph 27.a.

28. **Best Efforts.** As used in this Section "best efforts" means the efforts that a reasonable person in the position of Settling Defendants would use so as to achieve the goal in a timely manner, including the cost of employing professional assistance and the payment of reasonable sums of money to secure Proprietary Controls, agreements, releases, subordinations, modifications, or relocations of Prior Encumbrances that affect the title to the Affected Property, as applicable. If Settling Defendants are unable to accomplish what is required through "best efforts" in a timely manner, they shall notify the United States and include a description of the steps taken to comply with the requirements. If the United States deems it appropriate, it may assist Settling Defendants or take independent action in obtaining such Proprietary Controls, agreements, releases, subordinations, modifications, or relocations of Prior Encumbrances that affect the title to the Affected Property, as applicable.

29. **Institutional Controls:** On April 15, 2020, EPA signed the Interim Record of Decision ("IROD") for the BGM Site, selecting a remedial action. The IROD requires that Institutional Controls be applied to the Affected Property. Settling Defendants shall cooperate

with EPA's and the State's efforts to secure and ensure compliance with such institutional controls.

30. **Maintenance of the Affected Property:** Until the Affected Property is transferred in accordance with Paragraph 31, below, Settling Defendants shall timely pay or cause to be paid all real property taxes.

31. **Transfer of the Affected Property:** In the event that the Settling Defendants, acting on their own or in conjunction with other Settling Owners, want to Transfer the Affected Property, or any portion thereof, they shall do so in accordance with the following procedures:

a. Settling Defendants may propose to EPA a person or entity who is interested in becoming an owner of the Affected Property or any portion thereof ("New Owner"). In making such a proposal, the Settling Defendants shall identify (i) the New Owner's intended use of the property, (ii) the proposed purchase price to be paid by the New Owner, (iii) the estimated fair market value ("FMV") of the parcel (or parcels) as of the date, if known, that the construction of the Remedy was (or will be) completed, and (iv) any and all affiliations or connections between the New Owner and one or more of the Settling Defendants. In addition, in the event that the Settling Defendants are aware of any facts or circumstances that would support an allegation that the New Owner is potentially liable for contamination at the Site under Section 107 of CERCLA, 42 U.S.C. § 9607, the Settling Defendants shall disclose such facts and circumstances when submitting the proposal to EPA under this subparagraph. The Settling Defendants shall estimate the FMV of the property to be transferred by analyzing the sales price of comparable properties in Jo Davies County, Illinois.

b. EPA, after consultation with the State, may approve or disapprove the proposed Transfer to the New Owner, may approve the Transfer with conditions, or may require

that additional information be provided. EPA may require, among other things, that the Settling Defendants (i) provide a new or revised appraisal as to the FMV value of the property prepared by an appraiser certified to meet the Uniform Standards of Professional Practice by a nationally recognized organization of professional real estate appraisers, and/or (ii) publish notice of the proposed Transfer in a newspaper of general circulation in Jo Davies County soliciting comments and competing offers from the public.

c. Upon receipt of EPA's written approval or conditional approval, and after completion of the requirements in Paragraph 26, Settling Defendants may Transfer the Affected Property, or any portion thereof, in accordance with this paragraph. In the event that the agreement for transfer generates any sale proceeds, and in the event that the sale price reflects the value of the Affected Property after it has been remediated in accordance with the IROD, the Settling Defendants, together with other Settling Owners, shall pay 75% of the net proceeds of the sale to the United States. For the purposes of this Subparagraph 31.c, the term "net proceeds" shall mean any proceeds remaining after the Settling Defendants subtract the reasonable costs incurred in (i) complying with the requirements of Subparagraph 31.b, (ii) advertising the sale of the Affected Property, and (iii) completing the transfer. The net proceeds shall be paid to the United States, in accordance with payment instructions set forth in Paragraphs 6-8, no later than 60 days after the transfer of the Affected Property. Such proceeds shall be deposited by EPA in the Bausch Gray Mine Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund, provided, however, that EPA may, at its discretion, deposit the proceeds directly into the EPA Hazardous Substance Superfund.

d. In the event of any Transfer of the Affected Property, Settling Defendants shall continue to be subject to all terms and conditions of this Consent Decree, unless and until the United States consents otherwise in writing.

**32. Notice to Successors-in-Title**

a. Settling Defendants shall, within 15 days after the Effective Date, submit for EPA approval a notice to be filed regarding the Affected Property in the appropriate land records. The notice must: (1) include a proper legal description of the Affected Property; (2) provide notice to all successors-in-title: (i) that the Affected Property is part of the Bautsch Gray Mine Superfund Site; (ii) that EPA will perform a response action for the Site and (iii) that any proposed Transfer of the Affected Property, or any portion thereof, is subject to approval by EPA, and that EPA may perfect a windfall lien on the property in accordance with Section 107(r) of CERCLA, 42 U.S.C. § 9607(r). Settling Defendants shall record the notice within 10 days after EPA's approval of the notice and submit to EPA, within 10 days thereafter, a certified copy of the recorded notice.

b. Settling Defendants shall, prior to entering into a contract to Transfer the Affected Property or any portion thereof, or 60 days prior to Transferring the Affected Property or any portion thereof, whichever is earlier:

(1) Notify the proposed New Owner that EPA has performed a response action at Parcel 14-000-026-10 which is part of the Bautsch Gray Mine Superfund Site; and

(2) Provide EPA with a copy of the above notice that it provided to the proposed New Owner.

33. In the event of any Transfer of the Affected Property, unless the United States otherwise consents in writing, Settling Defendants shall continue to comply with its obligations under the Consent Decree.

34. Notwithstanding any provision of this Consent Decree, the United States and the State retain all of their access authorities and rights, as well as all of their rights to require Institutional Controls, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.

### **XIII. CERTIFICATIONS**

35. Settling Defendants certify that, to the best of their knowledge and belief, after thorough inquiry, they have:

a. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, documents, or other information (including records, reports, documents and other information in electronic form) (other than identical copies) relating to their potential liability regarding the Site since notification of potential liability by EPA, and that they have fully complied with any and all EPA requests for information regarding the Site and Settling Defendants' financial circumstances, including but not limited to insurance and indemnity information, pursuant to Sections 104(e) and 122(e)(3)(B) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e)(3)(B), Section 3007 of RCRA, 42 U.S.C. § 6927, and state law;

b. submitted to EPA financial information that fairly, accurately, and materially sets forth their financial circumstances, and that those circumstances have not materially changed between the time the financial information was submitted to EPA and the time Settling Defendants execute this Consent Decree; and

c. fully disclosed any information regarding the existence of any insurance policies or indemnity agreements that may cover claims relating to cleanup of the Site, and submitted to EPA upon request such insurance policies, indemnity agreements, and information.

#### **XIV. NOTICES AND SUBMISSIONS**

36. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Except as otherwise provided, notice to a Party by email (if that option is provided below) or by regular mail in accordance with this Section satisfies any notice requirement of the Consent Decree regarding such Party.

**As to DOJ by email:** eescasemanagement.enrd@usdoj.gov

**As to DOJ by regular mail:** EES Case Management Unit  
U.S. Department of Justice  
Environment and Natural Resources Division  
P.O. Box 7611  
Washington, D.C. 20044-7611  
Re: DJ # 90-11-3-10235

**As to EPA:** Thomas Turner  
Assistant Regional Counsel  
U.S. EPA Region 5  
Office of Regional Counsel  
77 West Jackson Blvd.  
(Mail Code C-14J)  
Chicago, IL 60604-3507  
[Thomas.Turner@epa.gov](mailto:Thomas.Turner@epa.gov)  
Re: Superfund Site B5TS

**As to Settling Defendants:** Robert R. Roth, Esq.  
Vincent, Roth, Toepfer & Leinen, P.C.  
11406 Route 20 West  
P.O. Box 6346  
Galena, IL 61036  
(815)-777-0533  
Email: [RRoth@Galenalaw.net](mailto:RRoth@Galenalaw.net)

#### **XV. RETENTION OF JURISDICTION**

37. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

#### **XVI. INTEGRATION/APPENDICES**

38. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached to and incorporated into this Consent Decree:

“Appendix A” is the map of the Site.

“Appendix B” is a list of the financial documents submitted to EPA by Settling Defendants.

“Appendix C” is a list of insurance documents submitted to EPA by Settling Defendants.

“Appendix D” is the form of Environmental Covenant.

“Appendix E” is a map of the Site showing the cap design in the IROD.



## **XVII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

39. This Consent Decree shall be lodged with the Court for a period of at least 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations that indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

40. If for any reason this Court should decline to approve this Consent Decree in the form presented, this Consent Decree is voidable at the sole discretion of any Party and the terms of the Consent Decree may not be used as evidence in any litigation between the Parties.

## **XVIII. SIGNATORIES/SERVICE**

41. Each undersigned representative of Settling Defendants and the Acting Assistant Attorney General of the U.S. Department of Justice, Environment and Natural Resources Division, Environmental Enforcement Section, certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

42. Settling Defendants agree not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.


43. Settling Defendants shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on its behalf with respect to all matters arising under or relating to this Consent Decree. Settling Defendants agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons. The Parties agree that Settling Defendants need not file an

answer to the amended complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

**XIX. FINAL JUDGMENT**

44. Upon entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between the United States and Settling Defendants, including WGD's counterclaims. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS 1st DAY OF OCTOBER, 2021.

  
\_\_\_\_\_  
IAIN D. JOHNSTON  
United States District Judge

Signature Page for Consent Decree Regarding the Bautsch Gray Mine Superfund Site

**FOR THE UNITED STATES OF AMERICA:**

JEAN E. WILLIAMS  
Acting Assistant Attorney General  
U.S. Department of Justice  
Environment and Natural Resources Division  
Environmental Enforcement Section  
P.O. Box 7611  
Washington, D.C. 20044-7611

Date July 22, 2021

**Joseph W.C. Warren**

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JOSEPH W.C. WARREN  
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Environmental Enforcement Section  
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JOHN R. LAUSCH, JR.  
United States Attorney  
Northern District of Illinois

**Monica Mallory**

---

MONICA MALLORY  
Assistant United States Attorney  
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Rockford, IL 61101  
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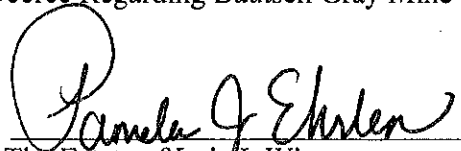
Signature Page for Consent Decree Regarding Bautsch Gray Mine Superfund Site

 Digitally signed by Ballotti,  
Doug  
Date: 2021.07.21  
16:07:21 -05'00'

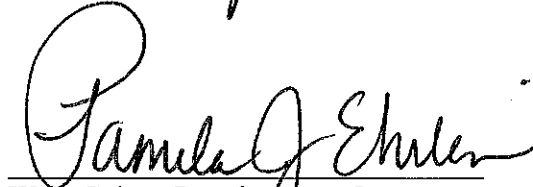
---

DOUGLAS BALLOTTI  
Director, Superfund & Emergency Management Division  
U.S. Environmental Protection Agency  
Region 5  
77 West Jackson Blvd.  
(Mail Code S-6J)  
Chicago, IL 60604-3507

Signature Page for Consent Decree Regarding Bautsch Gray Mine Superfund Site

  
The Estate of Lois J. Wienen

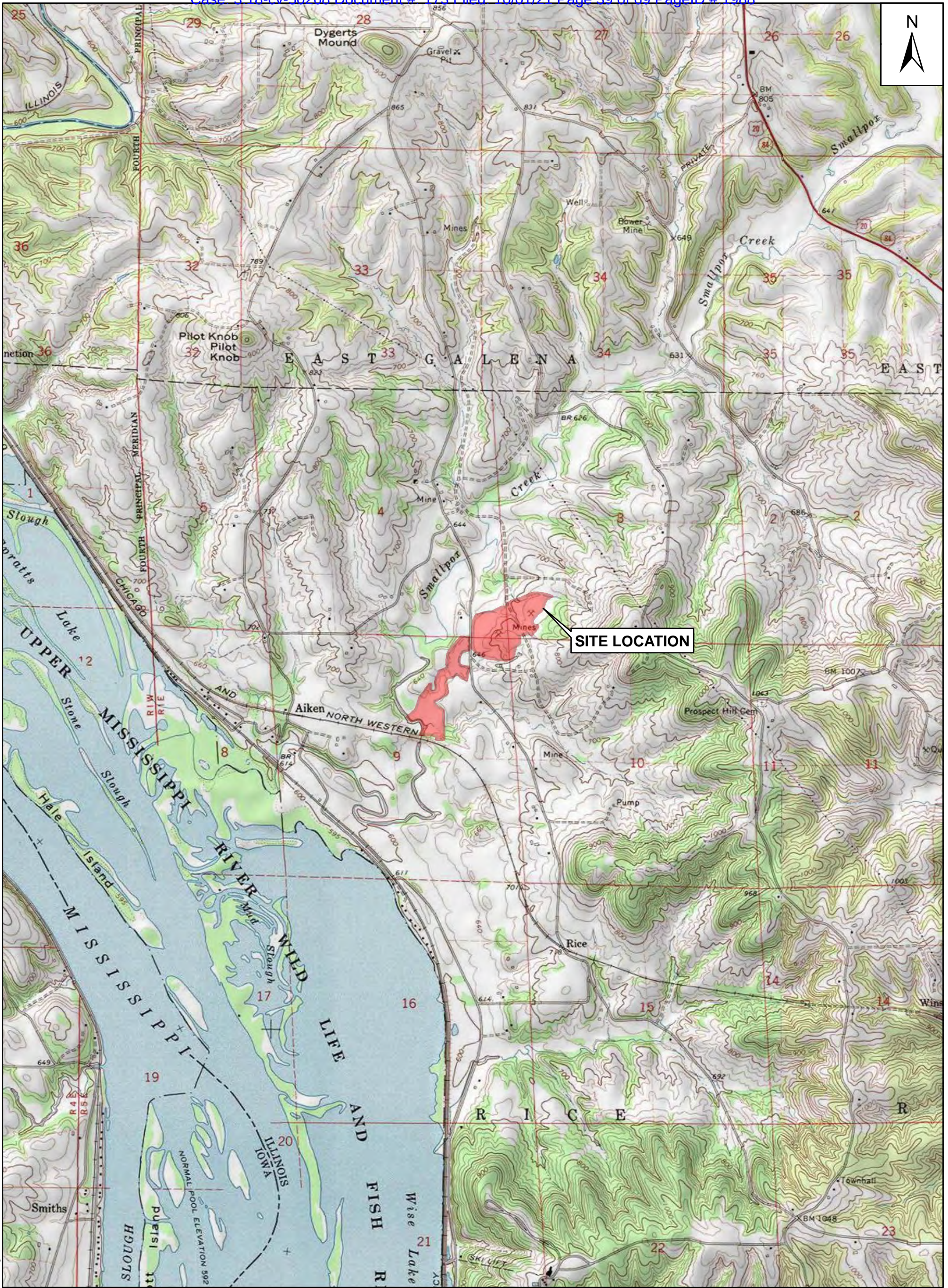
5.25.2021  
Date

  
West Galena Development, Inc.

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name (print): Robert R Roth  
Title: Attorney for WGD + Estate  
Company: Vincent, Roth, Toepfer & Lerner PC  
Address: 11406 RT 20 West PO Box 6346  
Galena Illinois 61036  
Phone: 815 777 0533  
email: rroth@galenalaw.net

# **Appendix A**



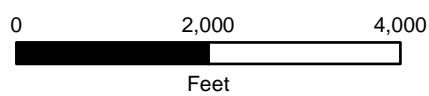
**SITE LOCATION**

REFERENCE MAP



**BAUTSCH-GRAY MINE SITE  
JO DAVIESS COUNTY, ILLINOIS**

**SITE LOCATION MAP**



**APPENDIX B**  
**LIST OF FINANCIAL INFORMATION**  
**SUBMITTED TO EPA BY**  
**SETTLING DEFENDANTS**



1. Letter from Robert Roth, dated July 17, 2020, responding to letter of July 17, 2020 from Joe Warren requesting financial information in support of ability-to-pay claim.

Attachments to letter from Mr. Roth are as follows:

- A. Promissory Note, dated and signed by Lois Jean Wienen on May 28, 2009, relating to loan for property at 11750 West Chetlain Lane in Galena, IL (Attachment A);
  - B. Mortgage with Galena State Bank & Trust, recorded May 29, 2009, relating to property at 11750 West Chetlain Lane in Galena, IL (Attachment B);
  - C. Assignment of mortgage to Dubuque Bank and Trust, dated May 28, 2009 (Attachment C);
  - D. Statement of payments made to Dubuque Bank in connection with mortgage from September 2001 to July 2015 (Attachment D);
  - E. Satisfaction of mortgage, recorded August 22, 2016 (Attachment E);
  - F. Amortization schedule, dated September 11, 2012, relating to purchase of Oldenburg Farm by Pamela and Steve Ehrler, (Attachment G), and
  - G. Summary prepared by O'Connor & Brooks of contract payments made by Pamela and Steve Ehrler relating to Oldenburg Farm (Attachment H).
2. Letter from Robert Roth, dated July 17, 2020, responding to letter of March 5, 2020 from Joe Warren requesting financial information in support of ability-to-pay claim.

Attachments to letter from Mr. Roth are as follows:

- A. Self-Declaration of Trust by Lois-Jean Wienen-Knautz, dated February 4, 2005;
- B. First Amendment, dated October 11, 2013, of Self-Declaration of Trust by Lois Jean Wienen;
- C. Second Amendment, dated December 20, 2013, of Self-Declaration of Trust by Lois Jean Wienen;
- D. Third Amendment, dated July 14, 2015, of Self-Declaration of Trust by Lois Jean Wienen;
- E. Last Will and Testament of Lois Jean Wienen, dated December 20, 2013;
- F. List of real properties owned in whole or in part by West Galena Development, the Estate of Lois Jean Wienen, or the Lois Jean Wienen Trust, revised July 9, 2020 (Attachment B);
  - Appraisal of property at 11750 W. Chetlain Lane in Galena, IL;
  - Appraisal of property at 90 AJ Harle Drive in Galena, IL;
  - Appraisal of property at 11422 Chetlain Lane in Galena, IL;
  - Appraisal of parcel 22-200-141-50 on South West Street in Galena, IL;
  - Appraisal of property at 606 Gear Street in Galena, IL;
  - Appraisal of parcels 22-000-143-00, 22-000-146-00, and 22-000-147-00 on East Cross Road in Galena, IL
  - Appraisal of parcel 22-101-521-00 on Council Fire Circle in Galena, IL;
  - Appraisal of parcel 22-000-116-34 on North Windy Lane in Galena, IL;

- Appraisal of parcels 13-000-043-30 and 031 on Dogleg Ridge in Galena, IL;
  - Appraisal of parcels 13-001-078-42 and -43 adjacent to 90 AJ Harle Drive in Galena, IL;
  - Appraisal of parcel 22-000-146-06 on East Cross Road in Galena, IL;
  - Appraisal of property at 953 Gear Street
  - Appraisal of parcel 14-000-026-10 at the Bautsch Grey Mine Superfund Site in Galena, IL;
  - Lease agreement for 953 Gear Street;
  - WGD Bank statements indicating rent payments for 953 Gear Street (12/31/15-11/1/19);
  - Illinois Bank and Trust summary of accounts/mortgage on 11750 W. Chetlain Lane (7/30/15);
  - Doland Jewelers appraisal for 16 pieces of jewelry;
  - Appraisal for ATV and lawn mowers;
- G. Trustee's Deed from Francis & Dorothy Oldenburg to James & Lois Wienen (1/2 interest) and Tom & Connie Wienen (1/2 interest), dated October 27, 1989, conveying Oldenburg Farm (Attachment C-1-a-i);
- H. Trustee's Deed to Corporation from Thomas Wienen Trust to WGD (1/2 interest) in regards to the Oldenburg property, February 28, 1997 (Attachment C-1-a-ii)
- I. Individual and Corporation Warranty Deed from Lois Jean Wienen (1/2 interest) and West Galena Development (1/2 interest) to Pamela Wills and Steven Ehrler, in regards to the Oldenburg property, dated January 1, 2001, recorded August 28, 2019, (Attachment C-1-a-iii);
- J. Summary of payments made by Pamela Wills and Steven Ehrler on the Oldenburg property, and copies of deposit slips into LJW's personal account (Attachments C-1-b-1 to C-1-b-4);
- K. 2019 Letters from O'Connor & Brooks re: Oldenburg transaction from Lois Jean Wienen to Ehrlers and payments made to Lois Jean Wienen transferred to West Galena Development for tits half interest (Attachments C-1-b-5 to C-1-b-6);
- L. Agreement for Warranty Deed and Corporate Warranty Deed from West Galena Development and Lois Jean Wienen to Pamela and Steven Ehrler, dated January 12, 20001, modified by Addendum dated November 12, 2010, (Attachment C-1-c);
- M. Dispersal Statement prepared by Robert Roth showing final distribution of proceeds on closing date of August 28, 2019, (Attachment C-1-d);
- N. Appraisal for Oldenburg property, August 1, 2000 (Attachment C-1-e)
- O. Bank statement, dated May 5, 2020, for checking account at Illinois Bank & Trust for West Galena Development (Attachment D-1-a);
- P. Bank statement, dated June 14, 2020, for checking account at Illinois Bank & Trust for Lois Jean Wienen Administrative Trust (Attachment D-1-b-i);

- Q. Bank statement, dated May 31, 2020, for checking account at Illinois Bank & Trust for Lois Jean Wiene Trust (Attachment D-1-b-ii);
  - R. Bank statement, dated May 4, 2020, for checking account at Illinois Bank & Trust for Lois Jean Wiene Estate (Attachment D-1-c-1);
  - S. Bank statement, dated April 30, 2020, for checking account at Apple River State Bank for Lois Jean Wiene Estate (Attachment D-1-c-2);
  - T. Brokerage statement, dated May 4, 2020, of LPL Financial for Lois Jean Wiene Estate (Attachment D-1-c-3);
  - U. List of Assets held in US Government bonds as of June 2020 by Lois Jean Wiene Estate (Attachment D-1-c-4);
  - V. Statement, dated May 6, 2020, of securities held by Heartland Financial USA, Inc. for Lois Jean Wiene Estate (Attachment D-1-c-5);
  - W. Valuation, dated May 5, 2020, of holdings by Lois Jean Wiene Estate in Celtic Lodgings LLC (Attachment D-1-c-6);
  - X. Valuation, dated March 30, 2010 of holdings by Lois Jean Wiene in SCI Lodging Group LLC (Attachment D-1-c-7), and
  - Y. Summary of Legal, accountant, and appraisal fees (Attachment E-1).
3. West Galena Development, Inc. – List of Assets and Values, May 15, 2020 (signed, and attested to, by Pamela Ehrler in her capacity as Executor of the Lois Jean Wiene Estate and Trustee of the Lois Jean Wiene Revocable Trust), along with the following attachments:
- A. Illinois Bank & Trust checking account statement, Exh A;
  - B. Aerial map and excerpt of appraisal of US Bank Property (parcel 22-200-068-25), Exh B-1 and B-2;
  - C. Aerial map and appraisal of Gulfview Lots 30 and 31 (parcels 13-000-043-30 and 31), Exh. C-1 and C-2;
  - D. Aerial map and appraisal of property at A.J. Harle Drive in Galena, IL (parcels 13-001-078-42 and -43), Exh D-1 and D-2;
  - E. Aerial map and appraisal of property on East Cross Road in Galena, IL (parcel 22-000-146-06), Exh E-1 and E2, and
  - F. Aerial map and appraisal of parcel 14-000-026-10 at the Bautsch Grey Mine Superfund Site in Galena, IL, Exh F-1 and F-2.
4. Lois Jean Wiene Declaration of Trust – list of Assets and values, May 15, 2020, (signed, and attested to, by Pamela Ehrler in her capacity as Executor of the Lois Jean Wiene Estate and Trustee of the Lois Jean Wiene Revocable Trust), along with the following attachments:
- A. Aerial map and appraisal of Allendorf farm property at 606 Gear Street in Galena, IL (parcel 22-200-141-00), Exh A-1 and A-2;
  - B. Aerial map and appraisal of Turtle Pond properties on East Cross Road (parcels 22-200-143-00 and 22-200-147-00), Exh B-1 and B-2;

- C. Aerial map and appraisal of property at 11422 West Chetlain Lane in Galena, IL (parcel 13-001-084-07), Exh C-1 and C-2, and
  - D. Aerial map and appraisal of properties at 11750 West Chetlain Lane in Galena, IL (parcels 13-001-085-00), Exh C-1, D-1 and D-2.
5. Lois Jean Wienen Estate – List of Assets and Values, May 15, 2020, (signed, and attested to, by Pamela Ehrler in her capacity as Executor of the Lois Jean Wienen Estate and Trustee of the Lois Jean Wienen Revocable Trust), along with the following attachments:
- A. Aerial map and appraisal of Allendorf farm property on South West Street in Galena, IL (parcel 22-200-141-50), Exh A-1 and A-2;
  - B. Aerial map and appraisal of property at 606 Gear Street in Galena, IL (parcels 22-200-141-70 and -80), Exh A-1 and A-3;
  - C. Aerial map and appraisal of Indian Ridge property on Council Fire Circle in Galena, IL (parcel 22-101-521-00), Exh B-1 and B-2;
  - D. Aerial map and appraisal of Windy Lane property on North Windy Lane in Galena, IL (parcel 22-000-116-34), Exh C-1 and C-2;
  - E. Bank statement, dated, 5-4-20, of checking account at Illinois Bank and Trust, Exh. D;
  - F. Bank statement, dated April 30, 2020, of money market account at Apple River State Bank, Exh. E;
  - G. Brokerage statement, dated May 4, 2020, of LPL Financial, Exh F;
  - H. List of Assets held in US Government bonds, Exh G;
  - I. Statement, dated May 6, 2020, of Heartland Financial USA, Inc., Exh H;
  - J. Valuation, dated May 5, 2020, of holdings in Celtic Lodgings LLC, Exh I;
  - K. Valuation, dated March 30, 2010 of holdings in SCI Lodging Group LLC, Exh J, and
  - L. Valuation, dated April 22, 2016, of Krugerrand coins by Illinois Bank & Trust, Exh
6. 2019 Federal and State income tax returns for Lois Jean Wienen Trust.
7. 2019 Federal and State income tax returns for Lois Jean Wienen Estate.
8. 2018 Federal and State income tax returns for Lois Jean Wienen Trust.
9. 2018 Federal and State income tax returns for Lois Jean Wienen Estate.
10. 2017 Federal and State income tax returns for Lois Jean Wienen Trust.
11. 2017 Federal and State income tax returns for Lois Jean Wienen Estate.

12. 2016 Federal and State income tax returns for Lois Jean Wiene Trust.
13. 2016 Federal and State income tax returns for Lois Jean Wiene Estate.
14. 2015 Federal and State income tax returns for Lois Jean Wiene Trust.
15. 2015 Federal and State income tax returns for Lois Jean Wiene Estate.
16. 2018 Federal and State income tax returns for West Galena Development, Inc.
17. 2017 Federal and State income tax returns for West Galena Development, Inc.
18. 2016 Federal and State income tax returns for West Galena Development, Inc.
19. 2015 Federal and State income tax returns for West Galena Development, Inc.
20. 2014 Federal and State income tax returns for West Galena Development, Inc.
21. Response of West Galena Development, dated January 8, 2020, in response to letter from the United States, dated December 23, 2019, requesting financial information in support of ability-to-pay claim, along with the following attachments:
  - A. Banks Statements, dated January 31, 2015 to December 31, 2019, for checking account held by West Galena Development at Illinois Bank & Trust;
  - B. Agreement for Warranty Deed and Corporate Warranty Deed, dated January 12, 2001, relating to purchase of Oldenburg property by Pamela and Steve Ehrler from West Galena Development and Lois Jean Wiene.
  - C. Addendum, dated November 12, 2010, to the Agreement for Warranty Deed and Corporate Warranty Deed relating to purchase of Oldenburg property by Pamela and Steve Ehrler from West Galena Development and Lois Jean Wiene.
  - D. Amortization schedule, dated September 11, 2012, relating to sale of Oldenburg property
  - E. Disbursal statement, submitted by Robert Roth, reflecting distribution of proceeds to West Galena Development and the Estate of Lois Jean Wiene from closing on August 28, 2019.
  - F. Individual and Corporation Warranty Deed, dated January 12, 2001, conveying property the Oldenburg farm to Pamela and Steve Ehrler.
  - G. Special use permits, dated June 13, 2017 and January 9, 2018, relating to Oldenburg farm
  - H. First Amendment to Lease, unsigned and undated, relating to US Bank property
  - I. Letter from O'Connor & Brooks, dated July 10, 2019, regarding transactions related to land contract between Pamela and Steve Ehrlers (purchasers), West Galena Development, Inc., and Lois Jean Wiene.

- J. Letter from O'Connor & Brooks, dated January 14, 2016, regarding transactions related to land contract between Pamela and Steve Ehrlers (purchasers), West Galena Development, Inc., and Lois Jean Wienen.

**APPENDIX C**  
**LIST OF INSURANCE INFORMATION**  
**SUBMITTED TO EPA BY**  
**SETTLING DEFENDANTS**

**INSURANCE INFORMATION SUPPLIED BY**  
**DEFENDANTS CHAINS & LINKS, INC. AND THOMAS A. WIENEN**

- Westfield Insurance Commercial Package Policy, Chains & Links, Policy #CWP 3 738 359, coverage 2/28/2003-2/28/2004
- Westfield Insurance Commercial Package Policy, Chains & Links, Policy #CWP 3 738 359, coverage 2/28/2002-2/28/2003
- Westfield Insurance Commercial Package Policy, Chains & Links, Policy #CWP 3 738 359, coverage 2/28/2001-2/28/2002
- Westfield Insurance Commercial Package Policy, Chains & Links, Policy #CWP 3 738 359, coverage 2/28/2000-2/28/2001
- Westfield Insurance Commercial Package Policy, Chains & Links, Policy #CWP 3 738 359, coverage 2/28/1999-2/28/2000
- Westfield Insurance Commercial Package Policy, Chains & Links, Policy #CWP 3 738 359, coverage 2/28/1998-2/28/1999
- Westfield Insurance Commercial Package Policy, Chains & Links, Policy #CWP 3 738 359, coverage 2/28/1997-2/28/1998
- Bituminous Casualty Corp. Commercial Umbrella Liability Policy, Policy #1 690 709, Wienen Brothers Inc., 7/1/1986-7/1/1987
- Bituminous Casualty Corp. Commercial Lines Policy Declarations, Policy #2 005 224, James and Lois Wienen and Galena State Bank Trust #109, 7/1/1987-7/1/1988
- Bituminous Casualty Corp. Commercial Lines Policy Declarations, Policy #2 002 635, James and Lois Wienen and Galena State Bank Trust #109, 7/1/1988-7/1/1989
- Bituminous Casualty Corp. Commercial Umbrella Policy, Policy #1 771242, Wienen Brothers, Inc., 7/1/1988-7/1/1989
- Bituminous Casualty Corp. Commercial Lines Policy Declarations, Policy #2 043108, James and Lois Wienen and Galena State Bank Trust #109, 7/1/1989-7/1/1990
- Bituminous Casualty Corp. Commercial Lines Policy Declarations, Policy #1 776 319, Wienen Brothers, Inc., 7/1/1989-7/1/1990
- Bituminous Casualty Corp. Commercial Lines Policy Declarations, Policy #2 062 855, James and Lois Wienen and Galena State Bank Trust #109, 7/1/1990-7/1/1991
- Bituminous Casualty Corp. Commercial Umbrella Policy, Policy #1 776 916, Wienen Brothers, Inc., 7/1/1991-7/1/1992
- Bituminous Casualty Corp. Commercial Umbrella Policy, Policy #1 784 879, Wienen Brothers, Inc., 7/1/1992-7/1/1993
- Bituminous Casualty Corp. Special Multi-Peril Policy, Policy #1 940 259, James and Lois Wienen and Galena State Bank Trust #109, 7/1/1986-7/1/1987
- Bituminous Casualty Corp. Commercial Umbrella Policy, Policy #1 778 248, Wienen Brothers, Inc., 7/1/1990-7/1/1991
- Bituminous Casualty Corp. Commercial Lines Policy Declarations, Policy #2 088 755, James and Lois Wienen and Galena State Bank Trust #109, 7/1/1991-7/1/1992



- Bituminous Casualty Corp. Commercial Lines Policy Declarations, Policy #2 110 531, John and Lois Wienen and Galena State Bank Trust #109, 7/1/1992-7/1/1993
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/2007-11/23/2008
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/2006-11/23/2007
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/2004-11/23/2005
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/2004-11/23/2005
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/2003-11/23/2004
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/2002-11/23/2003
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/2001-11/23/2002
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/2000-11/23/2001
- Westfield Insurance Homepak Policy Declarations Page, Policy #2830917, Lois Jean Wienen, 1/12/2002-1/12/2003
- Westfield Insurance Homepak Policy Declarations Page, Policy #2830917, Lois Jean Wienen, 1/12/2001-1/12/2002
- Westfield Insurance Homepak Policy Declarations Page, Policy #2830917, Lois Jean Wienen, 1/12/2000-1/12/2001
- Westfield Insurance Homepak Policy Declarations Page, Policy #2830917, Lois Jean Wienen, 1/12/1999-1/12/2000
- Westfield Insurance Homepak Policy Declarations Page, Policy #2830917, Lois Jean Wienen, 1/12/1998-1/12/1999
- Westfield Insurance Homepak Policy Declarations Page, Policy #2830917, Lois Jean Wienen, 1/12/1997-1/12/1998
- Westfield Insurance Homepak Policy Declarations Page, Policy #2830917, Lois Jean Wienen, 1/12/1996-1/12/1997
- Westfield Insurance Homepak Policy Declarations Page, Policy #2830917, Lois Jean Wienen, 1/12/1995-1/12/1996
- Westfield Insurance Homepak Policy Declarations Page, Policy #2830917, Lois Jean Wienen, 1/12/1994-1/12/1995
- Westfield Insurance Wespak Policy Declarations Page, Policy #4144921, Thomas and Connie Wienen, 11/23/2008-11/23/2009
- Auto ID Card, Westfield National Insurance Co. Policy #4144921, Thomas and Connie Wienen, 11/23/2009-11/23/2010
- Westfield Insurance Wespak Policy Declarations Page, Policy #4144921, Thomas and Connie Wienen, 11/23/2007-11/23/2008

- Westfield Insurance Wespak Policy Declarations Page, Policy #4144921, Thomas and Connie Wienen, 11/23/2009-11/23/2010
- Westfield Insurance Commercial Package Policy, Policy #3 340 776, Thomas & Daniel Wienen, 1/13/1995-1/13/1996
- Westfield Insurance Commercial General Liability Renewal, Policy #3 574 657, Wienen Brothers Inc., 7/1/1999-7/1/2000
- Westfield Insurance Commercial Package Policy Renewal, Policy #3 574 657, Wienen Brothers Inc., 7/1/1998-7/1/1999
- Westfield Insurance Commercial Package Policy Renewal, Policy #3 574 657, Wienen Brothers Inc., 7/1/1997-7/1/1998
- Westfield Insurance Commercial Package Policy Renewal, Policy #3 574 657, Wienen Brothers Inc., 7/1/1996-7/1/1997
- Westfield Insurance Commercial Package Policy Renewal, Policy #3 574 657, Wienen Brothers Inc., 7/1/1995-7/1/1996
- Westfield Insurance Commercial Package Policy Renewal, Policy #3 574 657, Wienen Brothers Inc., 7/1/1994-7/1/1995
- Westfield Insurance Commercial Package Policy Renewal, Policy #3 574 657, Wienen Brothers Inc., 7/1/1993-7/1/1994
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/2000-11/23/2001
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/1999-11/23/2000
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/1998-11/23/1999
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/1997-11/23/1998
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/1996-11/23/1997
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/1995-11/23/1996
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/1994-11/23/1995
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/1993-11/23/1994
- Westfield Insurance Homepak Policy Declarations Page, Policy #2820504, Thomas and Connie Wienen, 11/23/1996-11/23/1997
- Westfield Insurance Personal Excess Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/1993-11/23/1994
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/1994-11/23/1995
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/1995-11/23/1996

- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/1996-11/23/1997
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/1997-11/23/1998
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/1998-11/23/1999
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/1999-11/23/2000
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2000-11/23/2001
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2001-11/23/2002
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2000-11/23/2001
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2001-11/23/2002
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2002-11/23/2003
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2003-11/23/2004
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2004-11/23/2005
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2005-11/23/2006
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2006-11/23/2007
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2007-11/23/2008
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2008-11/23/2009
- Westfield Insurance Personal Umbrella Policy Declarations Page, Policy #4335618, Thomas and Connie Wienen, 11/23/2009-11/23/2010
- Affidavits of Linda Hautala
  - West Bend Mutual Insurance Co. Commercial Lines Policy Declaration, Policy #0264051 14, Thomas Wienen, Thomas Wienen Revocable Trust, 12/1/2009-12/1/2010
  - West Bend Insurance Co. Commercial Lines Policy Declaration, Policy #0264051 14, Thomas Wienen, Thomas Wienen Revocable Trust, 12/1/2008-12/1/2009
  - West Bend Mutual Insurance Co. Commercial Lines Policy Declaration, Policy #0264051 13, Thomas Wienen, Thomas Wienen Revocable Trust, 12/1/2009-12/1/2010

- West Bend Mutual Insurance Co. Commercial Lines Policy Declaration, Policy #0264051 10, Thomas Wienen, Thomas Wienen Revocable Trust, 7/1/2006-7/1/2007
- West Bend Mutual Insurance Co. Cancellation Memo, Commercial Lines Policy, Policy #0264051 12, Thomas Wienen, Thomas Wienen Revocable Trust, 7/1/2008-7/1/2009
- West Bend Mutual Insurance, Commercial Package Policy Endorsement, Policy #0221218 02, T&C Wienen Enterprises, Inc., 7/1/1997-7/1/1998
- West Bend Mutual Insurance, Commercial Package Policy Endorsement, Policy #0221218 03, T&C Wienen Enterprises, Inc., 7/1/1998-7/1/1999
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0264051 16, Thomas Wienen, Thomas Wienen Revocable Trust, 12/1/2011-12/1/2012
- West Bend Mutual Insurance, Commercial Package Policy Endorsement, Policy #0221218 00, T&C Wienen Enterprises, Inc., 7/1/1995-7/1/1996
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0264051 02, Trust #232 and Thomas Wienen Beneficiary, 7/1/1999-7/1/2000
- West Bend Mutual Insurance, Commercial Package Policy Endorsement, Policy #0264051 01, Trust #232 and Thomas Wienen Beneficiary, 7/1/1998-7/1/1999
- West Bend Mutual Insurance, Commercial Package Policy Endorsement, Policy #0264051 03, Trust #232 and Thomas Wienen Beneficiary, 7/1/2000-7/1/2001
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 09, T&C Wienen Enterprises, Inc., 7/1/2004-7/1/2005
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 02, T&C Wienen Enterprises, Inc., 7/1/1997-7/1/1998
- West Bend Mutual Insurance, Commercial Package Policy Endorsement, Policy #0264051 07, Thomas Wienen, 7/1/2004-7/1/2005
- West Bend Mutual Insurance, Commercial Package Policy Endorsement, Policy #0264051 08, Thomas Wienen, 7/1/2005-7/1/2006
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0264051 04, Trust #232 and Thomas Wienen Beneficiary, 7/1/2001-7/1/2002
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0264051 05, Trust Thomas Wienen, 7/1/2002-7/1/2003
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0264051 06, Trust Thomas Wienen, 7/1/2003-7/1/2004
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0264051 00, Trust #232 and Thomas Wienen Beneficiary, 8/29/1997-7/1/1998
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0264051 11, Thomas Wienen, Thomas Wienen Revocable Trust, 7/1/2007-7/1/2008
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #01221218 14, T&C Wienen Enterprises, Inc., Chains & Links, Inc., 12/1/2008-12/1/2009

- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #01221218 17, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 12/1/2011-12/1/2012
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #01221218 15, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 12/1/2009-12/1/2010
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #01221218 16, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 12/1/2010-12/1/2011
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #01221218 01, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/1996-7/1/1997
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #01221218 09, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2004-7/1/2005
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #01221218 07, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2002-7/1/2003
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #01221218 06, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2001-7/1/2002
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #01221218 08, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2003-7/1/2004
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #01221218 04, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/1999-7/1/2000
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #01221218 05, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2000-7/1/2001
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #01221218 12, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2007-7/1/2008
- West Bend Mutual Insurance, Cancellation Memo, Commercial Lines Policy, Policy #0264051 13, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2008-7/1/2009
- West Bend Mutual Insurance, Commercial Package Policy Endorsement, Policy #01221218 10, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2005-7/1/2006
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #01221218 11, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2006-7/1/2007

- West Bend Mutual Insurance, Contractors Businessowners Policy Declaration, Policy #0221217 07, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2002-7/1/2003
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 06, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2001-7/1/2002
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 10, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2005-7/1/2006
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 08, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2003-7/1/2004
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 03, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/1998-7/1/1999
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 01, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/1996-7/1/1997
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 05, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2000-7/1/2001
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 04, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/1999-7/1/2000
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 15, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 12/1/2009-12/1/2010
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 14, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 12/1/2008-12/1/2009
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 17, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 12/1/2011-12/1/2012
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 16, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 12/1/2010-12/1/2011
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 11, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2006-7/1/2007
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 00, T&C Wiene Enterprises, Inc., 7/1/1995-7/1/1996

- West Bend Mutual Insurance, Cancellation Memo, Contractors Businessowners Policy, Policy #0221217 13, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2008-7/1/2009
- West Bend Mutual Insurance, Contractors Businessowners Policy Endorsement, Policy #0221217 12, T&C Wiene Enterprises, Inc., Chains & Links, Inc., 7/1/2007-7/1/2008
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0264051 15, Thomas Wiene, Thomas Wiene Revocable Trust, 12/1/2010-12/1/2011
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0625243 00, Chains & Links, Inc., West Galena Development, Inc., 2/28/2003-2/28/2004
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0625243 01, Chains & Links, Inc., West Galena Development, Inc., 2/28/2004-2/28/2005
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0625243 02, Chains & Links, Inc., West Galena Development, Inc., 2/28/2005-2/28/2006
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0625243 01, Chains & Links, Inc., West Galena Development, Inc., 2/28/2004-2/28/2005
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0625243 03, Chains & Links, Inc., West Galena Development, Inc., 2/28/2006-2/28/2007
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0625243 04, Chains & Links, Inc., West Galena Development, Inc., 2/28/2007-2/28/2008
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0625243 05, Chains & Links, Inc., West Galena Development, Inc., 2/28/2008-2/28/2009
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0625243 06, Chains & Links, Inc., West Galena Development, Inc., 2/28/2009-2/28/2010
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0635244 00, Chains & Links, Inc., West Galena Development, Inc., 2/28/2003-2/28/2004
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0635244 01, Chains & Links, Inc., West Galena Development, Inc., 2/28/2004-2/28/2005
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0625243 07, Chains & Links, Inc., West Galena Development, Inc., 2/28/2010-2/28/2011
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0625243 08, Chains & Links, Inc., West Galena Development, Inc., 2/28/2011-2/28/2012
- West Bend Mutual Insurance, Commercial Package Policy Declaration, Policy #0635244 02, Chains & Links, Inc., West Galena Development, Inc., 2/28/2005-2/28/2006
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0635244 03, Chains & Links, Inc., West Galena Development, Inc., 2/28/2006-2/28/2007
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0635244 04, Chains & Links, Inc., West Galena Development, Inc., 2/28/2007-2/28/2008
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0635244 05, Chains & Links, Inc., West Galena Development, Inc., 2/28/2008-2/28/2009

- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0635244 06, Chains & Links, Inc., West Galena Development, Inc., 2/28/2009-2/28/2010
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0635244 07, Chains & Links, Inc., West Galena Development, Inc., 2/28/2010-2/28/2011
- West Bend Mutual Insurance, Commercial Lines Policy Declaration, Policy #0635244 08, Chains & Links, Inc., West Galena Development, Inc., 2/28/2011-2/28/2012



**APPENDIX D**  
**FORM OF ENVIRONMENTAL COVENANT**

**This instrument was prepared by:**

Name:  
Address:

**Please return this instrument to:**

Name:  
Address:

**ENVIRONMENTAL COVENANT**

1. This Environmental Covenant is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and among the \_\_\_\_\_(Grantor(s)) and the Holders/Grantees further identified in paragraph 3 below pursuant to the Uniform Environmental Covenants Act, 765 ILCS Ch. 122 (UECA) for the purpose of subjecting the Property to the activity and use limitations described herein.

2. **Property and Grantor.**

**A. Property:** The real property subject to this Environmental Covenant is located at \_\_\_\_\_in Jo Daviess County, Illinois and is legally described in Appendix A, hereinafter referred to as the “Property”.

**B. Grantor(s):** \_\_\_\_\_is(are) the current fee owner(s) of the Property and is (are) the “Grantor(s)” of this Environmental Covenant. The mailing address of the Grantor(s) is(are):

3. **Holders (and Grantees for purposes of indexing).**

**A.** Illinois Environmental Protection Agency (“Illinois EPA”) is a Holder (and Grantee for purposes of indexing) of this Environmental Covenant pursuant to its authority under Section 3(b) of UECA. The mailing address is:

Illinois EPA  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, IL  
62794-9276.

**B.** \_\_\_\_\_is(are) a Holder(s) (and Grantee(s) for purposes of indexing) of this Environmental Covenant pursuant to UECA. The mailing address(es) is(are):

Regardless of any future transfer of the Property, the U.S. Army shall remain a Holder of this Environmental Covenant. The U.S. Army is to be identified as both Grantee and Grantor for purposes of indexing.

**4. Agencies.** The Illinois EPA and the United States Environmental Protection Agency (“U.S. EPA”) are “Agencies” within the meaning of Section 2(2) of UECA. The Agencies have approved the environmental response project described in paragraph 6 below and may enforce this Environmental Covenant pursuant to Section 11 of UECA.

**5. Owner.** An “Owner” is any person holding any right, title or interest in or to the Property.

**6. Environmental Response Project and Administrative Record.**

**A.** This Environmental Covenant arises under an environmental response project as defined in Section 2(5) of UECA.

**B.** The Property constitutes \_\_\_\_\_, which is undergoing an environmental response in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”). In a Record of Decision (ROD) signed by the U.S. EPA Region 5 Superfund Division Director on \_\_\_\_\_, 20\_\_ and concurred by the Director of Illinois EPA on \_\_\_\_\_, 20\_\_, the Agencies approved a plan for environmental remediation of the Site. The remedial action plan requires implementation and compliance with land use limitations at the Site in order to prevent unacceptable exposures from hazardous substances remaining at the Site. The terms of those land use limitations, or land use controls, are documented in the (ROD or other final Agency decision document and/or SOW)

**C.** Grantor wishes to cooperate fully with the Agencies in the implementation, operation, and maintenance of all response actions at the Site.

**D.** The Administrative Record for the environmental response project at (including the Property) is maintained at the U.S. EPA Superfund Record Center, 7th Floor, 77 West Jackson Blvd, Chicago, Illinois 60604. Persons may also contact FOIA Officer, IEPA, 1021 N. Grand Avenue East, P.O. Box 19276, Springfield, IL 62794-9276 for the Administrative Record or other information concerning the Site.

**7. Grant of Covenant. Covenant Runs With The Land.** Grantor creates this Environmental Covenant pursuant to UECA so that the Activity and Use Limitations and associated terms and conditions set forth herein shall “run with the land” in accordance with Section 5(a) of UECA and shall be binding on Grantor, its heirs, successors and assigns, and on all present and subsequent owners, occupants, lessees or other person acquiring an interest in the Property.

8. **Activity and Use Limitations.** The following Activity and Use Limitations apply to the use of the Property:

9. **Right of Access.** Owner consents to officers, employees, contractors, and authorized representatives of the Holders, U.S. EPA and Illinois EPA, entering and having continued access at reasonable times to the Property for the following purposes:

A. Implementing, operating and maintaining the environmental response project described in paragraph 6 above;

B. Monitoring and conducting periodic reviews of the environmental response project described in paragraph 6 above including without limitation, sampling of air, water, groundwater, sediments and soils;

C. Verifying any data or information submitted to U.S. EPA or Illinois EPA by Owner, Grantor and Holders; and

D. Verifying that no action is being taken on the Property in violation of the terms of this instrument, the environmental response project described in paragraph 6 above or of any federal or state environmental laws or regulations;

Nothing in this document shall limit or otherwise affect, U.S. EPA's and Illinois EPA's rights of entry and access and authority to take response actions under CERCLA, the National Contingency Plan ("NCP"), RCRA, or other federal and state law.

10. **Reserved rights of Grantor:** Grantor hereby reserves unto itself, its successors, and assigns, including heirs, lessees, occupants and future Owners, all rights and privileges in and to the use of the Property that are not incompatible with the activity and use limitations identified herein.

11. **No Public Access and Use:** No right of access or use by the general public to any portion of the Property is conveyed by this instrument.

12. **Future Conveyances, Notice and Reservation:**

A. Grantor and any future Owner shall include in any future instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases, and mortgages, a notice and reservation which is in substantially the following form:

**THE INTEREST CONVEYED HEREBY IS SUBJECT TO AND GRANTOR SPECIFICALLY RESERVES THE ENVIRONMENTAL COVENANT EXECUTED UNDER THE UNIFORM ENVIRONMENTAL COVENANTS ACT (UECA) AT 765 ILCS CH. 122 RECORDED IN THE**

**OFFICIAL PROPERTY RECORDS OF JO DAVIESS COUNTY AND CARROLL COUNTY, ILLINOIS ON \_\_\_\_\_ AS DOCUMENT NO. \_\_\_\_\_, IN FAVOR OF AND ENFORCEABLE BY GRANTOR AS A UECA HOLDER, THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY AS A UECA HOLDER AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY AS A UECA AGENCY.**

**B.** Grantor and any future Owner shall provide written notice to, Illinois EPA and U.S. EPA within 30 days after any conveyance of fee title to the Property or any portion of the Property. The notice shall identify the name and contact information of the new Owner, and the portion of the Property conveyed to that Owner.

**13. Enforcement and Compliance.**

**A. Civil Action for Injunction or Equitable Relief.** This Environmental Covenant may be enforced through a civil action for injunctive or other equitable relief for any violation of any term or condition of this Environmental Covenant, including violation of the Activity and Use Limitations under Paragraph 8 and denial of Right of Access under Paragraph 9. Such an action may be brought individually or jointly by:

- i. the Illinois Environmental Protection Agency;
- ii. the Holders of the Environmental Covenant;
- iii. U.S. Environmental Protection Agency;
- iv.

**B. Other Authorities Not Affected. No Waiver of Enforcement.** All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. Nothing in this Environmental Covenant affects U.S. EPA or Illinois EPA's authority to take or require performance of response actions to address releases or threatened releases of hazardous substances or pollutants or contaminants at or from the Property, or to enforce a consent order, consent decree or other settlement agreement entered into by U.S. EPA or Illinois EPA. Enforcement of the terms of this instrument shall be at the discretion of the Holders, the U.S. EPA and Illinois EPA and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Holders, U.S. EPA or Illinois EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Holders, U.S. EPA or Illinois EPA of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Holders, U.S. EPA or Illinois EPA.

**C. Former Owners And Interest Holders Subject to Enforcement.** An Owner, or other person that holds any right, title or interest in or to the Property remains subject to enforcement with respect to any violation of this Environmental Covenant by the Owner or other person which occurred during the time when the Owner or other person was bound by this Environmental Covenant regardless of whether the Owner or other person has subsequently conveyed the fee title, or other right, title or interest, to another person.

**14. Waiver of certain defenses:** This Environmental Covenant may not be extinguished, limited, or impaired through issuance of a tax deed, foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription, abandonment, waiver, lack of enforcement, or acquiescence, or similar doctrine as set forth in Section 9 of UECA.

**15. Representations and Warranties:** Grantor hereby represents and warrants to the Illinois EPA, U.S. EPA and any other signatories to this Environmental Covenant that, at the time of execution of this Environmental Covenant, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on **Appendix B** attached hereto, and that the Grantor will forever warrant and defend the title thereto and the quiet possession thereof. After recording this instrument, Grantor will provide a copy of this Environmental Covenant to all holders of record of the encumbrances including those entities noted on **Appendix B**.

**16. Amendment or Termination.**

A. Any amendment or termination of this environmental covenant shall be in accordance with the terms of the \_\_\_\_\_.

B. Except the \_\_\_\_\_, Illinois EPA and U.S. EPA, all Holders and other signers waive the right to consent to an amendment or termination of the Environmental Covenant. This Environmental Covenant may be amended or terminated by consent only if the amendment or termination is signed by Illinois EPA, U.S. EPA and the current owner of the fee simple of the Property, unless waived by the Agencies.

**17. Notices:** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To Agencies:

U.S. Environmental Protection Agency  
Superfund Division Director  
77 West Jackson Boulevard  
Chicago, IL 60604

Illinois Environmental Protection Agency  
Chief, Bureau of Land  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

**18. Recording and Notice of Environmental Covenant, Amendments, and Termination.**

**A. The Original Environmental Covenant.** An Environmental Covenant must be recorded in the Office of the Recorder or Registrar of Titles of the county in which the property that is the subject of the Environmental Covenant is located. Within 30 days after the Illinois EPA and U.S. EPA (whichever is later) sign and deliver to Grantor this Environmental Covenant, the Grantor shall record this Environmental Covenant in the office of the County Recorder or Registrar of Titles for the County in which the Property is located.

**B. Termination, Amendment, or Modification.** Within 30 days after \_\_\_\_\_, Illinois EPA and U.S. EPA (whichever is later) sign and deliver to Owner any termination, amendment or modification of this Environmental Covenant, the Owner shall record the amendment, modification, or notice of termination of this Environmental Covenant in the office of the County Recorder or Registrar of Titles in which the Property is located.

**C. Providing Notice of Covenant, Termination, Amendment, or Modification.** Within 30 days after recording this Environmental Covenant, the Grantor shall transmit a copy of the Environmental Covenant in recorded form to:

- i. the Illinois EPA;
- ii. the U.S. EPA;
- iii. each person holding a recorded interest in the Property, including those interests in Appendix B;
- iv. each person in possession of the Property; and
- v. each political subdivision in which the Property is located.

Within 30 days after recording a termination, amendment or modification of this Environmental Covenant, the Owner shall transmit a copy of the document in recorded form to the persons listed in items i to v above.

**19. Compliance Reporting.** \_\_\_\_\_, unless such obligation is transferred to a subsequent Owner, shall submit to Illinois EPA on an annual basis a written report confirming compliance with the Activity and Use Limitations provided in Paragraph 8. Reports shall be submitted on the first July 1 that occurs at least six months after the effective date of this Environmental Covenant, and on each succeeding July 1 thereafter. \_\_\_\_\_, or Owner, shall notify the Illinois EPA as soon as possible of any actions or conditions that would constitute a breach of the Activity and Use Limitations in Paragraph 8.

**20. General Provisions:**

**A. Controlling law:** This Environmental Covenant shall be construed according to and governed by the laws of the State of Illinois and the United States of America.

**B. Liberal construction:** Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the establishment of activity and use limitations that run with the land to effect the purpose of this instrument and the policy and purpose of the environmental response project and its authorizing legislation. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

**C. No Forfeiture:** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

**D. Joint Obligation:** If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

**E. Captions:** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

**21. Effective Date.** This Environmental Covenant is effective on the date of acknowledgement of the signature of the Illinois EPA and U.S. EPA, whichever is later.

**22. List of Appendices:**

**Appendix A – Legal Description and map of the Property**

**Appendix B– List of Recorded Encumbrances**

[Signature Pages to follow]



THE UNDERSIGNED REPRESENTATIVE OF THE GRANTOR REPRESENTS AND CERTIFIES THAT HE/SHE IS AUTHORIZED TO EXECUTE THIS ENVIRONMENTAL COVENANT.

IN WITNESS WHEREOF, THIS INSTRUMENT HAS BEEN EXECUTED ON THE DATES INDICATED BELOW:

**FOR THE GRANTOR:**

By \_\_\_\_\_ (signature)

[Name of signer] \_\_\_\_\_ (print)

[Title] \_\_\_\_\_ (print)

State of Illinois            )  
  ) SS.

County of \_\_\_\_\_ )

On \_\_\_\_\_, 20 \_\_, this instrument was acknowledged before me by, [Name], [Title]

\_\_\_\_\_ (signature)

Notary Public

My Commissioner Expires \_\_\_\_\_

**FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

By \_\_\_\_\_ (signature)

\_\_\_\_\_, Director

Illinois Environmental Protection Agency

State of Illinois )

)SS.

County of Sangamon )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_, the Director of the Illinois Environmental Protection  
Agency, a state agency, on behalf of the State of Illinois.

\_\_\_\_\_ (signature)

Notary Public

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

**FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

On behalf of the Administrator of the  
United States Environmental Protection Agency

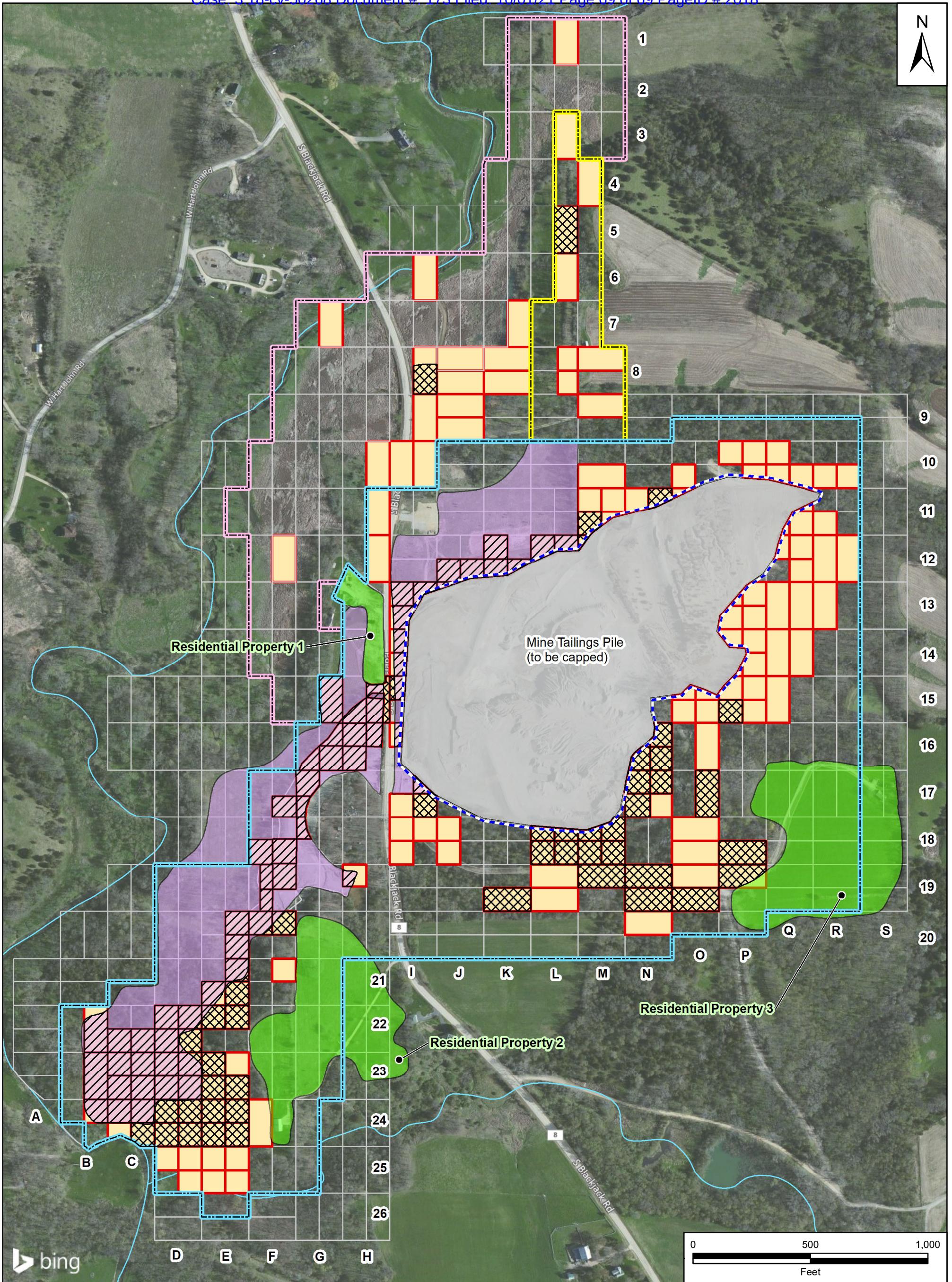
By: \_\_\_\_\_  
Douglas Ballotti, Director  
Superfund and Emergency Management Division  
U.S. Environmental Protection Agency, Region 5

STATE OF ILLINOIS             )  
   ) SS.  
COUNTY OF COOK             )

                                  The foregoing instrument was acknowledged before me this \_\_\_ day of  
\_\_\_\_\_, 20\_\_\_, by Douglas Ballotti, Acting Director, Superfund Division, Region 5 of the  
United  
States Environmental Protection Agency.

\_\_\_\_\_ (signature)  
Notary Public  
My Commission Expires \_\_\_\_\_

**APPENDIX E**  
**MAP OF SITE**  
**SHOWING PROPOSED LOCATION OF CAP**



Metal result exceeding cleanup levels

Former Truck Route Area

Source Area

Wetland Perimeter

Other Area

Creek

**Remediation Activity**

Peripheral Tailings – Excavation area for placement on Mine Tailings Pile (approx. 10 feet wide)

Mine Tailings Pile Cap  
2 feet of common fill and 6 inches of topsoil

Residential Area : Assume 50% of Property No. 1; 10% of Property Nos. 2 and 3 will be excavated and consolidated under Mine Tailings Pile Cap

Unvegetated Area Cap - 2 feet of common fill and 6 inches of erosion-resistant material (vegetated topsoil or aggregate based on runoff flow conditions)

Vegetated Area Cap - Topsoil and vegetation

BAUTSCH-GRAY MINE SITE  
JO DAVIESS COUNTY, ILLINOIS

CONCEPTUAL  
REMEDATION PLAN

